

4:19-18

**LEGISLATIVE HISTORY CHECKLIST**  
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(Vicious dogs)

**NJSA:** 4:19-18

**LAWS OF:** 1994 **CHAPTER:** 187

**BILL NO:** A994

**SPONSOR(S):** Azzolina and DiGaetano

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** Veterans  
**SENATE:** ---

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
Fourth reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** June 27, 1994  
**SENATE:** December 19, 1994

**DATE OF APPROVAL:** December 23, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** No

**FISCAL NOTE:** No

**VETO MESSAGE:** No

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clippings--attached:  
"Vicious dog reform...approved by governor," 12-25-95, Asbury Park Press.  
"Law tightens leash on declaring a dog vicious," 12-25-95, Star Ledger.

KBG:pp

[FOURTH REPRINT]

ASSEMBLY, No. 994

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen AZZOLINA and DiGAETANO

1 AN ACT concerning certain dogs, <sup>1</sup>[and]<sup>1</sup> amending and  
2 supplementing P.L.1989, c.307 <sup>1</sup>, and repealing section 5 of  
3 P.L.1989, c.307<sup>1</sup> .  
4

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

7 <sup>1</sup>1. Section 2 of P.L.1989, c.307 (C.4:19-18) is amended to  
8 read 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 ["Panel" means any panel selected pursuant to section 5 of this  
18 act.]

19 "Potentially dangerous dog" means any dog or dog hybrid  
20 declared potentially dangerous by [the panel] a municipal court  
21 pursuant to section 7 of [this act] P.L.1989, c.307 (C.4:19-23).

22 "Vicious dog" means any dog or dog hybrid declared vicious by  
23 [the panel] a municipal court pursuant to section 6 of [this act]  
24 P.L.1989, c.307 (C.4:19-22).<sup>1</sup>

25 (cf: P.L.1989, c.307, s.2)

26 <sup>1</sup>2. Section 4 of P.L.1989, c.307 (C.4:19-20) is amended to  
27 read as follows:

28 4. a. The animal control officer shall notify the [official  
29 responsible for convening a hearing pursuant to section 5]  
30 municipal court and the municipal health officer [within three  
31 working days] immediately that he has seized and impounded a  
32 dog pursuant to section 3 of [this act] P.L.1989, c.307  
33 (C.4:19-19), or that he has reasonable cause to believe that a dog  
34 has killed another domestic animal and that a hearing is  
35 required. The animal control officer shall through a reasonable  
36 effort attempt to determine the identity of the owner of any dog  
37 seized and impounded pursuant to section 3 of P.L.1989, c.307. If  
38 its owner cannot be identified within seven days, that dog may be  
39 humanely destroyed.

40 b. The [official responsible for convening a hearing pursuant to

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:

<sup>1</sup> Assembly AVM committee amendments adopted March 7, 1994.

<sup>2</sup> Assembly floor amendments adopted March 28, 1994.

<sup>3</sup> Assembly floor amendments adopted June 16, 1994.

<sup>4</sup> Assembly floor amendments adopted June 20, 1994.

1 section 5 of this act] <sup>2</sup>[municipal court] animal control officer<sup>2</sup>  
 2 shall, within three working days of the determination of the  
 3 identity of the owner of a dog seized and impounded pursuant to  
 4 [this act] section 3 of P.L.1989, c.307 (C.4:19-19), notify by  
 5 certified mail, return receipt requested, the owner concerning  
 6 the seizure and impoundment [and the grounds for a hearing  
 7 pursuant to section 5], and that, if the owner wishes, a hearing  
 8 will be held to determine whether the impounded dog is vicious or  
 9 potentially dangerous. This notice shall also require that <sup>2</sup>[(1)]<sup>2</sup>  
 10 the owner return within seven days, by certified mail or hand  
 11 delivery, a signed statement indicating whether he wishes the  
 12 hearing to be conducted or, if not, to relinquish ownership of the  
 13 dog, in which case the dog may be humanely destroyed <sup>2</sup>[, and (2)  
 14 the owner provide for a medical evaluation of the dog]. <sup>3</sup>[The  
 15 owner shall also be notified that if he wishes the hearing to be  
 16 conducted, he may obtain a medical evaluation of the dog, which  
 17 shall be completed<sup>2</sup> within 10 days of receipt of the notice]<sup>3</sup> <sup>2</sup>[,  
 18 if the owner wishes a hearing]<sup>2</sup>. If the owner cannot be notified  
 19 by certified mail, return receipt requested, or refuses to sign for  
 20 the certified letter, or does not reply to the certified letter with  
 21 a signed statement within seven days of receipt, the dog may be  
 22 humanely destroyed.<sup>1</sup>

