

# ASSEMBLY, No. 1518

## STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman ANTHONY CHIAPPONE**

**District 31 (Hudson)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman JOAN M. VOSS**

**District 38 (Bergen)**

**SYNOPSIS**

Prohibits cruel restraint and confinement of dogs.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 5/7/2010)**

1 AN ACT concerning animal cruelty, supplementing Title 4 of the  
2 Revised Statutes and amending R.S.4:22-26 and P.L.1995, c.255.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. As used in this section:

8 “Running cable trolley system” means a cable that is at least 10  
9 feet in length and that is suspended no more than seven feet above  
10 the ground to which a tethering device at least 10 feet in length is  
11 attached by means of a pulley, trolley, loop or other moveable  
12 device.

13 “Serious physical injury” means physical injury which creates a  
14 substantial risk of death or which causes serious, permanent  
15 disfigurement, or protracted loss or impairment of the function of  
16 any bodily member or organ.

17 “Tethering device” means a chain, rope, or other restraining  
18 device that attaches to a dog.

19 b. A person is guilty of cruelly restraining a dog if the person:

20 (1) restrains a dog by means of a tethering device attached to a  
21 fixed point between the hours of 10:00 p.m. and 6:00 a.m. or for a  
22 period of more than one hour between the hours of 6:01 a.m. and  
23 9:59 p.m.;

24 (2) restrains a dog by means of a running cable trolley system  
25 between the hours of 10:00 p.m. and 6:00 a.m. or for a period of  
26 more than six hours between the hours of 6:01 a.m. and 9:59 p.m.;

27 (3) regardless of how long a period of time, restrains a dog by  
28 means of a choke-type collar, a prong collar or by any similar  
29 device;

30 (4) regardless of how long a period of time, restrains a dog by  
31 means of a tethering device that is less than 10 feet in length, that  
32 weighs more than 1/8 of the dog’s body weight, that is attached to a  
33 pulley, trolley, loop or other moveable device running on a cable  
34 less than 10 feet in length or mounted more than seven feet above  
35 the ground, or that, due to weight or any other reason, inhibits the  
36 free movement of the dog in the area within which the dog is  
37 restrained;

38 (5) regardless of how long a period of time, restrains  
39 simultaneously more than one dog by means of a tethering device  
40 attached to a fixed point or a running cable trolley system; or

41 (6) regardless of how long a period of time, restrains a dog in a  
42 manner that could result in injury, strangulation or entanglement of  
43 the dog with any man-made or natural object.

44 c. A person is guilty of cruelly confining a dog if the person  
45 confines a dog in an enclosure containing less than 150 square feet

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 of space for each dog six months of age or older within the  
2 enclosure, and the enclosure is the dog's primary living area or  
3 regularly used by the dog to eat, sleep, drink and eliminate.

4 d. (1) Cruel restraint or cruel confinement of a dog is a  
5 disorderly persons offense.

6 (2) A person violating subsection b. or c. of this section shall be  
7 guilty of a crime of the fourth degree if restraining or confining the  
8 dog results in serious physical injury to the dog.

9 (3) A person violating subsection b. or c. of this section shall be  
10 guilty of a crime of the third degree if restraining or confining the  
11 dog results in the death of the dog.

12 e. (1) Where more than one dog is involved, each dog cruelly  
13 restrained or confined in violation of subsection b. or c. of this  
14 section shall constitute a separate offense.

15 (2) Beginning 48 hours after a person has been charged with a  
16 violation of subsection b. or c. of this section, each day that the  
17 person fails to provide an appropriate restraint or enclosure, in  
18 violation of this section, shall constitute a separate offense.

19 (3) Provided a dog has not been seriously injured or killed due  
20 to cruel restraint or confinement, the court may, in its discretion,  
21 reduce the amount of any fine imposed for a violation of this  
22 section by an amount equal to the actual cost incurred by the person  
23 to provide an appropriate restraint or enclosure. Nothing in this  
24 paragraph shall prevent the seizure of a dog for a violation of this  
25 section. Upon a finding of a violation of subsection b. or c. of this  
26 section, any dog seized that has not been voluntarily surrendered by  
27 the owner or custodian or forfeited pursuant to a court order shall be  
28 returned to the owner or custodian only upon proof that an  
29 appropriate tethering device, running cable trolley system or  
30 enclosure as required by this section shall be provided by the owner  
31 or custodian.

32 (4) Nothing contained in this section shall be construed to limit  
33 the protections afforded to dogs or other animals under the  
34 provisions of any other law.

