

**NEW
JERSEY**

LAW

*Concerning Necessary Care
of Pets and Certain Animals*



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Publication*



NEW JERSEY LAW CONCERNING NECESSARY CARE OF PETS AND CERTAIN ANIMALS

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The Law [N.J.S.A. 4:22-17 et seq.]

In August 2017, New Jersey enacted a law establishing requirements for the proper sheltering of dogs and other companion animals (those commonly referred to as “pets”); as well as laws regarding the tethering of dogs.

The new law does not apply to agricultural animals, such as domestic livestock.

I. Proper Shelter Under Adverse Environmental Conditions

Under the new law, it is unlawful to expose any dog, domestic companion animal, or service animal to adverse environmental conditions for more than 30 minutes unless the animal has continuous access to “Proper Shelter”, as set forth below.

“Adverse environmental conditions” include:

(1) COLD - a temperature of 32 degrees Fahrenheit or below, or wind, rain, snow, ice, sleet or hail that a person should reasonably know would pose an adverse risk to the health or safety of the animal based on the animal’s size, age, physical condition or thickness of the animal’s hair or fur; or

(2) HEAT - a temperature of 90 degrees Fahrenheit or above, or exposure to direct sunlight or hot pavement or any other hot surfaces (such as a roof), that a person should reasonably know would pose an adverse risk to the health or safety of the animal based on the animal’s size, age, physical condition or thickness of the animal’s hair or fur. [N.J.S.A. 4:22-17.1]

“Proper Shelter” meets, at a minimum, the following standards and requirements:

Provides adequate ventilation to allow the animal to remain dry and maintain its normal body temperature, with access to clean liquid water (not frozen), exposure to natural or artificial light in a regular cycle of day and night, sufficient space for the animal to easily turn around in a full circle and lie down on its side with limbs outstretched, and enough room so the animal’s head cannot touch the ceiling of the shelter when the animal is in a normal sitting position. [N.J.S.A. 4:22-17.5]

The shelter also must be maintained to minimize the accumulation of waste, debris, precipitation or other moisture inside, around, and underneath the area of the shelter, and to provide reasonable protection from flooding. The shelter should also be constructed to prevent the sagging or collapse of any part, and be maintained with no exposed sharp points or edges; remaining in an upright position at all times.

Under the COLD adverse environmental conditions set forth above, the shelter should be enclosed, with a solid roof and walls with a single opening no larger than necessary to allow the animal to comfortably enter and exit the structure, and a floor that is not the ground, and insulation, dry bedding, and a windbreak (flap) at the entrance that are sufficient to keep the animal dry and maintain the animal’s normal body temperature.

Under the HEAT adverse environmental conditions set forth above, the shelter should provide the animal with adequate shade or other cooling area by natural or artificial means (such as a fan) to allow the animal to maintain a normal body temperature.

Any part of the residence of the animal's owner or other person with custody or control of an animal shall be "Proper Shelter" if the part of the residence and the use thereof are in compliance with the requirements set forth above.

Notwithstanding the above requirements with regard to access to water, a person may confine a dog, domestic companion animal, or service animal without providing access to water at all times if the animal is confined indoors and in the primary living space of the residence of the owner or other person with custody or control of the animal.

The above requirements of "Proper Shelter" shall not apply if any person, including the animal's owner or person with custody or control of the animal:

- (1) is with the animal and in the same adverse environmental conditions; and
- (2) can see the animal at all times while exposed to the adverse environmental conditions, unless the person is blind⁽¹⁾ or visually impaired, in which case the person shall remain immediately adjacent to the animal at all times.

The above requirements for "Proper Shelter" do not apply to licensed veterinary medicine facilities, and licensed kennels, pet shops, animal shelters, and pounds, when operating in compliance with their applicable rules and regulations.

The following places are examples of places which are NOT "Proper Shelter":
A space under a building such as a crawl space or underneath a deck or stoop; the space underneath a vehicle or inside a vehicle if a person should reasonably know it poses an adverse risk to the health or safety of the animal; any structure made from pressure-treated wood containing the chemicals arsenic or chromium, with a floor consisting of wire or chain-link or with openings through which the paw, hoof or foot of an animal can pass; or a structure located outdoors and made from cardboard or other materials that are easily degraded by the elements. [N.J.S.A. 4:22-17.5c]

1. "Blind" as used herein means a person whose vision in the person's better eye with proper correction does not exceed 20/200 or who has a field defect in the person's better eye with proper correction which contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than 20 degrees; and "visually impaired" means having a condition in which a person has a corrected visual acuity not exceeding 20/70, but not less than 20/200, in the person's better eye, or in which the peripheral field of the person's vision has contracted so that the diameter of the visual field subtends an angle no greater than 40 degrees but no less than 20 degrees.