23 <sup>3</sup>[<sup>2</sup>c. If the medical evaluation of the dog obtained by the  
 24 owner pursuant to subsection b. concludes that the incident was  
 25 caused by a medical condition that either is being treated or has  
 26 been treated, the owner may submit a certified copy of such  
 27 determination to the animal control officer. Upon receipt of the  
 28 certification, the animal control officer shall release the dog to  
 29 its owner and terminate all proceedings regarding this matter.]<sup>2</sup><sup>3</sup>  
 30 (cf: P.L.1989, c.307, s.4)

31 <sup>1</sup>[1.] <sup>3</sup>1 Section 6 of P.L.1989, c.307 (C.4:19-22) is amended  
 32 to read as follows:

33 6. a. The <sup>1</sup>[panel] municipal court<sup>1</sup> shall declare the dog  
 34 vicious if it finds <sup>1</sup>[by a preponderance of the evidence] <sup>2</sup>[beyond  
 35 a reasonable doubt]<sup>1</sup>] by clear and convincing evidence<sup>2</sup> that the  
 36 dog:

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

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

41 b. A dog <sup>1</sup>[may] shall<sup>1</sup> not be declared vicious for inflicting  
 42 death or serious bodily injury as defined in N.J.S.2C:11-1(b) upon  
 43 a person if <sup>1</sup>[that person was committing or attempting to  
 44 commit a crime or if that person was tormenting or inflicting  
 45 pain upon]<sup>1</sup> the dog <sup>1</sup>[in such an extreme manner that an attack  
 46 of such nature could be considered] was<sup>1</sup> provoked. <sup>3</sup>[<sup>1</sup>A dog  
 47 acting in a manner consistent with reasonable canine behavior  
 48 shall be considered provoked.]<sup>3</sup> The municipality shall bear the  
 49 burden of proof to demonstrate that the dog was not provoked.<sup>1</sup>

50 c. If the <sup>1</sup>[panel] municipal court<sup>1</sup> declares a dog to be vicious,  
 51 and no appeal is made of this ruling pursuant to <sup>1</sup>[subsection c.  
 52 of]<sup>1</sup> section 9 of <sup>1</sup>[this act] P.L.1989, c.307 (C.4:19-25)<sup>1</sup>, the dog  
 53 shall be destroyed in a humane and expeditious manner, except  
 54 that no dog may be destroyed during the pendency of an

1 appeal <sup>1</sup>[or as provided in section 2. of P.L. c. (C. )](now  
2 before the Legislature as this bill)]<sup>1</sup>.

3 (cf: P.L.1989, c.307, s.6)

4 <sup>1</sup>[2. (New section) The owner of a dog declared vicious  
5 pursuant to P.L.1989, c.307, may, at his own expense, have the  
6 dog professionally retrained. If a dog successfully completes a  
7 retraining program, as determined by a certified expert, the  
8 panel shall declare the dog potentially dangerous. If the dog had  
9 been declared potentially dangerous prior to being declared  
10 vicious, the owner may have the dog retrained and shall transfer  
11 ownership of that dog to a person out-of-state.]<sup>1</sup>

12 <sup>1</sup>4. Section 7 of P.L.1989, c.307 (C.4:19-23) is amended to  
13 read as follows:

14 7. a. The [panel] municipal court shall declare a dog to be  
15 potentially dangerous if it finds <sup>2</sup>[beyond a reasonable doubt] by  
16 clear and convincing evidence<sup>2</sup> that the dog:

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

20 (2) killed another domestic animal, and

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

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

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

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

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

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

35 For the purposes of paragraph (1) of this subsection, <sup>3</sup>[a dog  
36 acting in a manner consistent with reasonable canine behavior  
37 shall be considered provoked; however,]<sup>3</sup> the municipality shall  
38 bear the burden of proof to demonstrate that the dog was not  
39 provoked.<sup>1</sup>

40 (cf: P.L.1989, c.307, s.7)

41 <sup>1</sup>5. Section 8 of P.L.1989, c.307 (C.4:19-24) is amended to  
42 read as follows:

43 8. If the [panel] municipal court declares the dog to be  
44 potentially dangerous, it shall issue an order and a schedule for  
45 compliance which, in part:

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

48 (1) to apply, at his own expense, to the municipal clerk or  
49 other official designated to license dogs pursuant to section 2 of  
50 P.L.1941, c.151 (C.4:19-15.2), for a special municipal potentially  
51 dangerous dog license, municipal registration number, and red  
52 identification tag issued pursuant to section 14 of this act. The  
53 owner shall, at his own expense, have the registration number  
54 tattooed upon the dog in a prominent location. A

1 potentially dangerous dog shall be impounded until the owner  
2 obtains a municipal potentially dangerous dog license, municipal  
3 registration number, and red identification tag;

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

8 (3) to immediately erect and maintain an enclosure for the  
9 potentially dangerous dog on the property where the potentially  
10 dangerous dog will be kept and maintained, which has sound sides,  
11 top and bottom to prevent the potentially dangerous dog from  
12 escaping by climbing, jumping or digging and within a fence of at  
13 least six feet in height separated by at least three feet from the  
14 confined area. The owner of a potentially dangerous dog shall  
15 securely lock the enclosure to prevent the entry of the general  
16 public and to preclude any release or escape of a potentially  
17 dangerous dog by an unknowing child or other person. All  
18 potentially dangerous dogs shall be confined in the enclosure or,  
19 if taken out of the enclosure, securely muzzled and restrained  
20 with a tether approved by the animal control officer and having a  
21 minimum tensile strength sufficiently in excess of that required  
22 to restrict the potentially dangerous dog's movements to a radius  
23 of no more than three feet from the owner and under the direct  
24 supervision of the owner;

25 b. may require the owner to <sup>3</sup>[comply with the following  
26 conditions:

27 (1) to] <sup>3</sup>maintain liability insurance in an amount determined  
28 by the [panel] municipal court to cover any damage or injury  
29 caused by the potentially dangerous dog. The liability insurance,  
30 which may be separate from any other homeowner policy, shall  
31 contain a provision requiring the municipality in which the owner  
32 resides to be named as an additional insured for the sole purpose  
33 of being notified by the insurance company of any cancellation,  
34 termination or expiration of the liability insurance policy<sup>3</sup>;

35 (2) to tether the dog within the enclosure with a tether  
36 approved by the animal control officer and having a minimum  
37 tensile strength in excess of that required to fully secure the dog  
38 and of a length which prohibits the dog from climbing, jumping or  
39 digging out of the confined area]<sup>3,1</sup>

40 (cf: P.L.1989, c.307, s.8)

41 <sup>16</sup>. Section 9 of P.L.1989, c.307 (C.4:19-25) is amended to  
42 read as follows:

43 9. [a. After the panel hearing, the official conducting the  
44 hearing shall notify in writing the owner of the dog, the animal  
45 control officer and the municipality in which the animal resides  
46 If the dog is declared vicious, the owner may contest the decision  
47 by appeal or by agreeing to comply with the following conditions.

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

52 c. If the panel's determination is contested, the contesting  
53 party may, within five days of such determination, bring a  
54 petition in the municipal court within the jurisdiction where the

1 owner of the dog resides, requesting that the court conduct its  
2 own hearing on whether the dog should be declared vicious or  
3 potentially dangerous or whether the conditions imposed on the  
4 owner of a potentially dangerous dog are appropriate.