35 f. The prohibition of paragraph (1) of subsection b. of this  
36 section shall not apply to a person who restrains a dog in a manner  
37 that is otherwise not a violation of this section and does so only  
38 temporarily to:

39 (1) Walk the dog with a hand-held leash;

40 (2) Restrain the dog during a lawful animal event, veterinary  
41 treatment, grooming, training, or law enforcement activity; or

42 (3) Protect the safety or welfare of a person or the dog,  
43 providing the person restraining the dog remains with the dog  
44 throughout the period of restraint.

45 g. The prohibition of subsection c. of this section shall not  
46 apply to a kennel, pet shop, shelter, or pound as defined and  
47 licensed pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.) or other

A1518 CHIAPPONE, JOHNSON

4

1 facility that temporarily boards dogs for the purpose of sale,  
2 adoption or placement.

3

4 2.R.S.4:22-26 is amended to read as follows:

5 4:22-26. A person who shall:

6 a. (1) Overdrive, overload, drive when overloaded, overwork,  
7 deprive of necessary sustenance, abuse, or needlessly kill a living  
8 animal or creature, or cause or procure, by any direct or indirect  
9 means, including but not limited to through the use of another living  
10 animal or creature, any such acts to be done;

11 (2) Torment, torture, maim, hang, poison, unnecessarily or  
12 cruelly beat, or needlessly mutilate a living animal or creature, or  
13 cause or procure, by any direct or indirect means, including but not  
14 limited to through the use of another living animal or creature, any  
15 such acts to be done;

16 (3) Cruelly kill, or cause or procure, by any direct or indirect  
17 means, including but not limited to through the use of another living  
18 animal or creature, the cruel killing of, a living animal or creature,  
19 or otherwise cause or procure, by any direct or indirect means,  
20 including but not limited to through the use of another living animal  
21 or creature, the death of a living animal or creature from  
22 commission of any act described in paragraph (2) of this subsection;

23 (4) Cruelly restrain or confine a dog as proscribed pursuant to  
24 section 1 of P.L. , c. (C. ) (pending before the Legislature as  
25 this bill);

26 b. (Deleted by amendment, P.L.2003, c.232).

27 c. Inflict unnecessary cruelty upon a living animal or creature,  
28 by any direct or indirect means, including but not limited to through  
29 the use of another living animal or creature; or unnecessarily fail to  
30 provide a living animal or creature of which the person has charge  
31 either as an owner or otherwise with proper food, drink, shelter or  
32 protection from the weather; or leave it unattended in a vehicle  
33 under inhumane conditions adverse to the health or welfare of the  
34 living animal or creature;

35 d. Receive or offer for sale a horse that is suffering from abuse  
36 or neglect, or which by reason of disability, disease, abuse or  
37 lameness, or any other cause, could not be worked, ridden or  
38 otherwise used for show, exhibition or recreational purposes, or  
39 kept as a domestic pet without violating the provisions of this  
40 article;

41 e. Keep, use, be connected with or interested in the  
42 management of, or receive money or other consideration for the  
43 admission of a person to, a place kept or used for the purpose of  
44 fighting or baiting a living animal or creature;

45 f. Be present and witness, pay admission to, encourage, aid or  
46 assist in an activity enumerated in subsection e. of this section;

