

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #15

May 21, 2018

S. 3222

By: Senator Golden

A. 2676

By: M. of A. Malliotakis

Senate Committee: Agriculture

Assembly Committee: Agriculture

Effective Date: 90 days after it shall have become a law; but, effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.

**AN ACT** to amend the agriculture and markets law, in relation to outdoor restraint of dogs.

**LAW & SECTION REFERRED TO:** Section 353-g of the Agriculture and Markets Law.

### **THE COMMITTEE ON ANIMALS AND THE LAW** **SUPPORTS THIS LEGISLATION**

This bill would amend the Agriculture and Markets Law by adding a new Section 353-g that provides various restrictions for tethering dogs outside, specific to whether the dog resides in New York City or in other parts of the state. Dogs used on farms to herd or protect livestock are excluded from the bill. Section one defines tethering as, “*a means to restrain a dog by attaching the dog to any object or structure...by any means...*” except when leash walking a dog. Other sections list specific restrictions for the duration, timeframe, and tethering method and equipment that can be used. Nothing in the subdivision supersedes other sections of Agriculture and Markets, Article 26 or other NYS laws protecting animals. Violations ranging from a class A misdemeanor for a first offense, and class B for subsequent offenses are included, and municipalities are not precluded from enacting more restrictive local laws, rules, regulations or ordinances. Federal, state, and local law enforcement agencies are excluded from the provisions.

Tethering a dog unattended for long periods of time is tortuous to the dog and compromises the public's safety. Seventy-five percent of the approximately five million dog bite cases reported annually nationwide involved chained dogs, or dogs who broke free from their tether. Over half of the cases involved children. In thirty thousand of the child-related cases, the child required reconstructive surgery, a 6% increase in 2014 from previous years. More concerning, 12 people a year, many of them children under 12 who wandered too close to a chained dog, died from their dog-bite related injuries.<sup>1</sup>

Dogs are social animals, bred throughout the centuries for their desire to engage with us and be dependent upon us for their well-being. The Humane Society of the United States (HSUS), the American Society for the Prevention of Cruelty to Animals (ASPCA), the American Veterinary Medical Association (AVMA), the Certification Council for Professional Dog Trainers (CCPDT) and other nationally respected animal welfare groups and stakeholders agree that chaining dogs for long periods of time unattended can catastrophically compromise a dog's physical and behavioral health.

In 1996, the U.S. Department of Agriculture formally recognized that "*Our experience in enforcing the Animal Welfare Act has led us to conclude the continuous confinement of dogs by a tether is inhumane,*" subsequently issuing a final rule in 1997 banning permanent dog tethering in facilities covered by the AWA, and only granting permission for temporary tethering in rare cases.<sup>2</sup> As noted by the HSUS, ASPCA and other animal welfare experts, tethered dogs often sustain serious or fatal injuries due to inappropriate restraints.<sup>3</sup> Examples include but are not limited to strangulation, neck injuries from embedded collars or purposefully designed choke chains and bodily injuries from tether entanglement.

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<sup>1</sup> American Society for Reconstructive Surgery (2015). National Dog Bite Prevention Week is May 17-23: Medical groups team up to educate families on how to prevent dog bites. Available at: [https://www.microsurg.org/assets/1/7/2015\\_NDBPW\\_press\\_release.pdf](https://www.microsurg.org/assets/1/7/2015_NDBPW_press_release.pdf) [Accessed 24 Apr. 2018]. The data as reported in the 2015 press release was compiled by members of the American Society for Reconstructive Microsurgery (ASRM), American Academy of Pediatrics; Prevent The Bite (PTB); The United States Postal Service; the American Veterinary Medical Association (AVMA); the Insurance Information Institute (III); State Farm Insurance; American Humane Association, Victoria Stilwell, with references to the Center for Disease Control (CDC) statistics on annual dog bites.

<sup>2</sup> Humane Treatment of Dogs and Cats; Tethering and Temperature Requirements, 61 Fed. Reg. 128 (July 2, 1996). Federal Register: The Daily Journal of the United States; *see also* 9 CFR Part 3.6(c)(4). The AWA applies to breeders selling to pet stores, pet brokers, exhibitors, transporters and research facilities.