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

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

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

17 g. If the dog has bitten or exposed a person within 10 days  
18 previous to the time of euthanasia, its head shall be transported  
19 to the New Jersey State Department of Health laboratory for  
20 rabies testing.] The owner of the dog, or the animal control  
21 officer in the municipality in which the dog was impounded, may  
22 appeal any final decision, order, or judgment, including any  
23 conditions attached thereto, of a municipal court pursuant to  
24 P.L.1989, c.307 (C.4:19-17 et seq.) by filing an appeal with the  
25 Superior Court, Law Division, in accordance with the Rules  
26 Governing The Courts of the State of New Jersey pertaining to  
27 appeals from courts of limited jurisdiction. The Superior Court  
28 shall hear the appeal by conducting a hearing de novo in the  
29 manner established by those rules for appeals from courts of  
30 limited jurisdiction.<sup>1</sup>

31 (cf: P.L.1989, c.307, s.9)

32 <sup>17.</sup> Section 10 of P.L.1989, c.307 (C.4:19-26) is amended to  
33 read as follows:

34 10. a. If a dog is declared vicious or potentially dangerous,  
35 and all appeals pertaining thereto have been exhausted, the owner  
36 of the dog shall be liable to the municipality in which the dog is  
37 impounded for the costs and expenses of impounding and  
38 destroying the dog. The municipality may establish by ordinance  
39 a schedule of these costs and expenses. The owner shall incur the  
40 expense of impounding the dog in a facility other than the  
41 municipal pound, regardless of whether the dog is ultimately  
42 found to be vicious or potentially dangerous.

43 b. If the dog has bitten or exposed a person within 10 days  
44 previous to the time of euthanasia, its head shall be transported  
45 to the New Jersey State Department of Health laboratory for  
46 rabies testing.<sup>1</sup>

47 (cf: P.L.1989, c.307, c.10)

48 <sup>18.</sup> Section 11 of P.L.1989, c.307 (C.4:19-27) is amended to  
49 read as follows:

50 11. If the municipal court [or the panel] finds that the dog is  
51 not vicious or potentially dangerous, the [official responsible for  
52 convening a hearing pursuant to section 5 of this act] municipal  
53 court shall retain the right to convene a hearing to determine  
54 whether the dog is vicious or potentially dangerous for any

1 subsequent actions of the dog.<sup>1</sup>

2 (cf: P.L.1989, c.307, s.11)

3 <sup>19.</sup> Section 12 of P.L.1989, c.307 (C.4:19-28) is amended to  
4 read as follows:

5 12. The owner of a potentially dangerous dog shall:

6 a. comply with the provisions of [this act] P.L.1989, c.307  
7 (C.4:19-17 et seq.) in accordance with a schedule established by  
8 the [panel] municipal court, but in no case more than 60 days  
9 subsequent to the date of determination;

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

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

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

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

24 f. in addition to any license fee required pursuant to section 3  
25 of P.L.1941, c.151 (C.4:19-15.3), pay a potentially dangerous dog  
26 license fee to the municipality as provided by section 15 of [this  
27 act] P.L.1989, c.307 (C.4:19-31).<sup>1</sup>

28 (cf: P.L. 1989, c.307, s.12)

29 <sup>110.</sup> Section 13 of P.L.1989, c.307 (C.4:19-29) is amended to  
30 read as follows:

31 13. The owner of a potentially dangerous dog who is found [by  
32 a preponderance of the evidence] <sup>2</sup>[beyond a reasonable doubt] by  
33 clear and convincing evidence<sup>2</sup> to have violated this act, or any  
34 rule or regulation adopted pursuant thereto, or to have failed to  
35 comply with a [panel's] court's order shall be subject to a fine of  
36 not more than \$1,000 per day of the violation, and each day's  
37 continuance of the violation shall constitute a separate and  
38 distinct violation. The municipal court shall have jurisdiction to  
39 enforce this section. An animal control officer is authorized to  
40 seize and impound any potentially dangerous dog whose owner  
41 fails to comply with the provisions of [this act] P.L.1989, c.307  
42 (C.4:19-17 et seq.), or any rule or regulation adopted pursuant  
43 thereto, or a [panel's] court's order. The municipal court may  
44 order that the dog so seized and impounded be destroyed in an  
45 expeditious and humane manner.<sup>1</sup>