- 1 g. Permit or suffer a place owned or controlled by him to be  
2 used as provided in subsection e. of this section;
- 3 h. Carry, or cause to be carried, a living animal or creature in  
4 or upon a vehicle or otherwise, in a cruel or inhumane manner;
- 5 i. Use a dog or dogs for the purpose of drawing or helping to  
6 draw a vehicle for business purposes;
- 7 j. Impound or confine or cause to be impounded or confined in  
8 a pound or other place a living animal or creature, and shall fail to  
9 supply it during such confinement with a sufficient quantity of good  
10 and wholesome food and water;
- 11 k. Abandon a maimed, sick, infirm or disabled animal or  
12 creature to die in a public place;
- 13 l. Willfully sell, or offer to sell, use, expose, or cause or permit  
14 to be sold or offered for sale, used or exposed, a horse or other  
15 animal having the disease known as glanders or farcy, or other  
16 contagious or infectious disease dangerous to the health or life of  
17 human beings or animals, or who shall, when any such disease is  
18 beyond recovery, refuse, upon demand, to deprive the animal of  
19 life;
- 20 m. Own, operate, manage or conduct a roadside stand or market  
21 for the sale of merchandise along a public street or highway; or a  
22 shopping mall, or a part of the premises thereof; and keep a living  
23 animal or creature confined, or allowed to roam in an area whether  
24 or not the area is enclosed, on these premises as an exhibit; except  
25 that this subsection shall not be applicable to: a pet shop licensed  
26 pursuant to P.L.1941, c.151 (C.4:19-15.1 et seq.); a person who  
27 keeps an animal, in a humane manner, for the purpose of the  
28 protection of the premises; or a recognized breeders' association, a  
29 4-H club, an educational agricultural program, an equestrian team, a  
30 humane society or other similar charitable or nonprofit organization  
31 conducting an exhibition, show or performance;
- 32 n. Keep or exhibit a wild animal at a roadside stand or market  
33 located along a public street or highway of this State; a gasoline  
34 station; or a shopping mall, or a part of the premises thereof;
- 35 o. Sell, offer for sale, barter or give away or display live baby  
36 chicks, ducklings or other fowl or rabbits, turtles or chameleons  
37 which have been dyed or artificially colored or otherwise treated so  
38 as to impart to them an artificial color;
- 39 p. Use any animal, reptile, or fowl for the purpose of soliciting  
40 any alms, collections, contributions, subscriptions, donations, or  
41 payment of money except in connection with exhibitions, shows or  
42 performances conducted in a bona fide manner by recognized  
43 breeders' associations, 4-H clubs or other similar bona fide  
44 organizations;
- 45 q. Sell or offer for sale, barter, or give away living rabbits,  
46 turtles, baby chicks, ducklings or other fowl under two months of  
47 age, for use as household or domestic pets;

- 1       r. Sell, offer for sale, barter or give away living baby chicks,  
2 ducklings or other fowl, or rabbits, turtles or chameleons under two  
3 months of age for any purpose not prohibited by subsection q. of  
4 this section and who shall fail to provide proper facilities for the  
5 care of such animals;
- 6       s. Artificially mark sheep or cattle, or cause them to be  
7 marked, by cropping or cutting off both ears, cropping or cutting  
8 either ear more than one inch from the tip end thereof, or half  
9 cropping or cutting both ears or either ear more than one inch from  
10 the tip end thereof, or who shall have or keep in the person's  
11 possession sheep or cattle, which the person claims to own, marked  
12 contrary to this subsection unless they were bought in market or of  
13 a stranger;
- 14       t. Abandon a domesticated animal;
- 15       u. For amusement or gain, cause, allow, or permit the fighting  
16 or baiting of a living animal or creature;
- 17       v. Own, possess, keep, train, promote, purchase, or knowingly  
18 sell a living animal or creature for the purpose of fighting or baiting  
19 that animal or creature;
- 20       w. Gamble on the outcome of a fight involving a living animal  
21 or creature;
- 22       x. Knowingly sell or barter or offer for sale or barter, at  
23 wholesale or retail, the fur or hair of a domestic dog or cat or any  
24 product made in whole or in part from the fur or hair of a domestic  
25 dog or cat, unless such fur or hair for sale or barter is from a  
26 commercial grooming establishment or a veterinary office or clinic  
27 or is for use for scientific research;
- 28       y. Knowingly sell or barter or offer for sale or barter, at  
29 wholesale or retail, for human consumption, the flesh of a domestic  
30 dog or cat or any product made in whole or in part from the flesh of  
31 a domestic dog or cat;
- 32       z. Surgically debark or silence a dog in violation of section 1  
33 or 2 of P.L.2002, c.102 (C.4:19-38 or C.4:19-39);
- 34       aa. Use a live pigeon, fowl or other bird for the purpose of a  
35 target, or to be shot at either for amusement or as a test of skill in  
36 marksmanship, except that this subsection and subsections bb. and  
37 cc. shall not apply to the shooting of game;
- 38       bb. Shoot at a bird used as described in subsection aa. of this  
39 section, or is a party to such shooting; or
- 40       cc. Lease a building, room, field or premises, or knowingly  
41 permit the use thereof for the purposes of subsection aa. or bb. of  
42 this section --
- 43       Shall forfeit and pay a sum according to the following schedule,  
44 to be sued for and recovered, with costs, in a civil action by any  
45 person in the name of the New Jersey Society for the Prevention of  
46 Cruelty to Animals or a county society for the prevention of cruelty  
47 to animals, as appropriate, or, in the name of the municipality if

1 brought by a certified animal control officer or animal cruelty  
2 investigator:

3 For a violation of subsection e., f., g., u., v., w., or z. of this  
4 section or of paragraph (3) of subsection a. of this section, or for a  
5 second or subsequent violation of paragraph (2) of subsection a. of  
6 this section, a sum of not less than \$3,000 nor more than \$5,000;