Proper Conditions for Transport

The above provisions for “Proper Shelter” do not apply during transport of the animal; however, the following requirements apply:

(1) A person may confine an animal temporarily in an animal carrier or crate for the purposes set forth in the next paragraph, provided that (a) during transport, the animal is at all times inside the vehicle being used for transport; and (b) during confinement in the animal carrier or crate, the top of the head of the animal cannot touch the ceiling of the animal carrier or crate when the animal is in a normal standing position in the animal carrier or crate, and the animal can easily turn around in a full circle and lie down on its side in the animal carrier or crate.

(2) A person may confine an animal temporarily in an animal carrier or crate for the purpose of (a) transport; (b) any exhibition, show, contest, or other temporary event at which the skill, breeding, or stamina of the animal is judged or examined; or (c) in the case of a dog, any exhibition, class, training session, or other temporary event at which the dog is used, or is being trained, to hunt wildlife in a lawful manner. [N.J.S.A. 4:22-17.4]

Proper Treatment of Animals During an Evacuation

The above provisions for “Proper Shelter” do not apply during an Evacuation with the animal; however, the following requirements apply:

When State or local officials issue an order of evacuation due to weather or other emergency conditions, an owner or other person with custody or control of a dog, domestic companion animal, or service animal shall make every effort to evacuate with the animal, and shall not leave the animal indoors or outdoors while unattended and tethered. If evacuation with the owner or other person with custody or control of the animal is not an option, the owner or other person with custody or control of the animal shall make every effort to:

(1) deliver the animal to a safe haven not impacted by the emergency, which may include, but is not limited to, a licensed kennel, shelter, or pound, temporary animal shelter established for the purposes of the emergency, the residence of a friend, relative, or other caregiver, or other suitable facility capable of ensuring the animal’s safety; or

(2) secure the animal in an indoor area that is clear of hazards and is as protective of the animal as possible under the circumstances, and alert local emergency responders to the animal’s location.

Paragraphs (1) and (2) do not apply to any cat living outside with no apparent owner (a feral cat). [N.J.S.A. 4:22-17.2]

Liability for failure to provide “Proper Shelter”, Proper Conditions for Transport, or Proper Treatment of Animals During an Evacuation

(1) The owner of an animal shall be liable for a violation of this section that occurs on or in any property belonging to the owner or on which the owner resides or in any vehicle belonging to the owner at the time of the violation, regardless of whether the owner is present when the violation occurs.

(2) The person with custody or control of an animal who is not the owner of the animal shall be liable for a violation of this section that occurs on or in any property belonging to the person with custody or control of the animal or on which the person with custody or control of the animal resides or in any vehicle belonging to the person with custody or control of the animal at the time of the violation, regardless of whether the person is present when the violation occurs. [N.J.S.A. 4:22-17.4]

Violations under this section of the law shall constitute failure to provide necessary care pursuant to N.J.S.A. 4:22-17 and N.J.S.A. 4:22-26, and a violator shall be subject to the applicable penalties set forth in those sections. [N.J.S.A. 4:22-17.8]

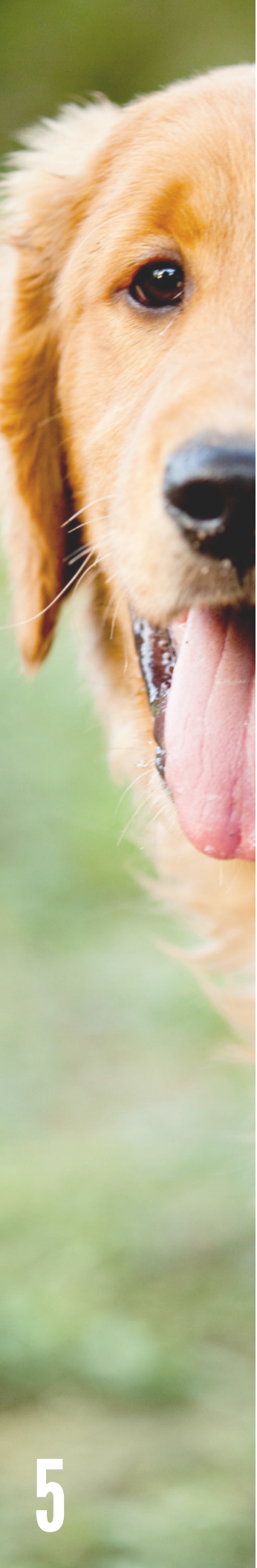
II. Restrictions on Cruel Restraint of Dogs (“Tethering”)

