

By: Chisum

H.B. No. 2840

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of dogs; establishing a defense to
3 prosecution; limiting liability.

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

5 SECTION 1. Section 822.001, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 822.001. DEFINITIONS. In this Subchapter:

8 (1) "Animal control authority" means a municipal or
9 county animal control office with authority over the area in which
10 the dog is kept or the county sheriff in an area that does not have
11 an animal control office.

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

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

16 (A) locked;

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

19 (C) capable of preventing the escape or release
20 of the dog placed in the enclosure;

21 (D) clearly marked on all entrances as containing
22 a dog; and

23 (E) in conformance with the requirements, if any,
24 for enclosures established by the local animal control authority.

1 (4) [~~(2)~~] "Serious bodily injury" means an injury
2 characterized by severe bite wounds or severe ripping and tearing
3 of muscle that would cause a reasonably prudent person to seek
4 immediate treatment from a medical professional and that could
5 [~~would~~] require hospitalization without regard to whether the
6 person actually sought medical treatment.

7 (5) "Unprovoked attack" is an attack by a dog on a
8 person in a place other than the secure enclosure in which the dog
9 was being kept that is not in response to:

10 (A) the dog being tormented, abused, or assaulted
11 by the person whom the dog attacked;

12 (B) pain or injury; or

13 (C) an assault or attempted assault on another
14 person by the person whom the dog attacked.

15 SECTION 2. Section 822.003(f), Health and Safety Code, is
16 amended to read as follows:

17 (f) The court may not order the dog destroyed if the court
18 finds that the dog caused the serious bodily injury to a person by
19 attacking, biting, or mauling the person and:

20 (1) [~~the dog was being used for the protection of a~~
21 ~~person or person's property,~~] the attack, bite, or mauling occurred
22 in the secure [~~an~~] enclosure in which the dog was being kept, and[~~+~~

23 [~~(A) the enclosure was reasonably certain to~~
24 ~~prevent the dog from leaving the enclosure on its own and provided~~
25 ~~notice of the presence of a dog, and~~

26 [~~(B)~~] the injured person [~~was at least eight~~
27 ~~years of age, and~~] was trespassing in the enclosure when the attack,

1 bite, or mauling occurred;

2 (2) [~~the dog was not being used for the protection of a~~
3 ~~person or person's property, the attack, bite, or mauling occurred~~
4 ~~in an enclosure in which the dog was being kept, and the injured~~
5 ~~person was at least eight years of age and was trespassing in the~~
6 ~~enclosure when the attack, bite, or mauling occurred;~~

7 [~~3~~] the attack, bite, or mauling occurred during an
8 arrest or other action of a peace officer while the peace officer
9 was using the dog for law enforcement purposes; or

10 (3) [~~4~~] the dog was defending a person from an
11 assault or person's property from damage or theft by the injured
12 person[~~; or~~

13 [~~5~~ ~~the injured person was younger than eight years~~
14 ~~of age, the attack, bite, or mauling occurred in an enclosure in~~
15 ~~which the dog was being kept, and the enclosure was reasonably~~
16 ~~certain to keep a person younger than eight years of age from~~
17 ~~entering].~~

18 SECTION 3. Subchapter A, Chapter 822, Health and Safety
19 Code, is amended by adding Section 822.006 to read as follows:

20 Sec. 822.006. DEFENDING AGAINST AN UNPROVOKED ATTACK BY A
21 DOG. (a) A person may use any and all means available to defend
22 against an unprovoked attack by a dog on that person or another
23 person, including but not limited to inanimate objects, chemical or
24 other sprays, and electrical shock or stun devices.

25 (b) A person defending against an unprovoked attack by a dog
26 on that person or another person shall not be liable, in law or
27 equity, to the owner of the dog for damages to the dog or to the

1 owner's property. To the extent a person defending against an
2 unprovoked attack by a dog causes damage to the property of persons
3 other than the owner, then the owner of the dog shall be liable for
4 all such damages.

5 (c) The owner of the dog shall be liable for all damages to
6 any person or property resulting from an unprovoked attack by the
7 dog.

8 (d) A person defending against an unprovoked attack by a dog
9 on that person or another person shall not be subject to criminal
10 prosecution for injury to the dog.

11 SECTION 4. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2005.