

By: Edwards

H.B. No. 1096

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of dogs in certain municipalities;
creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 822, Health and Safety Code, is amended
by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF DOGS IN CERTAIN MUNICIPALITIES

Sec. 822.151. APPLICABILITY; APPLICABILITY OF OTHER LAW.

(a) This subchapter applies only to a municipality with a
population of 1.9 million or more.

(b) Subchapter D does not apply to a municipality subject to
this subchapter.

Sec. 822.152. DEFINITIONS. In this subchapter:

(1) "Dog" means a domesticated animal that is a member
of the canine family.

(2) "Owner" means a person who owns or has custody or
control of the dog.

(3) "Secure enclosure" means a fenced area or
structure that is:

(A) locked;

(B) capable of preventing the entry of the
general public, including children;

(C) capable of preventing the escape or release
of a dog; and

1 (D) clearly marked as containing a dog.

2 Sec. 822.153. ATTACK BY DOG. (a) A person acting with
3 criminal negligence commits an offense if the person is the owner of
4 a dog and the dog makes an unprovoked attack on another person.

5 (b) An offense under this section is a Class B misdemeanor,
6 unless the attack causes serious bodily injury or death, in which
7 event the offense is a third-degree felony.

8 (c) If a person is found guilty of an offense under this
9 section, the court shall order the dog destroyed by a person listed
10 in Section 822.004.

11 (d) In addition to criminal prosecution, a person who
12 commits an offense under this section is liable for a civil penalty
13 not to exceed \$10,000. An attorney for a municipality where the
14 offense occurred may file suit in a court of competent jurisdiction
15 to collect the penalty. Penalties collected under this subsection
16 shall be retained by the municipality.

17 Sec. 822.154. REQUIREMENT OF LEASH OR ENCLOSURE. (a)
18 Notwithstanding Section 822.031, an owner of a dog must restrain
19 the dog at all times on a leash in the immediate control of the owner
20 when the dog is not on the owner's property, or in a secure
21 enclosure.

22 (b) A person who owns or keeps custody or control of a dog
23 commits an offense if the person fails to comply with this section.

24 (c) Except as provided by Subsection (d), an offense under
25 this section is a Class C misdemeanor.

26 (d) An offense under this section is a Class B misdemeanor
27 if it is shown on the trial of the offense that the defendant has

1 previously been convicted under this section.

2 Sec. 822.155. DEFENSE. (a) It is a defense to prosecution
3 under this subchapter that the person is a veterinarian, a peace
4 officer, a person employed by a recognized animal shelter, or a
5 person employed by the state or a political subdivision of the state
6 to deal with stray animals and has temporary ownership, custody, or
7 control of the dog in connection with that position.

8 (b) It is a defense to prosecution under this subchapter
9 that the person is an employee of the institutional division of the
10 Texas Department of Criminal Justice or a law enforcement agency
11 and trains or uses dogs for law enforcement or corrections
12 purposes.

13 (c) It is a defense to prosecution under this subchapter
14 that the person is a dog trainer or an employee of a guard dog
15 company under Chapter 1702, Occupations Code.

16 (d) It is a defense to prosecution under this subchapter
17 that the person is disabled and uses the dog to provide assistance
18 and the dog is trained to provide assistance to a person with a
19 disability.

20 (e) It is a defense to prosecution under this subchapter
21 that, at the time of the conduct charged, the person and the dog are
22 within the boundaries of a park designated as a dog park by the
23 municipality.

24 (f) It is a defense to prosecution under this subchapter
25 that, at the time of the conduct charged, the person and the dog are
26 participating in or training for a show, test, or trial organized by
27 a recognized sanctioning body for dog shows, tests, or trials.

1 SECTION 2. Subchapter F, Chapter 822, Health and Safety
2 Code, as added by this Act, applies only to an offense committed on
3 or after the effective date of this Act. An offense committed
4 before the effective date of this Act is covered by the law
5 applicable to the offense when the offense was committed, and that
6 law is continued in effect for that purpose. For purposes of this
7 section, an offense was committed before the effective date of this
8 Act if any element of the offense occurred before that date.

9 SECTION 3. This Act takes effect September 1, 2005.