“Tether” means to fasten or attach a dog with a cable, chain, rope, or other similar object to a stationary object, including, but not limited to, a doghouse, tree, stake, pole, fence, or wall, or to a device that is mobile including, but not limited to, a trolley or pulley, (such as a dog run cable or moveable clothesline) in order to restrict the dog’s movement. A “tether” also means the cable, chain, rope or other similar object.

It is unlawful for any person to cruelly restrain a dog, by tethering a dog:

- (1) which is a nursing female, or a puppy less than four months old;
- (2) outdoors between the hours of 11 p.m. and 5 a.m., (this paragraph shall not take effect until 18 months after August 7, 2017);
- (3) in an unoccupied building or upon vacant property;
- (4) in a manner that does not permit the dog continuous access to water in a sanitary and liquid state (not frozen) whenever the dog is tethered for more than 30 minutes;
- (5) in a manner that exposes the dog to “adverse environmental conditions”, as described above, for more than 30 minutes;
- (6) by means of a choke collar, prong collar, head harness, or any other type of collar, harness, or similar device other than a properly fitted body harness or buckle-type collar;
- (7) by using a chain with metal links that are more than one-quarter of an inch thick, or a tether, collar, or harness to which a weight is attached;
- (8) with a tether on which more than one dog is restrained;





(9) with a tether that is less than 15 feet in length or which does not permit the dog to walk at least 15 feet in any one direction (this paragraph does not apply if the dog is indoors and a person is indoors with the dog); or

(10) with a tether that permits the dog to reach another dog or an object or location that poses a risk of entanglement, strangulation, drowning, or other harm to the health or safety of the dog, including, but not limited to, another dog's tether or a window sill, fence, wall, porch, terrace railing, vehicle, tree, pole, pool, or public road or highway.

Paragraphs (2), (9), and (10) listed above shall not apply if any person, including the dog's owner or the person with custody or control of the dog is in the presence of the dog at all times while the dog is tethered, whether indoors or outdoors; and can see the dog at all times while the dog is tethered, unless the person is blind or visually impaired so that the person cannot see the dog due to the blindness or visual impairment, in which case the person shall remain immediately adjacent to the dog at all times while the dog is tethered. [N.J.S.A. 4:22-17.3]

Liability for Cruel Restraint of Dogs

The owner of a dog shall be liable for a violation of the above that occurs on any property belonging to the owner or on which the owner resides at the time of the violation, regardless of whether the owner is present when the violation occurs.

The person with custody or control of a dog who is not the owner of the dog shall be liable for a violation of the above that occurs on any property belonging to the person with custody or control of the dog or on which the person with custody or control of the dog resides at the time of the violation, regardless of whether the person is present when the violation occurs.

Violations under this section of the law regarding tethering shall be subject to:

(1) for a first offense, at the discretion of the court, a fine of \$100; and

(2) for a second offense, at the discretion of the court, a fine of \$200.

For a third or subsequent offense, the offense shall constitute failure to provide necessary care pursuant to R.S. 4:22-17 and R.S. 4:22-26, and a violator shall be subject to the applicable penalties set forth in those sections. [N.J.S.A. 4:22-17.8].

III. Violations

Upon a showing of probable cause that there has been a violation of this Law and submission of proof of issuance of a summons, a court of competent jurisdiction may issue, upon request, a warrant to any municipal humane law enforcement officer or county society for the prevention of cruelty to animals, certified animal control officer, or other State or local law enforcement officer to enter onto the private property where a dog, domestic companion animal, or service animal is located and take physical custody of the animal. However, if the officer has a reasonable basis to believe that the animal is at risk of imminent harm due to a violation of this law, and requires immediate assistance to protect or preserve the

animal's life or prevent serious injury to the animal, the officer or agent may immediately enter onto private property where the animal is located and take physical custody of the animal.

