4:19-4

LEGISLATIVE HISTORY CHECKLIST
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(Dogs--viscious or potentially dangerous--regulate)

LAWS OF: 1989 **CHAPTER:** 307

Bill No: S3276

Sponsor(s): Zane

Date Introduced: January 26, 1989

Committee: Assembly: Law, Public Safety & Defense

Senate: Natural Resources

Amended during passage: Yes Amendements during passage denoted by asterisks.

Date of Passage: Assembly: June 22, 1989 Re-enacted 1-8-90

Senate: February 27, 1989 Re-enacted 11-20-89

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clippings attached:

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[THIRD REPRINT]

SENATE, No. 3276

STATE OF NEW JERSEY

INTRODUCED JANUARY 26, 1989

By Senator ZANE

AN ACT concerning certain dogs, supplementing chapter 19 of Title 4 of the Revised Statutes, and making an appropriation.

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

1. The Legislature finds and declares that certain dogs are an increasingly serious and widespread threat to the safety and welfare of citizens of this State by virtue of their unprovoked attacks on, and associated injury to, individuals and other animals; that these attacks are in part attributable to the failure of owners to confine and properly train and control these dogs; that existing laws at the local level inadequately address this problem; and that it is therefore appropriate and necessary to impose a uniform set of State requirements on the owners of vicious or potentially dangerous dogs.

2. As used in this act:

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

"Department" means the Department of Health.

"Dog" means any dog or dog hybrid.

"Domestic animal" means any [1]cat, dog, or[1] livestock other than poultry [1][, cat or dog][1].

"Panel" means any panel selected pursuant to section 5 of this act.

"Potentially dangerous dog" means any dog or dog hybrid declared potentially dangerous by the panel pursuant to section 7 of this act.

"Vicious dog" means any dog or dog hybrid declared vicious by the panel pursuant to section 6 of this act.

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

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.
Matter enclosed in superscript numerals has been adopted as follows:
[1] Senate SNR committee amendments adopted February 6, 1989.
[2] Assembly ALP committee amendments adopted April 24, 1989.
[3] Senate amendments adopted in accordance with Governor's recommendations October 19, 1989.

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

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

c. engaged in dog fighting activities as described in [1][N.J.S.4:22-24] R.S.4:22-24[1] and [1][N.J.S.4:22-26] R.S.4:22-26[1]; or

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

The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the [1][animal control] municipal health[1] officer, the dog may be impounded in a facility [1]or other structure[1] agreeable to the owner.

4. [2]a.[2] The animal control officer shall notify the official responsible for convening a hearing pursuant to section 5 and the municipal health officer within three working days that he has seized and impounded a dog pursuant to section 3 of this act, or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. [2]The animal control officer shall through a reasonable effort attempt to determine the identity of the owner of any dog seized and impounded. If its owner cannot be identified within seven days, that dog may be humanely destroyed.

b.[2] [1]The [2][animal control officer] official responsible for convening a hearing pursuant to section 5 of this act[2] shall, within three [2]working[2] days of [2][determining] the determination of[2] the identity of the owner of a dog seized and impounded pursuant to this act, notify [2]by certified mail, return receipt requested[2] the owner [2][of] concerning[2] the seizure and impoundment [2]and the grounds for a hearing pursuant to section 5. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified

letter, or does not reply to the certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed[2] .[1]

5. a. The chief [1][of police] law enforcement officer of the municipality[1] or the municipal health officer shall select a panel of [1]three[1] qualified individuals knowledgeable about dog behavior [1][to] [2],[as defined by the Department of Health pursuant to rule or regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.),][2] and[1] conduct a hearing, [2]within 30 days of the receipt of the signed statement from the dog's owner as required by subsection b. of section 4 of this act,[2] to determine whether the dog impounded pursuant to section 3 of this act is vicious or potentially dangerous. In no case may the municipal official who is the supervisor of the animal control officer presenting the case select the panel. If neither the chief [1][of police or] law enforcement officer of the municipality nor[1] the [1]municipal[1] health officer is the animal control officer's supervisor, [1][then][1] the [1]municipal[1] health officer shall select the panel and conduct the hearing. [2][In no case] To the greatest extent practicable, the selected panel shall collectively represent a diverse background in dog behavior and in no case may all of the members of the panel be from the same discipline nor[2] may a panel include any individual connected to the case. Upon request, the department may recommend to the [1]municipal[1] health officer or chief [1][of police] law enforcement officer of the municipality[1] the names of qualified individuals to serve on the panel. [2]For the purposes of this section, "qualified individuals" means:

