

1-1 By: Edwards (Senate Sponsor - Ellis) H.B. No. 1096
1-2 (In the Senate - Received from the House April 6, 2005;
1-3 April 7, 2005, read first time and referred to Committee on
1-4 Criminal Justice; May 20, 2005, reported favorably, as amended, by
1-5 the following vote: Yeas 4, Nays 0; May 20, 2005, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Ellis

1-7 Amend H.B. No. 1096 (house engrossment) as follows:

1-8 (1) In SECTION 1 of the bill, in added Subsection (b) of
1-9 Section 822.153, Health and Safety Code (page 1, line 62), strike
1-10 "Class B" and substitute "Class C".

1-11 (2) In SECTION 1 of the bill, in added Subsection (b) of
1-12 Section 822.153, Health and Safety Code (page 2, line 2), strike
1-13 "third-degree felony" and substitute "Class A misdemeanor".

1-14 (3) In SECTION 1 of the bill, immediately following added
1-15 Section 822.154, Health and Safety Code (page 2, between lines 23
1-16 and 24) insert the following:

1-17 Sec. 822.1545. LOCAL REGULATION OF DANGEROUS DOGS. A
1-18 county or municipality may place additional requirements or
1-19 restrictions on dogs if the requirements or restrictions:

1-20 (1) are not specific to one breed or several breeds of
1-21 dogs; and

1-22 (2) are more stringent than restrictions provided by this
1-23 subchapter.

1-24 (4) In SECTION 1 of the bill, immediately following added
1-25 Subsection (f), Section 822.155, Health and Safety Code (between
1-26 page 2, line 49, and page 2, line 50) insert the following:

1-27 (g) It is a defense to prosecution under this subchapter
1-28 that, at the time of the conduct charged, the person and the dog are
1-29 participating in a canine sport.

1-30 (h) It is a defense to prosecution under this subchapter
1-31 that, at the time of the conduct charged, the person and the dog are
1-32 participating in an organized search and rescue effort.

1-33 A BILL TO BE ENTITLED
1-34 AN ACT

1-35 relating to the regulation of dogs in certain municipalities;
1-36 creating an offense.

1-37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-38 SECTION 1. Chapter 822, Health and Safety Code, is amended
1-39 by adding Subchapter F to read as follows:

1-40 SUBCHAPTER F. REGULATION OF DOGS IN CERTAIN MUNICIPALITIES

1-41 Sec. 822.151. APPLICABILITY; APPLICABILITY OF OTHER LAW.

1-42 (a) This subchapter applies only to a municipality with a
1-43 population of 1.9 million or more.

1-44 (b) Subchapter D does not apply to a municipality subject to
1-45 this subchapter.

1-46 Sec. 822.152. DEFINITIONS. In this subchapter:

1-47 (1) "Dog" means a domesticated animal that is a member
1-48 of the canine family.

1-49 (2) "Owner" means a person who owns or has custody or
1-50 control of the dog.

1-51 (3) "Secure enclosure" means a fenced area or
1-52 structure that is:

1-53 (A) locked;

1-54 (B) capable of preventing the entry of the
1-55 general public, including children;

1-56 (C) capable of preventing the escape or release
1-57 of a dog; and

1-58 (D) clearly marked as containing a dog.

1-59 Sec. 822.153. ATTACK BY DOG. (a) A person acting with
1-60 criminal negligence commits an offense if the person is the owner of
1-61 a dog and the dog makes an unprovoked attack on another person.

1-62 (b) An offense under this section is a Class B misdemeanor,

2-1 unless the attack causes serious bodily injury or death, in which
2-2 event the offense is a third-degree felony.

2-3 (c) If a person is found guilty of an offense under this
2-4 section, the court shall order the dog destroyed by a person listed
2-5 in Section 822.004.

2-6 (d) In addition to criminal prosecution, a person who
2-7 commits an offense under this section is liable for a civil penalty
2-8 not to exceed \$10,000. An attorney for a municipality where the
2-9 offense occurred may file suit in a court of competent jurisdiction
2-10 to collect the penalty. Penalties collected under this subsection
2-11 shall be retained by the municipality.

2-12 Sec. 822.154. REQUIREMENT OF LEASH OR ENCLOSURE. (a)
2-13 Notwithstanding Section 822.031, an owner of a dog must restrain
2-14 the dog at all times on a leash in the immediate control of the owner
2-15 when the dog is not on the owner's property, or in a secure
2-16 enclosure.

2-17 (b) A person who owns or keeps custody or control of a dog
2-18 commits an offense if the person fails to comply with this section.

2-19 (c) Except as provided by Subsection (d), an offense under
2-20 this section is a Class C misdemeanor.

2-21 (d) An offense under this section is a Class B misdemeanor
2-22 if it is shown on the trial of the offense that the defendant has
2-23 previously been convicted under this section.

2-24 Sec. 822.155. DEFENSE. (a) It is a defense to prosecution
2-25 under this subchapter that the person is a veterinarian, a peace
2-26 officer, a person employed by a recognized animal shelter, or a
2-27 person employed by the state or a political subdivision of the state
2-28 to deal with stray animals and has temporary ownership, custody, or
2-29 control of the dog in connection with that position.

2-30 (b) It is a defense to prosecution under this subchapter
2-31 that the person is an employee of the institutional division of the
2-32 Texas Department of Criminal Justice or a law enforcement agency
2-33 and trains or uses dogs for law enforcement or corrections
2-34 purposes.

2-35 (c) It is a defense to prosecution under this subchapter
2-36 that the person is a dog trainer or an employee of a guard dog
2-37 company under Chapter 1702, Occupations Code.

2-38 (d) It is a defense to prosecution under this subchapter
2-39 that the person is disabled and uses the dog to provide assistance
2-40 and the dog is trained to provide assistance to a person with a
2-41 disability.

2-42 (e) It is a defense to prosecution under this subchapter
2-43 that, at the time of the conduct charged, the person and the dog are
2-44 within the boundaries of a park designated as a dog park by the
2-45 municipality.

2-46 (f) It is a defense to prosecution under this subchapter
2-47 that, at the time of the conduct charged, the person and the dog are
2-48 participating in or training for a show, test, or trial organized by
2-49 a recognized sanctioning body for dog shows, tests, or trials.

2-50 SECTION 2. Subchapter F, Chapter 822, Health and Safety
2-51 Code, as added by this Act, applies only to an offense committed on
2-52 or after the effective date of this Act. An offense committed
2-53 before the effective date of this Act is covered by the law
2-54 applicable to the offense when the offense was committed, and that
2-55 law is continued in effect for that purpose. For purposes of this
2-56 section, an offense was committed before the effective date of this
2-57 Act if any element of the offense occurred before that date.

2-58 SECTION 3. This Act takes effect September 1, 2005.

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