Upon taking physical custody of a dog, domestic companion animal, or service animal, the person taking physical custody of the animal shall: (1) post immediately, in a conspicuous place at the location from which the animal was taken, the notice required below to the owner or person with custody or control of the animal, and (2) send by registered or certified mail and by ordinary mail the notice described below to the address of the location from which the animal was taken into physical custody.

The notice required in the above paragraph shall: (1) provide a description of the animal; (2) state that animal may be euthanized upon a veterinarian's written determination of medical necessity as required by subsection e. of this section; (3) state the statutory authority and reason for taking custody of the dog, domestic companion animal, or service animal; and (4) provide contact information, including at least the name of any applicable office or entity, the name of a person at that office or entity, and a telephone number for the owner or person with custody or control of the dog, domestic companion animal, or service animal to obtain information concerning the animal, the alleged violation, and where the animal is impounded.

A dog, domestic companion animal, or service animal taken into physical custody pursuant to the above shall be placed in a licensed shelter, pound, or kennel to ensure the humane care and treatment of the animal. If, after the animal has been taken into physical custody, a licensed veterinarian makes a written determination that the animal is in intractable and extreme pain and beyond any reasonable hope of recovery with reasonable veterinary medical treatment, the animal may be euthanized. At any time while the licensed shelter, pound, or kennel has custody or control of the animal, it may place the animal in an animal rescue organization facility or a foster home if it determines the placement is in the best interest of the animal.

No person shall be cited for a violation of this act unless that person has first been issued a correction warning. A correction warning shall provide notice to the person that the person has seven days to correct the violation and a description of the violation to be corrected. No correction warning shall be required when an officer or agent immediately seizes an animal because of a reasonable suspicion to believe that the animal is at risk of imminent harm. A summons shall be served on the alleged violator as soon as practicable if:

- (1) after the seven days have elapsed from the date a correction warning is issued, no correction has been made; or
- (2) the animal involved in the violation was seized immediately because of a reasonable suspicion to believe that the animal is at risk of imminent harm.

If the alleged violator is not the owner of the animal, the person issuing the correction warning or summons, as applicable, shall also notify the owner of the animal of the violation and provide the owner with a copy of the issued correction warning or summons, as applicable.





Any summons issued for a violation of this act shall contain:

- (1) a description of the violation and statutory authority;
- (2) the penalty for the violation; and
- (3) contact information identifying, at a minimum (a) the name of the investigating agency or office, and (b) the name of the officer issuing the summons or investigating the alleged violation.

Any officer issuing a summons for a violation of this law shall also serve on the alleged violator, with the summons, a written notice of:

- (1) the right to voluntarily forfeit ownership or custody of the animal;
- (2) the action or actions required for compliance;
- (3) a demand for immediate compliance; and
- (4) a telephone number for the investigating agency or office and the investigating officer.

Any officer may petition a court of competent jurisdiction to have an animal confiscated, if not previously seized, and forfeited upon the person being found guilty of, or liable for, a violation of this law. Upon a finding that continued possession of the animal by the owner or other person authorized to have custody or control of the animal poses a threat to the health or safety of the animal, the court shall order that the animal be forfeited, placed in an animal rescue organization facility, shelter, pound, or kennel, and made available for adoption.

A person found guilty of, or liable for, a violation of any provision of this law shall be responsible for, and pay, the reasonable costs of caring for the animal from the date on which physical custody of the animal was taken pursuant to a violation until the date the animal is surrendered, forfeited, returned, or euthanized, including, but not limited to, the cost of transporting, sheltering, and feeding the animal, the cost of providing the animal with necessary veterinary care, and if the animal is euthanized, the cost of the euthanasia. [N.J.S.A. 4:22-17.7]

Beginning on the fourth day after the date of issuance of a summons for a violation of this act, each 30-day period that the owner or other person with custody or control of the animal is still in possession of the animal and fails to comply with the requirements of this act shall constitute a separate offense. [N.J.S.A. 4:22-17.8]

A court may, in its discretion, waive or reduce the amount of any fine imposed for any violation of this act upon the violator demonstrating compliance with this act in the manner as may be prescribed by the court. [N.J.S.A. 4:22-17.8]

No provision of this act, or any rule or regulation adopted pursuant thereto, shall be construed or applied to limit any protection afforded to any dog pursuant to Title 2C of the New Jersey Statutes or any other provisions of Title 4 of the Revised Statutes, any other federal or State law, or rule or regulation adopted pursuant thereto, or any local ordinance, resolution, rule, or regulation.

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