

By: Edwards

H.B. No. 1096

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of dogs; 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;

(D) clearly marked as containing a dog; and

1           (E) in conformance with the requirements for  
2 enclosures established by the local animal control authority.

3           Sec. 822.153. ATTACK BY DOG. (a) A person commits an  
4 offense if, regardless of the person's mental state, the person is  
5 the owner of a dog and the dog makes an unprovoked attack on another  
6 person.

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

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

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

19          Sec. 822.154. REQUIREMENT OF LEASH OR ENCLOSURE. (a)  
20 Notwithstanding Section 822.031, an owner of a dog must restrain  
21 the dog at all times on a leash in the immediate control of the owner  
22 or in a secure enclosure.

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

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

27          (d) An offense under this section is a Class B misdemeanor

1 if it is shown on the trial of the offense that the defendant has  
2 previously been convicted under this section.

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

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

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

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

21 SECTION 2. Subchapter F, Chapter 822, Health and Safety  
22 Code, as added by this Act, applies only to an offense committed on  
23 or after the effective date of this Act. An offense committed  
24 before the effective date of this Act is covered by the law  
25 applicable to the offense when the offense was committed, and that  
26 law is continued in effect for that purpose. For purposes of this  
27 section, an offense was committed before the effective date of this

1 Act if any element of the offense occurred before that date.

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