(1) veterinarians specializing in the treatment of dogs and cats;

(2) American Kennel Club certified dog breed or obedience judges;

(3) professional dog handlers who are members of the Professional Handlers Association or who are recommended by either a Professional Handlers Association member or an American Kennel Club certified dog breed judge;

(4) professional dog obedience trainers who are members of the National Association of Dog Obedience Instructors or who are recommended by a National Association of Dog Obedience Instructors member or an American Kennel Club dog obedience

judge;

(5) dog behavior modification trainers who are recommended by a veterinarian specializing in the treatment of dogs and cats, an American Kennel Club dog obedience judge, a National Association of Dog Obedience Instructors member or persons in paragraph (6) below; or

(6) animal behaviorists with at least a bachelor's degree in animal behavior specializing in the treatment of canine behavior disorders.[2]

b. The official conducting the hearing shall notify the owner of the impounded dog [1][of the hearing and its purpose] [2]by certified mail, return receipt requested,[2] and the department of the date and time of the hearing, [2]and[2] the names of the panel members selected [2][, and the grounds for convening the panel][2] [1]. [2][The hearing shall be held between five and ten days after the owner is given notice[2].] During the hearing, the owner shall have the opportunity to present evidence to demonstrate that the dog is not vicious or potentially dangerous. [1][The official conducting the hearing shall notify the department of the date and time of the hearing, the names of the panel members selected, and the grounds for convening the panel.][1]

6. a. The panel shall declare the dog vicious if it finds by a preponderance of the evidence that the dog:

(1) killed a person or caused serious bodily injury as defined in N.J.S.2C: 11-1(b) to a person; or

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

b. A dog may not be declared vicious for inflicting death or serious bodily injury as defined in N.J.S.2C:11-1(b) upon a person if that person was committing or attempting to commit a crime or if that person was tormenting or inflicting pain upon the dog in such an extreme manner that an attack of such nature could be considered provoked.

c. If the panel declares a dog to be vicious, and no appeal is made of this ruling pursuant to subsection c. of section 9 of this act, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

7. a. The panel shall declare a dog to be potentially dangerous

if it finds that the dog:

(1) caused bodily injury as [1]defined[1] in N.J.S.2C:11-1(a) to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person, or

(2) killed another domestic animal, and

(a) poses a threat of serious bodily injury or death to a person; or

(b) poses a threat of death to another domestic animal, or

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

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

(1) causing bodily injury as defined in N.J.S.2C:11-1(a) to a person if that person was committing or attempting to commit a crime [1][or attempting to commit a crime][1] or if that person was tormenting or inflicting pain upon the dog in such an extreme manner that an attack of such nature could be considered provoked, or

(2) killing a domestic animal if the domestic animal was the aggressor.

8. If the panel declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance which, in part:

a. shall require the owner to comply with the following conditions:

(1) to apply, at his own expense, to the municipal clerk or other official designated to license dogs pursuant to [1][N.J.S.4:19-15.2] section 2 of P.L.1941, c.151 (C.4:19-15.2),[1] for a special [1]municipal[1] potentially dangerous dog [1][municipal][1] license, [3][State] municipal[3] registration number, and [1][yellow] red[1] identification tag issued pursuant to section 14 of this act. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location [1]. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, [3][State] municipal[3] registration number, and red identification tag[1];

(2) to display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosure [1]required pursuant to paragraph (3) of this subsection[1];