7 For a violation of subsection l. of this section or for a first  
8 violation of paragraph (2) of subsection a. of this section, a sum of  
9 not less than \$1,000 nor more than \$3,000;

10 For a violation of subsection x. or y. of this section, a sum of not  
11 less than \$500 nor more than \$1,000 for each domestic dog or cat  
12 fur or fur or hair product or domestic dog or cat carcass or meat  
13 product;

14 For a violation of subsection t. of this section, a sum of not less  
15 than \$500 nor more than \$1,000, but if the violation occurs on or  
16 near a highway, a mandatory sum of \$1,000;

17 For a violation of subsection c., d., h., j., k., aa., bb., or cc. of this  
18 section or of paragraph (1) or (4) of subsection a. of this section, a  
19 sum of not less than \$250 nor more than \$1,000; and

20 For a violation of subsection i., m., n., o., p., q., r., or s. of this  
21 section, a sum of not less than \$250 nor more than \$500.

22 (cf: P.L.2005, c.372, s.16)

23

24 3. Section 1 of P.L.1995, c.255 (C.4:22-26.1) is amended to read  
25 as follows:

26 1. An officer or agent of the New Jersey Society for the  
27 Prevention of Cruelty to Animals, or a certified animal control  
28 officer, may petition a court of competent jurisdiction to have any  
29 animal confiscated and forfeited that is owned or possessed by a  
30 person at the time the person is found to be guilty of violating  
31 R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20, **[or]** R.S.4:22-  
32 23 or section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending before the  
33 Legislature as this bill). Upon a finding that the continued  
34 possession by that person poses a threat to the animal's welfare, the  
35 court may, in addition to any other penalty that may be imposed for  
36 a violation of R.S.4:22-17, R.S.4:22-18, R.S.4:22-19, R.S.4:22-20,  
37 **[or]** R.S.4:22-23 or section 1 of P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) (pending  
38 before the Legislature as this bill), adjudge an animal forfeited for  
39 such disposition as the court deems appropriate.

40 (cf: P.L.1995, c.255, s.1)

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42 4. This act shall take effect on the 60th day after the date of  
43 enactment.

STATEMENT

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This bill revises current animal cruelty law to specifically identify the cruel restraint or confinement of a dog as both a criminal and civil offense. Cruel restraint of a dog is defined as: (1) restraining a dog by means of a tethering device attached to a fixed point between the hours of 10:00 p.m. and 6:00 a.m. or for a period of more than one hour between the hours of 6:01 a.m. and 9:59 p.m.; (2) restraining a dog by means of a running cable trolley system between the hours of 10:00 p.m. and 6:00 a.m. or for a period of more than six hours between the hours of 6:01 a.m. and 9:59 p.m.; (3) regardless of how long a period of time, restraining a dog by means of a choke-type collar, a prong collar or by any similar device; (4) regardless of how long a period of time, restraining a dog by means of a tethering device that is less than 10 feet in length, that weighs more than 1/8 of the dog's body weight, that is attached to a pulley, trolley, loop or other moveable device running on a cable less than 10 feet in length or mounted more than seven feet above the ground, or that, due to weight or any other reason, inhibits the free movement of the dog in the area within which the dog is restrained; (5) regardless of how long a period of time, restraining simultaneously more than one dog by means of a tethering device attached to a fixed point or a running cable trolley system; or (6) regardless of how long a period of time, restraining a dog in a manner that could result in injury, strangulation or entanglement of the dog with any man-made or natural object.

Cruel confinement of a dog is defined as confining a dog in an enclosure containing less than 150 square feet of space for each dog six months of age or older within the enclosure, and the enclosure is the dog's primary living area or regularly used by the dog to eat, sleep, drink and eliminate.

Under the bill, cruel restraint or confinement of a dog would be a disorderly persons offense. If the restraint or confinement of the dog results in serious physical injury to the dog, it would be a crime of the fourth degree, and if the restraint or confinement of the dog results in the death of the dog, it would be a crime of the third degree. Where more than one dog is involved, each dog cruelly restrained or confined shall constitute a separate offense, and, beginning 48 hours after a charge of cruel restraint or confinement, each day that the person charged fails to comply with this bill would constitute a separate offense.

This bill also provides for a civil penalty of \$250 to \$1,000 for persons who cruelly restrain or confine a dog and authorizes officers and agents of the New Jersey Society for the Prevention of Cruelty to Animals, as well as certified animal control officers, to petition a court to have any animal owned or possessed by a person

**A1518 CHIAPPONE, JOHNSON**

9

- 1 at the time the person is found to be guilty of violating this bill to
- 2 be confiscated and forfeited.