

ASSEMBLY, No. 4597

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED DECEMBER 6, 2007

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

SYNOPSIS

Revises vicious and potentially dangerous dog law; designated Congo's Law.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/7/2007)

1 AN ACT concerning vicious and potentially dangerous dogs and
2 designated as Congo's Law, and amending P.L.1989, c.307.

3

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

6

7 1. Section 2 of P.L.1989, c.307 (C.4:19-18) is amended to read
8 as follows:

9 2. As used in this act:

10 "Animal control officer" means a certified municipal animal
11 control officer or, in the absence of such an officer, the chief law
12 enforcement officer of the municipality or his designee.

13 "Department" means the Department of Health.

14 "Dog" means any dog or dog hybrid.

15 "Domestic animal" means any cat, dog, or livestock other than
16 poultry.

17 "Potentially dangerous dog" means any dog or dog hybrid
18 declared potentially dangerous by a municipal court pursuant to
19 section 7 of P.L.1989, c.307 (C.4:19-23).

20 "Provoked" means causing or inciting a dog to defend itself, its
21 offspring, or its owner or a family member of its owner, by
22 engaging in threatening actions or behavior including but not
23 limited to (1) entering property without the presence, permission, or
24 direction of the owner of the property or contrary to the express
25 direction of the owner to not enter the property, or (2) gesticulating
26 at, striking, grabbing, poking, prodding, or otherwise threatening
27 the dog, its offspring, its owner, or a family member of its owner in
28 such a way that reasonably would be expected to cause a dog to
29 react in a protective manner, including but not limited to attacking
30 the person exhibiting the threatening actions or behavior.

31 "Unprovoked" means not provoked.

32 "Vicious dog" means any dog or dog hybrid declared vicious by
33 a municipal court pursuant to section 6 of P.L.1989, c.307 (C.4:19-
34 22).

35 (cf: P.L.1994, c.187, s.1)

36

37 2. Section 3 of P.L.1989, c.307 (C.4:19-19) is amended to read
38 as follows:

39 3. An animal control officer shall seize and impound a dog when
40 the officer has reasonable cause to believe that the dog:

41 a. attacked a person and caused death or serious bodily injury as
42 defined in N.J.S.2C:11-1(b) to that person;

43 b. caused bodily injury as defined in N.J.S.2C:11-1(a) to a
44 person during an unprovoked attack and poses a continuing or
45 future serious threat of harm to persons or domestic animals;

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 c. engaged in dog fighting activities as described in R.S.4:22-24
2 and R.S.4:22-26; or

3 d. has been trained, tormented, badgered, baited or encouraged
4 to engage in unprovoked attacks upon persons or domestic animals.

5 The dog **[shall]** may be impounded until the final disposition as
6 to whether the dog is vicious or potentially dangerous , or may be
7 released to the custody of its owner, pending final disposition,
8 including any appeals, provided that the owner agrees in writing to
9 comply with the same conditions prescribed pursuant to paragraphs
10 (2) and (3) of subsection a. of section 8 of P.L.1989, c.307 (C.4:19-
11 24) for potentially dangerous dogs as may be deemed applicable by
12 the municipal health officer . Subject to the approval of the
13 municipal health officer, the dog may be impounded in a facility or
14 other structure agreeable to the owner , or kept by the owner as
15 provided for in this section. During any impoundment of a dog
16 pursuant to this section, the owner and the family of the owner shall
17 be entitled to visit the dog and shall be granted reasonable times and
18 reasonable access to the dog for visitation .

19 No dog may be seized or impounded for the reasons cited under
20 subsections a. or b. of this section, and no action may be taken to
21 have the dog declared vicious or potentially dangerous for those
22 reasons, if more than 180 days have elapsed since the alleged attack
23 or bodily injury occurred.

24 (cf: P.L.1989, c.307, s.3)

25

26 3. Section 4 of P.L.1989, c.307 (C.4:19-20) is amended to read
27 as follows:

28 4. a. The animal control officer shall notify the municipal court
29 and the municipal health officer immediately that he has seized and
30 impounded a dog pursuant to section 3 of P.L.1989, c.307 (C.4:19-
31 19), or that he has reasonable cause to believe that a dog has killed
32 another domestic animal and that a hearing is required. The animal
33 control officer shall through a reasonable effort attempt to
34 determine the identity of the owner of any dog seized and
35 impounded pursuant to section 3 of P.L.1989, c.307. If its owner
36 cannot be identified within seven days, that dog may be humanely
37 destroyed.

38 b. The animal control officer shall, within three working days of
39 the determination of the identity of the owner of a dog seized and
40 impounded pursuant to section 3 of P.L.1989, c.307 (C.4:19-19),
41 notify by certified mail, return receipt requested, the owner
42 concerning the seizure and impoundment, the requirement to
43 respond to the notice within seven days after its receipt, the
44 potential consequences of failure to respond to the notice as
45 provided in this subsection, and that **[, if the owner wishes,]** a
46 hearing will be held to determine whether the impounded dog is
47 vicious or potentially dangerous , unless the owner wishes to
48 relinquish ownership of the dog .