(3) to immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the [1][vicious] potentially dangerous[1] dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. [1]The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person.[1] All potentially dangerous dogs shall be confined in the enclosure or [1], if taken out of the enclosure,[1] securely muzzled and restrained with a tether approved by the animal control officer and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no more than three feet from the owner and under the direct supervision of the owner. [1][The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. A potentially dangerous dog shall be impounded until the owner obtains a potentially dangerous dog license and registration number][1];

b. may require the owner to comply with the following conditions:

(1) to maintain liability insurance in an amount determined by the panel to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the municipality in which the owner resides to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy;

(2) to tether the dog within the enclosure with a tether approved by the animal control officer and having a minimum tensile strength in excess of that required to fully secure the dog and of a length which prohibits the dog from climbing, jumping or digging out of the confined area.

9. a. After the panel hearing, the official conducting the

hearing shall notify in writing the owner of the dog, the animal control officer 3[,] and3 the municipality in which the animal resides 3[, and the department of the determination by the panel]3.

b. If the parties do not contest the panel's finding, the owner shall comply with the provisions of this act in accordance with a schedule established by the panel, but in no case more than 60 days subsequent to the date of determination.

c. If the panel's determination is contested, the contesting party may, within five days of such determination, bring a petition in the municipal court within the jurisdiction where the owner of the dog resides, requesting that the court conduct its own hearing on whether the dog should be declared vicious or potentially dangerous or whether the conditions imposed on the owner of a potentially dangerous dog are appropriate.

d. After service of the notice upon the parties to the action, the court shall conduct a hearing de novo and make its own determination.

e. If the court finds by a preponderance of the evidence that the dog is vicious, the dog shall be destroyed in a humane and expeditious manner, except that no dog may be destroyed during the pendency of an appeal.

f. If the court finds by a preponderance of the evidence that the dog is potentially dangerous, the court shall establish a schedule to insure compliance with this act, but in no case may complete compliance be allowed more than 60 days subsequent to the date of the court's determination.

g. If the dog has bitten or exposed a person within 10 days previous to the time of euthanasia, its head shall be transported to the New Jersey State Department of Health laboratory for rabies testing.

10. If a dog is declared vicious or potentially dangerous 1[in the final disposition of this matter] , and all appeals pertaining thereto have been exhausted1, the owner of the dog shall be liable to the municipality in which the dog is impounded for the costs and expenses of impounding and destroying the dog. The municipality may establish by ordinance a schedule of these costs and expenses. The owner shall incur the expense of impounding the dog in a facility other than the municipal pound,

regardless of whether the dog is ultimately found to be vicious or potentially dangerous.

11. If the municipal court or the panel finds that the dog is not vicious or potentially dangerous [1],[1] the [1][animal control officer] [1]official responsible for convening a hearing pursuant to section 5 of this act[1] shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent actions of the dog.

12. The owner of a potentially dangerous dog shall:

a. comply with the provisions of this act in accordance with a schedule established by the panel, but in no case more than 60 days subsequent to the date of determination;

b. notify the licensing authority, local police department or force, and the animal control officer if a potentially dangerous dog is at large, or has attacked a human being or killed a domestic animal;

c. notify the licensing authority, local police department or force, and the animal control officer within 24 hours of the death, sale or donation of a potentially dangerous dog;

d. prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;

e. upon the sale or donation of the dog to a person residing in a different municipality, notify the department [1][,] and the[1] licensing authority [1][and] ,[1] police department or force [1], and animal control officer[1] of that municipality of the transfer of ownership [1][,] and[1] the name, address and telephone of the new owner; and

f. in addition to any license fee required pursuant to section 3 of P.L.1941, c.151 (C.4:19-15.3), pay a potentially dangerous dog license fee to the municipality as provided by section 15 of this act [3][and a State registration fee of $100][3].

