

By: Cook of Colorado

H.B. No. 1767

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of veterinary medicine.

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

SECTION 1. Section 801.004, Occupations Code, is amended to read as follows:

Sec. 801.004. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) the treatment or care of an animal in any manner by the owner of the animal, an employee of the owner, or a designated caretaker of the animal, unless the ownership, employment, or designation is established with the intent to violate this chapter;

(2) a person who performs an act prescribed by the board as an accepted livestock management practice, including:

(A) castrating a male animal raised for human consumption;

(B) docking or earmarking an animal raised for human consumption;

(C) dehorning cattle;

(D) aiding in the nonsurgical birth process of a large animal, as defined by board rule;

(E) treating an animal for disease prevention with a nonprescription medicine or vaccine;

(F) branding or identifying an animal in any manner;

1 (G) artificially inseminating an animal in a
2 nonsurgical manner, including training, inseminating, and
3 compensating for services related to artificial insemination in a
4 nonsurgical manner; and

5 (H) shoeing a horse;

6 (3) the performance of a cosmetic or production
7 technique to reduce injury in poultry intended for human
8 consumption;

9 (4) the performance of a duty by a veterinarian's
10 employee if:

11 (A) the duty involves food production animals;

12 (B) the duty does not involve diagnosis,
13 prescription, or surgery;

14 (C) the employee is under the direction and
15 general supervision of the veterinarian; and

16 (D) the veterinarian is responsible for the
17 employee's performance;

18 (5) the performance of an act by a person who is a
19 full-time student of an accredited college of veterinary medicine
20 or is a foreign graduate of a board-approved equivalent competency
21 program for foreign veterinary graduates and who is participating
22 in a board-approved extern or preceptor program if the act is
23 performed under the direct supervision of a veterinarian employing
24 the person;

25 (6) an animal shelter employee who performs euthanasia
26 in the course and scope of the person's employment if the person has
27 successfully completed training offered by the Texas Department of

1 Health under Section 823.004, Health and Safety Code;

2 (7) a person who is engaged in a recognized
3 state-federal cooperative disease eradication or control program
4 or an external parasite control program while the person is
5 performing official duties required by the program;

6 (8) a person who, without expectation of compensation,
7 provides emergency care in an emergency or disaster, except as
8 provided by Section 801.3585; or

9 (9) a consultation given to a veterinarian in this
10 state by a person who:

11 (A) resides in another state; and

12 (B) is lawfully qualified to practice veterinary
13 medicine under the laws of that state.

14 SECTION 2. Section 801.151(c), Occupations Code, is amended
15 to read as follows:

16 (c) The board shall adopt rules to:

17 (1) protect the public; and

18 (2) ensure that alternate therapies, including
19 acupuncture, acutherapy, acupressure, ultrasound diagnosis and
20 therapy, magnetic field therapy, holistic medicine, homeopathy,
21 chiropractic treatment, [~~acupuncture, and~~] laser therapy, massage
22 therapy, and physical therapy, are performed only by a veterinarian
23 or under the supervision of a veterinarian.

24 SECTION 3. Section 801.351, Occupations Code, is amended by
25 amending Subsection (a) and adding Subsection (c) to read as
26 follows:

27 (a) A person may not practice veterinary medicine unless a

1 veterinarian-client-patient relationship exists. A
2 veterinarian-client-patient relationship exists if the
3 veterinarian:

4 (1) assumes responsibility for medical judgments
5 regarding the health of an animal and a client, who is the owner or
6 other caretaker of the animal, agrees to follow the veterinarian's
7 instructions;

8 (2) possesses sufficient knowledge of the animal to
9 initiate at least a general or preliminary diagnosis of the
10 animal's medical condition; and

11 (3) is readily available to provide, or has provided,
12 follow-up medical care in the event of an adverse reaction to, or a
13 failure of, the regimen of therapy provided by the veterinarian.

14 (c) A veterinarian-client-patient relationship may not be
15 established solely by telephone or electronic means.

16 SECTION 4. Section 801.353, Occupations Code, is amended by
17 adding Subsection (f) to read as follows:

18 (f) A veterinarian does not violate this section by
19 providing the name or address of a client to a health authority,
20 veterinarian, or physician who requests the identity of the client
21 to obtain information for:

22 (1) the verification of a rabies vaccination; or

23 (2) other treatment involving a life-threatening
24 situation.