<sup>3</sup> Chaining and Tethering Dogs: Frequently Asked Questions: What You Should Know about this Inhumane Practice. Available at: [http://www.humanesociety.org/issues/chaining\\_tethering/facts/chaining\\_tethering\\_facts.html](http://www.humanesociety.org/issues/chaining_tethering/facts/chaining_tethering_facts.html) [Accessed 24 Apr. 2018]; *See* American Society for the ASPCA Urges NYC Council Health Committee to Support Dog Licensing & Anti-Tethering Bills (2010) <https://www.aspc.org/about-us/press-releases/aspc-urges-nyc-council-health-committee-support-dog-licensing-anti> [Accessed 24 Apr. 2018], ("Chained dogs can and have become aggressive due to constant confinement, a lack of socialization with humans, and an inability to escape from perceived threats. Tethering also exposes dogs to injury by other animals and people, extreme weather conditions and the tether/chain itself. Prohibiting tethering could help reduce threats to public safety.").

Living at the end of a chain without appropriate human attention and oversight that provides mental and physical stimulation and freedom from undue pain and distress, many dogs become bored, anxious and fearful. Often, obsessive and self-injurious behaviors develop, including chronic barking, excessive licking, paw chewing, or pacing. Moreover, anxious or fearful dogs can become inappropriately protective of their territory or possessions. For a tethered dog, even a square inch of space or an overturned water bowl becomes worthy of protection. Consequently, the chained dog may bark, growl, lunge and bite if someone intentionally or otherwise wanders too close to the dog's space or possessions.

In New York State, nearly 600,000 people seek treatment for dog bites annually. Like the national statistic, over half of the cases involve children. Realistically, the New York State and national averages are low, as some cases likely go unreported. Statistically it follows from the national U.S. Postal Service Study that a significant number of the dog bite cases in New York involved tethered dogs. An exact accounting is unavailable as New York does not require that a filed complaint include whether the dog was chained or in what manner.

Unfortunately, even well-intentioned dog owners may not recognize the abusive nature of inappropriate tethering. The absence of statutory guidelines leaves law enforcement with few options for protecting the dog from inadvertent or intentional harm. Additionally, tethering dogs with heavy logging chains and padlocked collars is a common practice among dog fighters. Anti-tethering laws would further New York's commitment to eradicating dog fighting by providing law enforcement a means of immediate rescue and further investigation. Anti-tethering laws would also provide recourse for combatting the public nuisance created when tethered dogs engage in excessive barking.

Ironically, New York recognizes the need to provide shade for "*restrained*" dogs left outdoors "...when exposure to sunlight is likely to threaten the health of the dog." (Agriculture and Markets Law, section 26, § 353-b(3)(a)), but is otherwise silent on outdoor tethering restrictions. S.3222/A.2676 remediates the inconsistency by providing concrete guidelines for both law enforcement and the public on tethering limits, humane standards and clear penalties for violations.

Tethered dogs often have no means of escaping from predators, dangerous snakes or other nuisance wildlife such as but not limited to rabid foxes or raccoons. The same predators that attack livestock in New York, most often coyotes, bears and cougars, also attack and kill dogs and other pets.<sup>4</sup> The NYS Department of Environmental

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<sup>4</sup> *Coyote Pack Spotted Days After Police Issue Attack Advisory In New Castle* (6/5/2016), <http://chappaqua.dailyvoice.com/news/coyote-pack-spotted-days-after-police-issue-attack-advisory-in-new-castle/664610/>; *Cougars in the wild in New York? Not yet the state says*, (1/25/2018), <https://www.democratandchronicle.com/story/news/2018/01/25/cougars-new-york-no-plans-reintroduce/1061162001/>

Conservation acknowledges that coyotes and other predators can pose a threat to dogs of all sizes and warns against keeping pets and pet food unattended outside.<sup>5</sup>

Moreover, there is no scientific distinction between city dwelling or rural dogs and the same concerns about tethering apply to dogs residing in New York City as in other areas of the state. Consequently, the same anti-tethering protections provided for New York City dogs should be applied uniformly to all dogs within the state. Similarly, protecting the public from dog bites is no less important in New York State than it is in New York City. Therefore, reducing the stimulus for potential aggression created by tethering should be a state-wide requirement.

Currently 19 states<sup>6</sup> and approximately 215 local municipalities nationwide including several in New York State have enacted anti-tethering laws and regulations. Strict, consistent anti-tethering standards are needed across New York State to protect dogs from the inhumane effects of tethering and remove potential threats to the public's safety.

For the foregoing reasons, the Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation and urges consideration of a uniform and urges consideration of a uniform statewide standard, like that which is under consideration for New York City.

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<sup>5</sup> NYS Department of Environmental Conservation, "Coyote Conflicts", <http://www.dec.ny.gov/animals/6971.html>

<sup>6</sup> CA, CT, DE, DC, HI, IL, IN, LA, MA, MD, MI, NV, NC, OR, PA, RI, TN, TX, VT, VA, WA, WV