13. The owner of a potentially dangerous dog who [1][does not comply] is found by a preponderance of the evidence to have violated this act, or any rule or regulation adopted pursuant thereto, or to have failed to comply[1] with [1][the] a[1] panel's order [1][and all regulations promulgated pursuant to this act][1] shall be subject to a fine of not more than $1,000 per day of the violation, and each day's continuance of the violation [1][constitutes] shall constitute[1] a separate and distinct violation. [1]The municipal

court shall have jurisdiction to enforce this section.[1] An animal control officer is authorized to seize [1]and impound[1] any potentially dangerous dog whose owner fails to comply with the provisions of this act [1], or any rule or regulation adopted pursuant thereto, or a panel's order[1]. The [1]municipal court may order that the dog so seized and impounded [1][dog may][1] be destroyed in an expeditious and humane manner [1][after the expiration of a 10 day waiting period following conviction][1].

14. Each municipality shall:

a. [3][request the assignment of] issue[3] a potentially dangerous dog registration number and [1][yellow] red identification[1] tag [3][from the department and issue these][3] along with a municipal potentially dangerous dog license upon a demonstration of sufficient evidence by the owner to the animal control officer that he has complied with the panel's orders. [3]The last three digits of each potentially dangerous dog registration number issued by a municipality will be the three number code assigned to that municipality in the regulations promulgated pursuant to section 17 of this act.[3] The animal control officer shall verify, in writing, compliance to the municipal clerk or other official designated to license dogs in the municipality;

b. publicize a telephone number for reporting violations of this act. This telephone number shall be forwarded to the department and any changes in this number shall be reported immediately to the department.

15. Every municipality may, by ordinance, fix the sum to be paid annually for a potentially dangerous dog license and each renewal thereof, which sum shall not be less than $150 nor more than $700. In the absence of any local ordinance, the fee for all potentially dangerous dog licenses shall be $150.

16. The animal control officer shall inspect the enclosure and the owner's property [1][on a regular basis] at least monthly[1] to determine continuing compliance with [1][subparagraphs 2 and 3] paragraphs (2) and (3)[1] of subsection a. of section 8 of this act.

17. The department shall [3][:

a. issue a potentially dangerous dog registration number and [1][yellow] red[1] identification tag to an owner of a potentially dangerous dog through the municipality for any dog determined to be potentially dangerous under this act upon receipt of a

statement from the animal control officer demonstrating compliance with all the panel's orders;

b. maintain a separate file for the registration of potentially dangerous dogs; and

c. maintain a list of municipal telephone numbers received from municipalities pursuant to section 14 of this act] promulgate regulations establishing a uniform Statewide system for municipal registration of potentially dangerous dogs. The regulations shall assign each municipality or other authority registering potentially dangerous dogs a three number code. This three number code shall comprise the last three digits of each registration number issued by that municipality or authority for potentially dangerous dogs and shall be preceded on each dog's identification by a number sequentially issued by the municipality[3].

[1][18. The animal control officer shall inspect the enclosure to determine if it meets the specifications ordered by the panel.][1]

[1][19] 18.[1] Any action undertaken pursuant to the provisions of this act shall be deemed to be an exercise of a government function and shall be subject to the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

[1][20] 19.[1] The department shall, within 120 days of the effective date of this act and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be necessary to effectuate the purposes of this act.

[1][21.] 20.[1] All fines and fees collected or received by the municipality pursuant to sections 13 and [1][14] 15[1] of this act shall be deposited in a special account and used by the municipality to administer and enforce the provisions of this act. [1][Registration] [3][State registration][1] fees collected by the municipality [1]pursuant to section 12 of this act[1] shall be forwarded to the department [1][pursuant to section 12 of this act][1] and [1][shall be][1] deposited in a separate account for use in the Statewide administration of this act.][3]

[1][22.] 21.[1] The provisions of this act shall supersede any law, ordinance, or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog inconsistent with this act enacted by any municipality, county, or [1]county or[1] local board of health.

[1][23.] 22.[1] The provisions of this act shall not apply to dogs used for law enforcement activities.

[3][1][24.] 23.[1] There is appropriated to the Department of Health from the General Fund the sum of $85,000 to implement the provisions of this act.][3]

[1][25.] [3][24.[1]] 23.[3] This act shall take effect immediately.

