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et al.

H.B. No. 2328

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the offenses of cruelty to livestock and nonlivestock
3 animals.

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

5 SECTION 1. Section 42.09, Penal Code, is amended to read as
6 follows:

7 Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person
8 commits an offense if the person intentionally or knowingly:

9 (1) tortures a livestock [~~an~~] animal;

10 (2) fails unreasonably to provide necessary food,
11 water, or care [~~, or shelter~~] for a livestock [~~an~~] animal in the
12 person's custody;

13 (3) abandons unreasonably a livestock [~~an~~] animal in
14 the person's custody;

15 (4) [~~transports or confines an animal in a cruel~~
16 ~~manner,~~

17 [~~(5) kills, seriously injures, or~~] administers poison
18 to a livestock [~~an~~] animal, other than cattle, horses, sheep,
19 swine, or goats, belonging to another without legal authority or
20 the owner's effective consent;

21 (5) causes one livestock animal to fight with another
22 livestock animal or with an animal as defined by Section 42.092
23 [~~(6) causes one animal to fight with another~~]; or

24 (6) [~~(7)~~] uses a live livestock animal as a lure in dog

1 race training or in dog coursing on a racetrack[†

2 ~~[(8) trips a horse;~~

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

6 ~~[(10) seriously overworks an animal].~~

7 (b) In ~~[It is a defense to prosecution under this section~~
8 ~~that the actor was engaged in bona fide experimentation for~~
9 ~~scientific research.~~

10 ~~[(c) For purposes of]~~ this section:

11 (1) "Abandon" includes abandoning a livestock ~~[an]~~
12 animal in the person's custody without making reasonable
13 arrangements for assumption of custody by another person.

14 (2) ~~["Animal" means a domesticated living creature and~~
15 ~~wild living creature previously captured. "Animal" does not include~~
16 ~~an uncaptured wild creature or a wild creature whose capture was~~
17 ~~accomplished by conduct at issue under this section.~~

18 ~~[(3) "Cruel manner" includes a manner that causes or~~
19 ~~permits unjustified or unwarranted pain or suffering.~~

20 ~~[(4)]~~ "Custody" includes responsibility for the
21 health, safety, and welfare of a livestock ~~[an]~~ animal subject to
22 the person's care and control, regardless of ownership of the
23 livestock animal.

24 (2-a) "Depredation" has the meaning assigned by
25 Section 71.001, Parks and Wildlife Code.

26 (3) "Livestock animal" means:

27 (A) cattle, sheep, swine, goats, ratites, or

1 poultry commonly raised for human consumption;

2 (B) a horse, pony, mule, donkey, or hinny;

3 (C) native or nonnative hoofstock raised under
4 agriculture practices; or

5 (D) native or nonnative fowl raised under
6 agricultural practices.

7 (4) [(5)] "Necessary food, water, or care[~~, or~~
8 shelter]" includes food, water, or care[~~, or shelter~~] provided to
9 the extent required to maintain the livestock animal in a state of
10 good health.

11 [(6) "Trip" means to use an object to cause a horse to
12 fall or lose its balance.]

13 (c) [(d)] An offense under Subsection (a)(2) or[(7)] (3)[~~(~~
14 (4), (9), or (10)] is a Class A misdemeanor, except that the offense
15 is a state jail felony if the person has previously been convicted
16 two times under this section, two times under Section 42.092, or one
17 time under this section and one time under Section 42.092. An
18 offense under Subsection (a)(1), (4), (5), or (6) is a state jail
19 felony, except that the offense is a felony of the third degree if
20 the person has previously been convicted two times under this
21 section, two times under Section 42.092, or one time under this
22 section and one time under Section 42.092.

23 (d) [(e) It is a defense to prosecution under Subsection
24 (a)(5) that the animal was discovered on the person's property in
25 the act of or immediately after injuring or killing the person's
26 goats, sheep, cattle, horses, swine, or poultry and that the person
27 killed or injured the animal at the time of this discovery.

1 ~~[(f) It is a defense to prosecution under Subsection (a)(8)~~
2 ~~that the actor tripped the horse for the purpose of identifying the~~
3 ~~ownership of the horse or giving veterinary care to the horse.~~

4 ~~[(g)]~~ It is a defense to prosecution for an offense under
5 this section that the actor was engaged in bona fide
6 experimentation for scientific research ~~[the person had a~~
7 ~~reasonable fear of bodily injury to the person or to another by a~~
8 ~~dangerous wild animal as defined by Section 822.101, Health and~~
9 ~~Safety Code].~~

10 (e) ~~[(h)]~~ It is an exception to the application of this
11 section that the conduct engaged in by the actor is a generally
12 accepted and otherwise lawful:

13 (1) form of conduct occurring ~~[use of an animal if~~
14 ~~that use occurs]~~ solely for the purpose of or in support of:

15 (A) fishing, hunting, or trapping; or

16 (B) wildlife management, wildlife or depredation
17 control, or shooting preserve practices as regulated by state and
18 federal law; or

19 (2) animal husbandry or agriculture ~~[farming]~~
20 practice involving livestock animals.

