

By: Whitmire

S.B. No. 1625

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to including within conduct proscribed by various offenses
certain conduct involving the discharge of fireworks.

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

SECTION 1. Sections 42.01(a) and (c), Penal Code, are
amended to read as follows:

(a) A person commits an offense if the person [~~he~~]
intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar
language in a public place, and the language by its very utterance
tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public
place, and the gesture or display tends to incite an immediate
breach of the peace;

(3) creates, by chemical means, a noxious and
unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in
an obviously offensive manner;

(5) makes unreasonable noise in a public place other
than a sport shooting range, as defined by Section 250.001, Local
Government Code, or in or near a private residence that he has no
right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a

1 public road or a sport shooting range, as defined by Section
2 250.001, Local Government Code;

3 (8) displays a firearm or other deadly weapon in a
4 public place in a manner calculated to alarm;

5 (9) discharges a firearm on or across a public road;

6 (10) exposes his anus or genitals in a public place and
7 is reckless about whether another may be present who will be
8 offended or alarmed by his act; ~~or~~

9 (11) for a lewd or unlawful purpose:

10 (A) enters on the property of another and looks
11 into a dwelling on the property through any window or other opening
12 in the dwelling;

13 (B) while on the premises of a hotel or
14 comparable establishment, looks into a guest room not the person's
15 own through a window or other opening in the room; or

16 (C) while on the premises of a public place,
17 looks into an area such as a restroom or shower stall or changing or
18 dressing room that is designed to provide privacy to a person using
19 the area; or

20 (12) discharges fireworks, as defined by Section
21 2154.001, Occupations Code, within 300 feet of a residential
22 dwelling.

23 (c) For purposes of this section:

24 (1) an act is deemed to occur in a public place or near
25 a private residence if it produces its offensive or proscribed
26 consequences in the public place or near a private residence; ~~and~~

27 (2) a noise is presumed to be unreasonable if the noise

1 exceeds a decibel level of 85 after the person making the noise
2 receives notice from a magistrate or peace officer that the noise is
3 a public nuisance; and

4 (3) a "residential dwelling" includes a single-family
5 home, a duplex, triplex, apartment, or other form of multifamily
6 housing, a motel or hotel, and a mobile home.

7 SECTION 2. Sections 42.03(a) and (c), Penal Code, are
8 amended to read as follows:

9 (a) A person commits an offense if, without legal privilege
10 or authority, he intentionally, knowingly, or recklessly:

11 (1) obstructs a highway, street, sidewalk, railway,
12 waterway, elevator, aisle, hallway, entrance, or exit to which the
13 public or a substantial group of the public has access, or any other
14 place used for the passage of persons, vehicles, or conveyances,
15 regardless of the means of creating the obstruction and whether the
16 obstruction arises from his acts alone or from his acts and the acts
17 of others; ~~or~~

18 (2) disobeys a reasonable request or order to move
19 issued by a person the actor knows to be or is informed is a peace
20 officer, a fireman, or a person with authority to control the use of
21 the premises:

22 (A) to prevent obstruction of a highway or any of
23 those areas mentioned in Subdivision (1); or

24 (B) to maintain public safety by dispersing those
25 gathered in dangerous proximity to a fire, riot, or other hazard; or

26 (3) discharges fireworks, as defined by Section
27 2154.001, Occupations Code:

1 (A) within 300 feet of a highway, street,
2 sidewalk, railway, waterway, elevator, aisle, hallway, entrance,
3 or exit to which the public or a substantial group of the public has
4 access, or any other place used for the passage of persons,
5 vehicles, or conveyances; and

6 (2) in a manner reasonably likely to disrupt the
7 passage of persons, vehicles, or conveyances.

8 (c) An offense under Subsection (a)(1) or (2) [~~this section~~]
9 is a Class B misdemeanor. An offense under Subsection (a)(3) is a
10 Class C misdemeanor.

11 SECTION 3. Section 42.09, Penal Code, is amended by
12 amending Subsection (a) and adding Subsections (j) and (k) to read
13 as follows:

14 (a) A person commits an offense if the person intentionally
15 or knowingly:

16 (1) tortures an animal;

17 (2) fails unreasonably to provide necessary food,
18 care, or shelter for an animal in the person's custody;

19 (3) abandons unreasonably an animal in the person's
20 custody;

21 (4) transports or confines an animal in a cruel
22 manner;

23 (5) kills, seriously injures, or administers poison to
24 an animal, other than cattle, horses, sheep, swine, or goats,
25 belonging to another without legal authority or the owner's
26 effective consent;

27 (6) causes one animal to fight with another;

1 (7) uses a live animal as a lure in dog race training
2 or in dog coursing on a racetrack;

3 (8) trips a horse;

4 (9) injures an animal, other than cattle, horses,
5 sheep, swine, or goats, belonging to another without legal
6 authority or the owner's effective consent; [~~or~~]

7 (10) seriously overworks an animal; or

8 (11) discharges fireworks, as defined by Section
9 2154.001, Occupations Code, within 600 feet of a facility that
10 houses animals.

11 (j) An offense under Subsection (a)(11) is a Class C
12 misdemeanor.

13 (k) It is an exception to the application of Subsection
14 (a)(11) that the actor is the owner of the facility and the facility
15 is not within 300 feet of another building. For purposes of this
16 subsection, "building" has the meaning assigned by Section 30.01.

17 SECTION 4. (a) The changes in law made by this Act apply
18 only to an offense committed on or after the effective date of this
19 Act. For purposes of this section, an offense is committed before
20 the effective date of this Act if any element of the offense occurs
21 before that date.

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

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

S.B. No. 1625

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2005.