AGRICULTURE
Animals - Domestic

Provides for the regulation of certain dogs.

18. The animal control officer shall inspect the enclosure to determine if it meets the specifications ordered by the panel.

19. Any action undertaken pursuant to the provisions of this act shall be deemed to be an exercise of a government function and shall be subject to the provisions of the "New Jersey Tort Claims Act," N.J.S.59:1-1 et seq.

20. The department shall, within 120 days of the effective date of this act and pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as may be necessary to effectuate the purposes of this act.

21. All fines and fees collected or received by the municipality pursuant to sections 13 and 14 of this act shall be deposited in a special account and used by the municipality to administer and enforce the provisions of this act. Registration fees collected by the municipality shall be forwarded to the department pursuant to section 12 of this act and shall be deposited in a separate account for use in the Statewide administration of this act.

22. The provisions of this act shall supersede any law, ordinance, or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog inconsistent with this act enacted by any municipality, county, or local board of health.

23. The provisions of this act shall not apply to dogs used for law enforcement activities.

24. There is appropriated to the Department of Health from the General Fund the sum of $85,000 to implement the provisions of this act.

25. This act shall take effect immediately.

STATEMENT

This bill would impose a Statewide system for the control of vicious and potentially dangerous dogs. Because the problems associated with vicious and potentially dangerous dogs have recently become more serious and widespread, some municipalities have enacted ordinances banning or restricting certain breeds. The bill supersedes any conflicting local

(1989)

ordinance or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog.

The bill empowers an animal control officer to seize and impound a dog when the officer has reasonable cause to believe that the dog attacked a person and inflicted death or serious bodily injury, caused bodily injury during an unprovoked attack and poses a serious threat of harm, engaged in dog fighting, or has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks.

The bill provides for locally convening a panel of qualified individuals knowledgeable about dog behavior to conduct hearings to determine whether certain impounded dogs are vicious or potentially dangerous. Criteria for declaring a dog vicious include finding by a preponderance of the evidence that the dog killed a person or inflicted serious bodily injury or has engaged in dog fighting. Dogs which attack a person committing or attempting to commit a crime or a person otherwise provoking the dog shall not be considered vicious. Criteria for declaring a dog potentially dangerous include finding that the dog caused bodily injury to a person during an unprovoked attack and poses a threat of harm, or killed another domestic animal and either poses a threat of serious bodily injury or death to a person or poses a threat of death to another domestic animal, or has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks. Dogs which attack a person committing or attempting to commit a crime or a person otherwise provoking the dog shall not be considered potentially dangerous, nor shall dogs which kill a domestic animal if that animal was the aggressor.

The bill provides a procedure for appealing the panel's determination. Vicious dogs shall be destroyed in a humane and expeditious manner following any appeal. Under the provisions of the bill, the panel shall order the owner of a potentially dangerous dog to apply for a special municipal license, a State registration number to be tattooed on the animal in a prominent location and a yellow identification tag, to conspicuously display a sign on his premises warning of the presence of a potentially dangerous dog, and to immediately erect and maintain an

enclosure. The panel may order the owner to maintain a certain amount of liability insurance and to tether the dog within the enclosure.

An owner is required to notify the licensing authority, police and animal control officer whenever his potentially dangerous dog is at large, attacked a human being or killed a domestic animal, or has been sold or donated. The owner shall inform a prospective owner that the dog has been declared potentially dangerous.

The owner of a potentially dangerous dog is required to pay a license fee in the amount set by the municipality between $150 and $700 and a State registration fee of $100.

Dogs used for law enforcement purposes are exempted from the provisions of this act.

Finally, $85,000 is appropriated to the Department of Health to carry out the provisions of the act.

AGRICULTURE
Animals - Domestic

Provides for the regulation of certain dogs; appropriates $85,000.

ASSEMBLY LAW, PUBLIC SAFETY AND CORRECTIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

SENATE No. 3276

With Assembly committee amendments

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STATE OF NEW JERSEY

DATED: APRIL 17, 1989

The Assembly Law, Public Safety and Corrections Committee favorably reports Senate Bill No. 3276 [1R] with Assembly committee amendments.

