

2019

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

Animal Welfare Legislation Amendment Bill 2019

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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Minister for Transport and City Services**

Introduction

This supplementary explanatory statement relates to the amendment to Animal Welfare Legislation Amendment Bill 2019 (the Bill) as presented to the Legislative Assembly. It has been prepared to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the ACT Legislative Assembly.

This statement must be read in conjunction with the amendment and the Bill. It is not, and is not intended to be, a comprehensive description of the Bill. What is written about a provision is not to be taken as an authoritative statement of the meaning of a provision, this being a responsibility of the Courts.

Overview of the Bill

The purpose of the government amendment to the Bill is to address comments received from the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) in Scrutiny Report 31, make minor technical corrections and clarifications, and to include a strict liability offence for not restraining a dog in a moving vehicle in a way that prevents the dog from injury.

PROVISIONS OF THE BILL

Clause 2 (1), last dot point

Page 2, line 19

This amendment adds in the new provisions relating to assistance animals in these amendments to Clause 2 (1) so that they do not take effect for six months consistent with the rest of the assistance animal framework introduced through the Bill.

Clause 3, proposed new dot points

Page 3, line 11

This amendment adds in the *Major Events Act 2014*, *Nature Conservation Act 2014* and *Public Pools Act 2015* to the list of legislation being amended, consistent with new parts 9 to 11 being introduced in these Government amendments. These new parts make minor consequential amendments to the *Major Events Act 2014*, *Nature Conservation Act 2014* and *Public Pools Act 2015* to ensure consistency in terminology and application across ACT legislation in respect of assistance animals and assistance animals in training.

Clause 6

Proposed new section 6A, definition of *confine*

Page 5, line 15

This amendment clarifies the definition of confine and defines it to include enclosing an animal in a pen, vehicle, cage, box or other container or small space, or to otherwise limit or restrict the animal's freedom of movement. Two examples have been provided for clarification.

Clause 6

Proposed new section 6D (1) (b)

Page 7, line 18

This amendment corrects a grammatical error replacing 'are unhygienic' with 'is unhygienic'.

Clause 11

Proposed new section 9 (1) (b)

Page 11, line 16

This amendment makes a technical amendment to make this provision consistent with the rest of the Act to include 'death'.

Clause 11

Proposed new section 9 (3), example 2

Page 12, line 4

This amendment makes a technical amendment to omit the term 'wild' because s (2) only applies to a person in charge of an animal, i.e. the section does not apply to wild animals.

Clause 11

Proposed new section 9 (4), new example

Page 12, line 13

This amendment includes the appropriate example of locking an animal in a hot car and has moved this from section 15 as it is considered to more appropriately belong in this section.

Clause 18

Proposed new section 15

Page 17, line 13

This amendment substitutes clause 18 to no longer include the term 'contain'. A review of the terms 'confine' and 'contain' has resulted in using the term 'confine' for consistency and to clarify this definition to assist in interpreting the Act. Existing section 9 (3) and new section 9 (4) under the Bill already covers a situation where a person confines an animal, including in a vehicle, which causes or is likely to cause injury or pain. The example of locking an animal in a hot car has also been moved to reflect this.

Clause 18 now focuses on transport of animals.

Proposed new clauses 18A and 18B

Page 17, line 11

This amendment inserts a new strict liability offence in section 15A (1) for carrying a dog in or on a moving vehicle on a road or road related area in a way that prevents the dog from moving around, out of or off the vehicle, and protects the dog from injury when in the vehicle. There are appropriate exemptions provided for, including an assistance animal or assistance animal in training, a situation where a dog is being used to work livestock, or other circumstance prescribed by regulation.

This amendment amends the definition of assistance animal to reflect the definition in the *Discrimination Act 1991*, Section 5AA (3), which is the correct definition used consistently across ACT law

This amendment inserts a new definition of restrain in relation to a dog in a vehicle to assist in clarifying the meaning of restrain, as well as definitions for public passenger vehicle, assistance animal and vehicle.

Clause 79

Proposed new section 86E (2)

Page 53, line 17

This amendment responds to scrutiny comments received on the Bill and clarifies that a temporary animal prohibition order can be issued by the Animal Welfare Authority on a person individually or jointly with another person. This is consistent with other animal ownership bans in the Bill.

Clause 122

Proposed new section 106C

Page 80, line 12

This amendment clarifies that section 106C applies to a person accompanied by an assistance animal. A person accompanied by an assistance animal includes a person with a disability who is relying on the assistance animal as well as an assistance animal in training or being assessed as an assistance animal.

Proposed new parts 9 to 11

Page 89

This amendment inserts a consequential amendment to the *Major Events Act 2014*, *Nature Conservation Act 2014* and *Public Pools Act 2015* to ensure consistency in terminology and application across ACT legislation in respect of assistance animals and assistance animals in training. The amendment ensures consistent reference to the definition of 'assistance animal' in the *Discrimination Act 1991* and consistent use of the phrase 'person accompanied by an assistance animal', which also includes an assistance animal in training by an assistance animal trainer or assessor, consistent with this Bill.