1 This notice shall also require that the owner return within seven
2 days, by certified mail or hand delivery, a signed statement
3 indicating whether **【he wishes】** the owner relinquishes ownership
4 or requests the hearing to be conducted **【or, if not, to relinquish**
5 **ownership】** . If the owner relinquishes ownership of the dog, **【in**
6 **which case】** the dog may be humanely destroyed. If the owner
7 cannot be notified by certified mail, return receipt requested, or
8 refuses to sign for the certified letter, or does not reply to the
9 certified letter with a signed statement within seven days **【of 】** after
10 receipt, the dog may be humanely destroyed.

11 (cf: P.L.1994, c.187, s.2)

12

13 4. Section 6 of P.L.1989, c.307 (C.4:19-22) is amended to read
14 as follows:

15 6. a. The municipal court shall declare the dog vicious if it finds
16 **【by clear and convincing evidence】** that the dog:

17 (1) beyond a reasonable doubt killed a person or caused serious
18 bodily injury as defined in N.J.S.2C:11-1(b) to a person and poses a
19 continuing or future serious threat of serious bodily injury or death
20 to a person ; or

21 (2) by clear and convincing evidence has engaged in dog fighting
22 activities as described in R.S.4:22-24 and R.S.4:22-26.

23 b. A dog shall not be declared vicious for inflicting death or
24 serious bodily injury as defined in N.J.S.2C:11-1(b) upon a person
25 if the dog was provoked. The municipality shall bear the burden of
26 proof to demonstrate beyond a reasonable doubt that the dog was
27 not provoked.

28 c. If the municipal court declares a dog to be vicious, and no
29 appeal is made of this ruling pursuant to section 9 of P.L.1989,
30 c.307 (C.4:19-25), the dog **【shall】** may:

31 (1) be destroyed in a humane and expeditious manner, except
32 that no dog may be destroyed during **【the pendency of an】** any
33 pending appeal 【.】 ; or

34 (2) identified as vicious and the court may require the owner to
35 comply with the same conditions prescribed pursuant to section 8 of
36 P.L.1989, c.307 (C.4:19-24) for potentially dangerous dogs as may
37 be deemed applicable by the court, or with any other requirements
38 or conditions the court may prescribe .

39 (cf: P.L.1994, c.187, s.3)

40

41 5. Section 7 of P.L.1989, c.307 (C.4:19-23) is amended to read
42 as follows:

43 7. a. The municipal court shall declare a dog to be potentially
44 dangerous if it finds **【by clear and convincing evidence】** that the
45 dog:

46 (1) beyond a reasonable doubt caused bodily injury as defined in
47 N.J.S.2C:11-1(a) to a person during an unprovoked attack, and

1 poses a continuing or future serious threat of bodily injury or death
2 to a person, or

3 (2) beyond a reasonable doubt severely injured or killed another
4 domestic animal [.] ; and

5 (a) poses a continuing or future serious threat of [serious]
6 bodily injury or death to a person [.] , or

7 (b) poses a continuing or future serious threat of death to
8 another domestic animal [.] ; or

9 (3) by clear and convincing evidence, has been trained,
10 tormented, badgered, baited or encouraged to engage in unprovoked
11 attacks upon persons or domestic animals.

12 b. A dog shall not be declared potentially dangerous for:

13 (1) causing bodily injury as defined in N.J.S.2C:11-1(a) to a
14 person if the dog was provoked [.] ; or

15 (2) severely injuring or killing a domestic animal if the domestic
16 animal was the aggressor.

17 For the purposes of paragraph (1) of this subsection, the
18 municipality shall bear the burden of proof to demonstrate beyond a
19 reasonable doubt that the dog was not provoked.

20 (cf: P.L.2002, c.24, s.1)

21

22 6. Section 8 of P.L.1989, c.307 (C.4:19-24) is amended to read
23 as follows:

24 8. a. If the municipal court declares the dog to be potentially
25 dangerous, it shall issue an order and a schedule for compliance
26 which, in part [:

27 a.] , shall require the owner to comply with the following
28 conditions:

29 (1) to apply, at his own expense, to the municipal clerk or other
30 official designated to license dogs pursuant to section 2 of
31 P.L.1941, c.151 (C.4:19-15.2), for a special municipal potentially
32 dangerous dog license, municipal registration number, and red
33 identification tag issued pursuant to section 14 of [this act. The
34 owner shall, at his own expense, have the registration number
35 tattooed upon the dog in a prominent location.] P.L.1989, c.307 (C.
36 4:19-30). A potentially dangerous dog shall be impounded until the
37 owner obtains a municipal potentially dangerous dog license,
38 municipal registration number, and red identification tag;

39 (2) to display, in a conspicuous manner, a sign on his premises
40 warning that a potentially dangerous dog is on the premises. The
41 sign shall be visible and legible from 50 feet of the enclosure
42 required pursuant to paragraph (3) of this subsection , or in the case
43 of rental property for which that requirement cannot be met, the
44 sign shall be posted on each door providing access to the unit of the
45 rental property in which the dog is kept ;