This bill imposes a Statewide system for the control of vicious and potentially dangerous dogs. Because the problems associated with vicious and potentially dangerous dogs have recently become more serious and widespread, some municipalities have enacted ordinances banning or restricting certain breeds. The bill supersedes any conflicting local ordinance or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog.

The bill empowers an animal control officer to seize and impound a dog when the officer has reasonable cause to believe that the dog attacked a person and inflicted death or serious bodily injury, caused bodily injury during an unprovoked attack and poses a serious threat of harm, has engaged in dog fighting, or has been trained, tormented, badgered, baited, or encouraged to engage in unprovoked attacks.

Under the provisions of the bill, each municipality is authorized to convene a panel of qualified individuals knowledgeable about dog behavior to conduct hearings to determine whether certain impounded dogs are vicious or potentially dangerous. Criteria for declaring a dog vicious include finding by a preponderance of the evidence that the dog killed a person or inflicted serious bodily injury, or has engaged in dog fighting. Dogs that attack a person committing or attempting to commit a crime or a person otherwise provoking the dog would not be considered vicious. Criteria for declaring a dog potentially dangerous include finding that the dog caused bodily injury to a person during an unprovoked attack and poses a serious threat of bodily harm; that the dog killed another domestic animal and either poses a threat of serious bodily injury or death to a person or poses a threat of death to another domestic

animal; or has been trained, tormented, badgered, baited, or encouraged to engage in unprovoked attacks. Dogs that attack a person committing or attempting to commit a crime or a person otherwise provoking the dog would not be considered potentially dangerous, nor would dogs that kill a domestic animal if that animal was the aggressor.

The bill provides a procedure for appealing the panel's determination. Vicious dogs would be destroyed in a humane and expeditious where the finding of the panel is upheld or appeal.

Under the provisions of the bill the panel would order the owner of a potentially dangerous dog to apply for a special municipal license, a State registration number to be tattooed on the animal in a prominent location, and a yellow identification tag; to conspicuously display a sign on the owner's premises warning of the presence of a potentially dangerous dog; and to immediately erect and maintain an enclosure. The panel would also have the authority to order the owner to maintain a certain amount of liability insurance and to tether the dog within the enclosure.

The owner of a potentially dangerous dog would be required to pay a license fee of an amount set by the municipality of between $150 and $700 and a State registration fee of $100.

Dogs used for law enforcement purposes would be exempted from the provisions of this act.

Finally, $85,000 would be appropriated to the Department of Health to carry out the provisions of the act.

The committee amended the bill to specify the qualifications necessary to be considered for a position on the panel established pursuant to this bill to determine whether a dog is vicious or potentially dangerous. The amendments also state that all of the panel members may not be from the same discipline.

The amendments also provide that a dog seized and impounded may be humanely destroyed if the owner cannot be identified. In addition, owners are to be contacted concerning the hearing by certified mail, return receipt requested. Finally, the hearing shall be held within 30 days of the notification of the dog's owner unless the owner relinquishes ownership of the dog, in which case the dog may be humanely destroyed.

The bill, as amended, is identical to Assembly Bill 4217 with Assembly Committee amendments.

SENATE NATURAL RESOURCES AND
AGRICULTURE COMMITTEE

STATEMENT TO

SENATE No. 3276

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 6, 1989

The Senate Natural Resources and Agriculture Committee favorably reports Senate Bill No. 3276 with Senate committee amendments.

This bill would impose a Statewide system for the control of vicious and potentially dangerous dogs. Because the problems associated with vicious and potentially dangerous dogs have recently become more serious and widespread, some municipalities have enacted ordinances banning or restricting certain breeds. The bill supersedes any conflicting local ordinance or regulation concerning vicious or potentially dangerous dogs, any specific breed of dog, or any other type of dog.