46 (cf: P.L.1989, c. 307, s.13)

47 <sup>111.</sup> Section 14 of P.L.1989, c.307 (C.4:19-30) is amended to  
48 read as follows:

49 14. Each municipality shall:

50 a. issue a potentially dangerous dog registration number and  
51 red identification tag along with a municipal potentially  
52 dangerous dog license upon a demonstration of sufficient  
53 evidence by the owner to the animal control officer that he has  
54 complied with the [panel's] court's orders. The last three digits

1 of each potentially dangerous dog registration number issued by a  
2 municipality will be the three number code assigned to that  
3 municipality in the regulations promulgated pursuant to section  
4 17 of [this act] P.L.1989, c.307 (C.4:19-33). The animal control  
5 officer shall verify, in writing, compliance to the municipal clerk  
6 or other official designated to license dogs in the municipality;

7 b. publicize a telephone number for reporting violations of this  
8 act. This telephone number shall be forwarded to the department  
9 and any changes in this number shall be reported immediately to  
10 the department.<sup>1</sup>

11 (cf: P.L.1989, c.307, s.14)

12 <sup>1</sup>12. (New section) Notwithstanding any provision in P.L.1989,  
13 c.307 (C.4:19-17 et seq.) to the contrary, the municipality and  
14 the owner of the dog may settle and dispose of the matter at any  
15 time in such manner and according to such terms and conditions  
16 as may be mutually agreed upon. Notwithstanding any provision  
17 of P.L.1989, c.307 <sup>3</sup>[or of the "New Jersey Tort Claims Act,"  
18 N.J.S.59:1-1 et seq.,]<sup>3</sup> to the contrary, no <sup>3</sup>[person may bring a  
19 cause of action against a municipality that has reached a]  
20 municipality or any of its employees shall have any liability by  
21 virtue of having entered into any<sup>3</sup> settlement agreement pursuant  
22 to this section, <sup>3</sup>[nor may any such municipality be held liable] or  
23 for any action or inaction related to the entry into such  
24 agreement<sup>3</sup>, for any injuries or damages caused thereafter by the  
25 dog. The municipality may, as a condition of the settlement  
26 agreement, also require that the owner of the dog hold the  
27 municipality harmless for any legal expenses or fees the  
28 municipality may incur in defending against any cause of action  
29 brought against the municipality notwithstanding the prohibition  
30 against such causes of action set forth in this section.<sup>1</sup>

31 <sup>1</sup>13. Section 5 of P.L.1989, c.307 (C.4:19-21) is repealed.<sup>1</sup>

32 <sup>4</sup>14. (New section) This act shall not apply to any dog the  
33 forfeiture of which was remitted by an executive order.<sup>4</sup>

34 <sup>1</sup>[3.] <sup>4</sup>[14.1] <sup>15.</sup><sup>4</sup> This act shall take effect immediately <sup>3</sup>[and  
35 shall be retroactive to January 12, 1990]<sup>3</sup> <sup>4</sup>and shall also apply  
36 retroactively to any prosecution brought pursuant to P.L.1989,  
37 c.307 (C.4:19-17 et seq.) pending in New Jersey courts as of the  
38 effective date of this act<sup>4</sup>.

39  
40  
41  
42  
43 \_\_\_\_\_  
44 Makes certain changes in the provisions for declaring dogs vicious  
or potentially dangerous.