46 (3) to immediately erect and maintain an enclosure for the
47 potentially dangerous dog on the property where the potentially

1 dangerous dog will be kept and maintained, which has sound sides,
2 top and bottom to prevent the potentially dangerous dog from
3 escaping by climbing, jumping or digging and within a fence of at
4 least six feet in height separated by at least three feet from the
5 confined area. The owner of a potentially dangerous dog shall
6 securely lock the enclosure to prevent the entry of the general
7 public and to preclude any release or escape of a potentially
8 dangerous dog by an unknowing child or other person. All
9 potentially dangerous dogs shall be confined in the enclosure or, if
10 taken out of the enclosure, securely muzzled and restrained with a
11 tether approved by the animal control officer and having a
12 minimum tensile strength sufficiently in excess of that required to
13 restrict the potentially dangerous dog's movements to a radius of no
14 more than three feet from the owner and under the direct
15 supervision of the owner [;] . The court may modify any of the
16 enclosure requirements prescribed pursuant to this paragraph as
17 appropriate, or establish other enclosure requirements or conditions,
18 when the dog is kept on a rental property, including but not limited
19 to requiring the owner to obtain a cage enclosure of the proper size
20 for the dog to be kept in the unit of the rental property, and
21 requiring the owner to keep the dog in the cage enclosure at all
22 times when the owner is not present in the unit of rental property.

23 b. [may require the owner to maintain liability insurance in an
24 amount determined by the municipal court to cover any damage or
25 injury caused by the potentially dangerous dog. The liability
26 insurance, which may be separate from any other homeowner
27 policy, shall contain a provision requiring the municipality in which
28 the owner resides to be named as an additional insured for the sole
29 purpose of being notified by the insurance company of any
30 cancellation, termination or expiration of the liability insurance
31 policy.] (Deleted by amendment, P.L. , c.) (pending before the
32 Legislature as this bill)

33 c. The municipal court shall suspend any order and schedule of
34 compliance issued pursuant to this section during any pending
35 appeal.

36 (cf: P.L.1994, c.187, s.5)

37

38 7. This act shall take effect immediately, and shall apply to all
39 pending cases and cases in the process of being adjudicated as of
40 the date of enactment of this act, and to any dogs under court order
41 for humane destruction as of January 1, 2007 but which have not
42 been destroyed as of the date of enactment of this act.

43

44

45

STATEMENT

46

47 This bill clarifies and revises several provisions of the State law
48 that addresses vicious and potentially dangerous dogs. It is

1 designated as Congo's Law in honor of Congo, a dog in Princeton,
2 New Jersey, that was declared a vicious dog and subject to an order
3 to be euthanized when, by many accounts, it was protecting its
4 owner and the owner's family members when a landscaping crew,
5 against the owner's instructions, came onto the owner's property.

6 Specifically, the bill establishes a definition of the terms
7 "provoked" and "unprovoked." Whether a dog is provoked or not is
8 currently the only defense under the law to prevent a dog from
9 being declared vicious when it is acting in defense of itself, its
10 offspring, its owner, or a family member of its owner.

11 Also, under current law, if a municipal court declares a dog to be
12 vicious, it must be humanely destroyed. This bill provides the
13 municipal court an alternative to humanely destroying a dog that is
14 declared vicious. Under the bill, the owner could keep the dog if
15 the owner complies with the same precautions for keeping a
16 potentially dangerous dog that are provided for under current law,
17 or with other court instructions. The bill further provides for an
18 owner keeping the dog pending disposition of the case and any
19 appeals if the owner agrees to comply with those precautions. The
20 precautions include posting certain signs on the property and
21 minimizing the dog's contact and threat to people and other animals
22 in specific ways. In addition, the bill provides for alternatives for
23 renters to address these requirements for precautions. The bill
24 further provides for visitation by the owner and the owner's family
25 during any impoundment that is required.

26 Furthermore, the bill raises the burden of proof in most cases for
27 finding a dog to be vicious or potentially dangerous to beyond a
28 reasonable doubt, instead of clear and convincing evidence. The bill
29 clarifies under the law's hearing provisions that a hearing on
30 whether the dog is vicious or potentially dangerous will be held
31 unless the owner agrees to relinquish ownership of the dog. The
32 bill further requires the notice to the owner inform the owner of the
33 potential consequences of not replying to the notice within seven
34 days. Under current law and the bill, if the owner does not reply
35 within seven days of the notice, or if the owner relinquishes
36 ownership of the dog, the dog may be humanely destroyed. The bill
37 eliminates the requirement to tattoo a potentially dangerous dog.
38 The bill also eliminates the requirement under current law to obtain
39 liability insurance for potentially dangerous dogs. Finally, the bill
40 provides a statute of limitations of six months for animal control
41 officers to seize and impound alleged vicious or potentially
42 dangerous dogs, other than such dogs engaged in dog fighting
43 activities.

44