The bill empowers an animal control officer to seize and impound a dog when the officer has reasonable cause to believe that the dog attacked a person and inflicted death or serious bodily injury, caused bodily injury during an unprovoked attack and poses a serious threat of harm, has engaged in dog fighting, or has been trained, tormented, badgered, baited, or encouraged to engage in unprovoked attacks.

The bill provides for locally convening a panel of qualified individuals knowledgeable about dog behavior to conduct hearings to determine whether certain impounded dogs are vicious or potentially dangerous. Criteria for declaring a dog vicious include finding by a preponderance of the evidence that the dog killed a person or inflicted serious bodily injury, or has engaged in dog fighting. Dogs that attack a person committing or attempting to commit a crime or a person otherwise provoking the dog would not be considered vicious. Criteria for declaring a dog potentially dangerous include finding that the dog caused bodily injury to a person during an unprovoked attack and poses a serious threat of bodily harm; killed another domestic animal and either poses a threat of serious bodily injury or death to a person or poses a threat of death to another domestic animal; or has been trained, tormented, badgered,

baited, or encouraged to engage in unprovoked attacks. Dogs that attack a person committing or attempting to commit a crime or a person otherwise provoking the dog would not be considered potentially dangerous, nor would dogs that kill a domestic animal if that animal was the aggressor.

The bill provides a procedure for appealing the panel's determination. Vicious dogs would be destroyed in a humane and expeditious manner following any appeal.

Under the provisions of the bill as introduced, the panel would order the owner of a potentially dangerous dog to apply for a special municipal license, a State registration number to be tattooed on the animal in a prominent location, and a yellow identification tag; to conspicuously display a sign on the owner's premises warning of the presence of a potentially dangerous dog; and to immediately erect and maintain an enclosure. The panel would also have the authority to order the owner to maintain a certain amount of liability insurance and to tether the dog within the enclosure.

An owner would be required to notify the licensing authority, the police, and the animal control officer whenever that owner's potentially dangerous dog is at large, has attacked a human being or killed a domestic animal, or has been sold or donated. The owner would be required to inform a prospective owner that the dog has been declared potentially dangerous.

The owner of a potentially dangerous dog would be required to pay a license fee of an amount set by the municipality of between $150 and $700 and a State registration fee of $100.

Dogs used for law enforcement purposes would be exempted from the provisions of this act.

Finally, $85,000 would be appropriated to the Department of Health to carry out the provisions of the act.

The committee amended the bill to clarify the definition of "domestic animal"; authorize dogs to be impounded in other types of structures besides "facilities," subject to the approval of the municipal health officer; require the animal control officer to notify a dog owner within three days of determining the owner's identity that the dog has been seized and impounded pursuant to the act; authorize the Department of Health to define the qualifications of individuals who may serve on a panel to determine whether a dog is vicious or potentially dangerous; establish that the panel shall be three in number; require that, upon the sale or donation of a

potentially dangerous dog to a person residing in a different municipality, the animal control officer, in addition to other persons set forth in the bill, shall be given notice by the dog's owner of the transfer; clarify that municipal courts shall have jurisdiction to enforce violations of the act, or any rules, regulations, or orders adopted or issued pursuant thereto; establish that the standard of proof for such violations shall be a preponderance of the evidence; change the color of the identification tag issued to a potentially dangerous dog from yellow to red; require animal control officers to monitor compliance with the act by owners of potentially dangerous dogs at least monthly instead of "on a regular basis"; and make miscellaneous clarifying and technical amendments.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

August 14, 1989

SENATE BILL NO. 3276 (Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Senate Bill No. 3276 (Second Reprint) with my objections for reconsideration.

The purpose of this bill is to provide a uniform Statewide approach to the serious and widespread threat that unprovoked dog attacks pose to the safety and welfare of our citizens. Recognizing that dog attacks are, in part, attributable to the failure of owners to confine and properly train and control their dogs, as well as the inadequacy of local laws addressing these concerns, this bill proposes a comprehensive scheme directed toward ascertaining whether a dog is "vicious" or "potentially dangerous." It also prescribes various requirements for dogs that are found to be vicious or potentially dangerous, ranging from humane destruction to mandatory licensure of such dogs.