ASSEMBLY, No. 994  
STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen AZZOLINA and DiGAETANO

1 AN ACT concerning certain dogs, and amending and  
2 supplementing P.L.1989, c.307.

3  
4 BE IT ENACTED *by the Senate and General Assembly of the*  
5 *State of New Jersey:*

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

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

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

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

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

20 c. If the panel declares a dog to be vicious, and no appeal is  
21 made of this ruling pursuant to subsection c. of section 9 of this  
22 act, the dog shall be destroyed in a humane and expeditious  
23 manner, except that no dog may be destroyed during the  
24 pendency of an appeal or as provided in section 2. of P.L. c.  
25 (C. )(now before the Legislature as this bill).

26 (cf: P.L.1989, c.307, s.6)

27 2. (New section) The owner of a dog declared vicious pursuant  
28 to P.L.1989, c.307, may, at his own expense, have the dog  
29 professionally retrained. If a dog successfully completes a  
30 retraining program, as determined by a certified expert, the  
31 panel shall declare the dog potentially dangerous. If the dog had  
32 been declared potentially dangerous prior to being declared  
33 vicious, the owner may have the dog retrained and shall transfer  
34 ownership of that dog to a person out-of-state.

35 3. This act shall take effect immediately and shall be  
36 retroactive to January 12, 1990.

37

38

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STATEMENT

40

41 This bill would amend P.L.1989, c.307 to allow the owner of a  
42 dog declared vicious pursuant to that law, at his own expense, to  
43 have the dog professionally retrained. If a dog successfully

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 completes a retraining program, as determined by a certified  
2 expert, the panel shall declare the dog potentially dangerous. If  
3 the dog had been declared potentially dangerous prior to being  
4 declared vicious, the owner may have the dog retrained and shall  
5 transfer ownership of that dog to a person out-of-state. This act  
6 shall take effect immediately and shall be retroactive to January  
7 12, 1990.

8

9

10

11

12 \_\_\_\_\_  
Allows retraining of vicious dogs.

ASSEMBLY VETERANS, MILITARY AFFAIRS & GAMING  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 994**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 7, 1994

The Assembly Veterans, Military Affairs & Gaming Committee reports favorably and with committee amendments Assembly, No. 994.

This bill amends P.L.1989, c.307 to make changes in the process whereby a dog may be declared vicious or potentially dangerous. The bill eliminates the municipal panel for determining whether an impounded dog is either vicious or potentially dangerous and provides that the municipal court will make that determination. The bill requires that the municipal court notify the owner that if he wishes a hearing, the owner shall provide for a medical evaluation of the dog within 10 days of receipt of the notice of seizure and impoundment. The "beyond a reasonable doubt" standard of proof replaces the "preponderance of the evidence" standard for finding a dog either vicious or potentially dangerous, and a dog shall not be declared vicious if the dog may be considered provoked consistent with reasonable canine behavior. The municipality shall bear the burden of proof to demonstrate that the dog was not provoked. The bill also allows settlements between the municipality and the owner of the impounded dog and prohibits any person from bringing a cause of action against a municipality that participates in such a settlement or holding that municipality liable for any injuries or damages caused thereafter by the dog. This act shall take effect immediately and shall be retroactive to January 12, 1990.

COMMITTEE AMENDMENTS

The committee amended this bill to eliminate the option for the dog owner to retrain the dog and to revise P.L.1989, c.307 to: (1) eliminate the municipal panel for determining whether an impounded dog is either vicious or potentially dangerous and provide that the municipal court would make that determination, (2) require that the municipal court notify the owner that if he wishes a hearing, the owner shall provide for a medical evaluation of the dog within 10 days of receipt of the notice of seizure and impoundment, (3) replace the "preponderance of the evidence" standard with the "beyond a reasonable doubt" standard for finding a dog either vicious or potentially dangerous, (4) require that a dog not be declared vicious if the dog may be considered provoked consistent with reasonable canine behavior and that the municipality shall bear the burden of proof to demonstrate that the dog was not provoked, and (5) allow settlements between the municipality and the owner

of the impounded dog and prohibit any person from bringing a cause of action against a municipality that participates in such a settlement or holding that municipality liable for any injuries or damages caused thereafter by the dog.