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Sen. Henry; Reps. Brady, Kowalko, Mulrooney, Paradee,
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DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE BILL NO. 217

AN ACT TO AMEND TITLE 11 AND TITLE 16 OF THE DELAWARE CODE RELATING TO CRUELTY TO DOGS
AND SPECIFICATIONS FOR THE HUMANE HANDLING, CARE, AND TREATMENT OF DOGS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1325, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 1325. Cruelty to animals; class A misdemeanor; class F felony.

4 (a) For the purpose of this section, the following words and phrases shall include, but not be limited to, the
5 meanings respectively ascribed to them as follows:

6 (4) "Cruel mistreatment" means cruelty to animals and includes any treatment whereby unnecessary or
7 unjustifiable physical pain or suffering is caused or permitted.

8 (5) "Cruel neglect" means cruelty to animals and includes neglect of an animal, which is under the care
9 and control of the neglecter, whereby pain or suffering is caused to the animal or abandonment of any
10 domesticated animal by its owner or custodian. By way of example, cruel neglect shall also include allowing an
11 animal to live in unsanitary conditions, such as keeping an animal where the animal's own excrement is not
12 removed from the animal's living area and/or other living conditions which are injurious to the animal's health.

13 (6) "Cruelty to animals" includes mistreatment of any animal or neglect of any animal under the care and
14 control of the ~~neglector, whereby unnecessary or unjustifiable physical pain or suffering is caused. By way of~~
15 ~~example this includes:~~ neglector and includes any of the following:

16 a. Unjustifiable beating of an animal; overworking animal.

17 b. Overworking an animal; tormenting animal.

18 c. Tormenting an animal; abandonment of an animal; tethering of dog for 18 hours or more in any
19 24-hour period, except on land owned or leased by the dog's owner that is not less than 10 acres; tethering
20 animal.

21 d. Abandonment of an animal.

e. Tethering a dog outside for more than 30 minutes when the temperature is below 32 degrees Fahrenheit or above 90 degrees Fahrenheit.

f. Tethering a dog for more than 30 minutes between the hours of 11:00 pm and 6:00 am.

g. Tethering any dog for any amount of time if the dog is under 4 months of age or is a nursing mother while the offspring are present, except on land owned or leased by the dog's owner that is not less than 10 acres; and failure- present.

h. Failure to feed properly or properly feed an animal.

i. Failure to give an animal proper shelter or shelter.

j. Failure to give proper veterinary care to an animal.

k. Mistreatment or neglect of an animal that causes the animal unnecessary or unjustifiable pain or suffering.

l. A third or subsequent violation of § 3044F(f) of Title 16.

(g) Notwithstanding any provision to the contrary, for a first offense misdemeanor violation of this section relating to animals left in motor vehicles or the tethering of dogs, a warning shall be issued.

(h) Exclusive jurisdiction of offenses under this section relating to animals left in motor ~~vehicles or~~ vehicles, the tethering of ~~dogs~~ dogs, or third or subsequent violations of § 3044F(f) of Title 16 shall be in the Superior Court.

Section 2. Amend § 3044F of Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3044F. Specifications for the humane handling, care, and treatment of dogs.

(d) Primary enclosures. —

(4) ~~Use of tethers. — If dog houses with tethers are used as primary enclosures for dogs kept outdoors, the tethers shall be attached so that the dog cannot become entangled with other objects or come into physical contact with other dogs in the housing facility, and so the dog can roam to the full range of the tether. The tether shall be of a type commonly used for the size dog involved, made of material not normally susceptible to being severed by the dog through chewing or otherwise, and shall be attached to the dog by means of a well-fitted collar that will not cause trauma or injury to the dog. The tether shall be a minimum of 10 feet in length and allow the dog convenient access to the dog house and to food and water containers.~~

(f) A dog may be tethered outdoors if all of the following apply:

(1) The conditions and duration of the tethering do not violate § 1325(a)(6)e. through g. of Title 11.

51 (2) The tether is not attached to a choke, pinch, or prong collar or a collar that is not properly fitted or
52 may cause trauma or injury to the dog.

53 (3) The tether is attached so that the dog cannot become entangled with other objects or come into
54 physical contact with other dogs.

55 (4) The dog can roam to the full range of the tether.

56 (5) The tether is of a type commonly used for the size dog being tethered; made of material that is not
57 normally susceptible to being severed by the dog; and at least 10 feet in length.

58 (6) The tether allows the dog to have convenient access to water.

59 (7) The owner is present on the property.

60 (g) Penalties. An owner who refuses, fails, or neglects to comply with this section is punished as follows:

61 (1) For a first citation, fined not less than \$100 and not more than \$1,000, in addition to costs.

62 (2) For a second citation, fined not less than \$500 and not more than \$1,000, in addition to costs.

63 (3) For a third or subsequent citation, fined \$1,000 or prosecuted under § 1325 of Title 11.

SYNOPSIS

This Act strengthens restrictions on the tethering of dogs by doing the following:

1. Changes the crime of cruelty to animals as follows:

- Removes the existing crime of tethering a dog for 18 hours in a 24 hour period and makes it a crime to tether a dog outside for more than 30 minutes when the temperature is below 32 degrees Fahrenheit or above 90 degrees Fahrenheit.
- Removes the exception for tethering a dog who is a nursing mother or a dog under 4 months of age if the dog is tethered on land owned or leased by the dog's owner.
- Prohibits tethering a dog for more than 30 minutes between the hours of 11:00 pm and 6:00 am.
- Adds a third or subsequent violation of the tethering requirements in § 3044F of Title 16 to the crime of cruelty to animals.

2. Changes the civil specifications for the humane handling, care, and treatment of dogs as follows:

- Requires that the tether not be attached to a choke, pinch, or prong collar.
- Requires that the owner be present on the property.
- Imposes a higher civil penalty for subsequent for violations of § 3044F, the specifications for the humane handling, care, and treatment of dogs.

This Act also makes technical corrections to conform existing law to the standards to the Delaware Legislative Drafting Manual.

Author: Senator Walsh