Specifically, this legislation authorizes municipal animal control officers to seize and impound a dog when an officer has reasonable cause to believe that the animal is either responsible for an unprovoked attack or has been trained or encouraged to engage in unprovoked attacks. It also mandates that the chief law enforcement or health officer of each municipality empanel three "qualified individuals" from a group encompassing veterinarians, dog breeders, professional dog handlers and obedience trainers or animal behavioralists to determine whether a dog is vicious or potentially dangerous. If, following the exhaustion of all appeals as set forth in the Act, a dog is deemed "vicious," this bill mandates that such dog be destroyed in a humane and expeditious manner. Similarly, if a dog is deemed to be "potentially dangerous," various requirements including, among other things, licensure and registration with both the appropriate municipality and the Department of Health, are imposed as conditions of continued ownership of that dog. Finally, this legislation appropriates $85,000 from the General Fund to the Department of Health to implement the provisions of this Act.

While I strongly support the intent of this initiative, sound policy, combined with present fiscal constraints, prevent me from endorsing this bill

in its present form. My objections, however, should not be construed as a dissent from the Legislature's sound conclusion that a uniform Statewide program is essential to ameliorate both the threat and reality of unprovoked dog attacks. However, I am convinced that the progressive agenda embarked upon in this legislation can be effectively achieved through diligent and responsible administration at the municipal level, without the need to involve the Department of Health and the concomitant depletion of General Fund resources.

In particular, I see no profit in requiring the Department of Health to issue each "potentially dangerous" dog a registration number and identification tag in addition to the special municipal license required to be used for potentially dangerous dogs. Rather, I believe the Department should be required to establish regulations creating a registry system to be utilized by the municipalities. Each municipality will be assigned a three-number code that will be the last three digits of every potentially dangerous dog license and registration number issued by that municipality. Through this coding system, the name of the issuing municipality could be quickly identified and the municipality could then be contacted for specific information regarding the dog or its owner. Further, the other tasks assigned by this legislation to the Department of Health will provide no additional safeguards to the public and can be eliminated without any significant impact on the overall effort to control vicious and potentially dangerous dogs.

Since I am confident that the objectives of this legislation can be accomplished without involving the Department of Health and without the commitment of General Fund resources, I herewith return Senate Bill No. 3276 (Second Reprint) and recommend that it be amended as follows:

Page 5, Section 8, Line 27:	After "license" DELETE "State" INSERT "municipal"
Page 5, Section 8, Line 32:	After "license" DELETE "State" INSERT "municipal"
Page 6, Section 9, Line 39:	After "officer" DELETE "," INSERT "and"
Page 6, Section 9, Line 39:	After "resides" DELETE ", and" INSERT "."
Page 7, Section 9, Line 1:	DELETE in entirety

Page 8, Section 12, Line 28: After "act" DELETE remainder of line INSERT "."

Page 9, Section 14, Line 7: After "a." DELETE "request the assignment of" INSERT "issue"

Page 9, Section 14, Lines 8-9: After "tag" DELETE "from the department and issue these"

Page 9, Section 14, Line 12: After "orders." INSERT "The last three digits of each potentially dangerous dog registration number issued by a municipality will be the three number code assigned to that municipality in the regulations promulgated pursuant to section 17 of this act."

Page 9, Section 17, Line 28: After "shall" DELETE ":" INSERT "promulgate regulations establishing a uniform Statewide system for municipal registration of potentially dangerous dogs. The regulations shall assign each municipality or other authority registering potentially dangerous dogs a three number code. This three number code shall comprise the last three digits of each registration number issued by that municipality or authority for potentially dangerous dogs and shall be preceded on each dog's identification by a number sequentially issued by the municipality."

Page 9, Section 17, Lines 29-38: DELETE in entirety.

Page 10, Section 20, Lines 15-19: DELETE in entirety

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Page 10, Section 23, Lines 27-29: DELETE in entirety

Page 10, Section 24, Line 28: DELETE "24" INSERT "23"

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Deborah T. Poritz

Chief Counsel