25 SECTION 5. Sections 801.357(a) and (d), Occupations Code,
26 are amended to read as follows:

27 (a) A veterinarian may dispose of an animal that is

1 abandoned in the veterinarian's care if the veterinarian:

2 (1) gives the client, by certified mail to the client's
3 last known address, notice of the veterinarian's intention to
4 dispose of the animal; and

5 (2) allows the client to retrieve the animal during
6 the 10 [~~12~~] days after the date the veterinarian mails the notice.

7 (d) An animal is considered abandoned on the 11th [~~13th~~] day
8 after the date the veterinarian mails the notice under Subsection
9 (a) unless an agreement is made to extend the care for the animal.

10 SECTION 6. Subchapter H, Chapter 801, Occupations Code, is
11 amended by adding Sections 801.3585 and 801.3586 to read as
12 follows:

13 Sec. 801.3585. LIABILITY FOR EMERGENCY CARE TO HUMANS. A
14 veterinarian who in good faith administers, or attempts to
15 administer, emergency care at the scene of an accident or other
16 emergency to a person is not liable for damages as a result of any
17 act or omission by the veterinarian in administering, or attempting
18 to administer, the emergency care.

19 Sec. 801.3586. LIABILITY FOR REPORTING ANIMAL CRUELTY;
20 IMMUNITY. A veterinarian who in good faith and in the normal course
21 of business reports to the appropriate governmental entity a
22 suspected incident of animal cruelty under Section 42.09, Penal
23 Code, is immune from liability in a civil or criminal action brought
24 against the veterinarian for reporting the incident.

25 SECTION 7. Subchapter H, Chapter 801, Occupations Code, is
26 amended by adding Sections 801.362 and 801.363 to read as follows:

27 Sec. 801.362. CERTAIN VETERINARY SERVICES REQUIRED FOR COW

1 OR BULL SALES. (a) In this section, "pregnancy diagnosis" includes
2 a diagnosis by ultrasound or rectal palpation.

3 (b) If a pregnancy diagnosis or a breeding soundness
4 examination is a condition of the sale or other change of ownership
5 of a cow or bull, the diagnosis or examination may only be performed
6 by a veterinarian.

7 Sec. 801.363. AUTHORITY TO DISPENSE DRUGS PRESCRIBED BY
8 ANOTHER VETERINARIAN. (a) A veterinarian may dispense a drug
9 prescribed by another veterinarian if:

10 (1) the annual total of dosage units of drugs
11 dispensed under this subsection is not more than five percent of the
12 total dosage units of drugs the veterinarian dispenses in a year;
13 and

14 (2) the veterinarian maintains records of dispensing
15 activities under this section consistent with board rules.

16 (b) A veterinarian does not violate Section 801.402 by
17 ordering a prescription drug or controlled substance in compliance
18 with this section for the treatment of an animal without first
19 establishing a veterinarian-client-patient relationship.

20 SECTION 8. Section 801.504, Occupations Code, is amended by
21 adding Subsection (c) to read as follows:

22 (c) Venue for the prosecution of an offense under this
23 section that consists of the violation of Section 801.251 is in a
24 district court in Travis County.

25 SECTION 9. Section 801.362, Occupations Code, as added by
26 this Act, applies only to a sale or other change of ownership of a
27 cow or bull that occurs on or after the effective date of this Act.

1 A sale or other change of ownership that occurs before the effective
2 date of this Act is governed by the law in effect when the sale or
3 other change of ownership occurred, and the former law is continued
4 in effect for that purpose.

5 SECTION 10. A veterinarian is not required to maintain the
6 records required by Section 801.363(a), Occupations Code, as added
7 by this Act, until September 1, 2006.

8 SECTION 11. (a) Section 804.504(c), Occupations Code, as
9 added by this Act, applies only to an offense committed on or after
10 the effective date of this Act.

11 (b) An offense committed before the effective date of this
12 Act is covered by the law in effect when the offense was committed,
13 and the former law is continued in effect for that purpose.

14 (c) For purposes of this section, an offense is committed
15 before the effective date of this Act if any element of the offense
16 occurs before that date.

17 SECTION 12. This Act takes effect September 1, 2005.