21 ~~[(i) An offense under Subsection (a)(1), (5), (6), (7), or~~
22 ~~(8) is a state jail felony, except that the offense is a felony of~~
23 ~~the third degree if the person has previously been convicted two~~
24 ~~times under this section.]~~

25 SECTION 2. Chapter 42, Penal Code, is amended by adding
26 Section 42.092 to read as follows:

27 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this

1 section:

2 (1) "Abandon" includes abandoning an animal in the
3 person's custody without making reasonable arrangements for
4 assumption of custody by another person.

5 (2) "Animal" means a domesticated living creature and
6 a wild living creature previously captured. The term does not
7 include an uncaptured wild creature or a livestock animal.

8 (3) "Cruel manner" includes a manner that causes or
9 permits unjustified or unwarranted pain or suffering.

10 (4) "Custody" includes responsibility for the health,
11 safety, and welfare of an animal subject to the person's care and
12 control, regardless of ownership of the animal.

13 (4-a) "Depredation" has the meaning assigned by
14 Section 71.001, Parks and Wildlife Code.

15 (5) "Livestock animal" has the meaning assigned by
16 Section 42.09.

17 (6) "Necessary food, water, care, or shelter" includes
18 food, water, care, or shelter provided to the extent required to
19 maintain the animal in a state of good health.

20 (b) A person commits an offense if the person intentionally,
21 knowingly, or recklessly:

22 (1) tortures an animal or in a cruel manner kills or
23 causes serious bodily injury to an animal;

24 (2) without legal authority or the owner's effective
25 consent, kills, administers poison to, or causes serious bodily
26 injury to an animal;

27 (3) fails unreasonably to provide necessary food,

1 water, care, or shelter for an animal in the person's custody;

2 (4) abandons unreasonably an animal in the person's
3 custody;

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

6 (6) without legal authority or the owner's effective
7 consent, causes bodily injury to an animal;

8 (7) causes one animal to fight with another animal, if
9 either animal is not a dog;

10 (8) uses a live animal as a lure in dog race training
11 or in dog coursing on a racetrack; or

12 (9) seriously overworks an animal.

13 (c) An offense under Subsection (b)(3), (4), (5), (6), or
14 (9) is a Class A misdemeanor, except that the offense is a state
15 jail felony if the person has previously been convicted two times
16 under this section, two times under Section 42.09, or one time under
17 this section and one time under Section 42.09. An offense under
18 Subsection (b)(1), (2), (7), or (8) is a state jail felony, except
19 that the offense is a felony of the third degree if the person has
20 previously been convicted two times under this section, two times
21 under Section 42.09, or one time under this section and one time
22 under Section 42.09.

23 (d) It is a defense to prosecution under this section that:

24 (1) the actor had a reasonable fear of bodily injury to
25 the actor or to another person by a dangerous wild animal as defined
26 by Section 822.101, Health and Safety Code; or

27 (2) the actor was engaged in bona fide experimentation

1 for scientific research.

2 (e) It is a defense to prosecution under Subsection (b)(2)
3 or (6) that the animal was discovered on the person's property in
4 the act of or after injuring or killing the person's livestock
5 animals or damaging the person's crops and that the person killed or
6 injured the animal at the time of this discovery.

7 (f) It is an exception to the application of this section
8 that the conduct engaged in by the actor is a generally accepted and
9 otherwise lawful:

10 (1) form of conduct occurring solely for the purpose
11 of or in support of:

12 (A) fishing, hunting, or trapping; or

13 (B) wildlife management, wildlife or depredation
14 control, or shooting preserve practices as regulated by state and
15 federal law; or

16 (2) animal husbandry or agriculture practice
17 involving livestock animals.

18 SECTION 3. Section 54.0407, Family Code, is amended to read
19 as follows:

20 Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If
21 a child is found to have engaged in delinquent conduct constituting
22 an offense under Section 42.09 or 42.092, Penal Code, the juvenile
23 court shall order the child to participate in psychological
24 counseling for a period to be determined by the court.

25 SECTION 4. Sections 821.023(a) and (b), Health and Safety
26 Code, are amended to read as follows:

27 (a) A finding in a court of competent jurisdiction that the

1 owner of an animal is guilty of an offense under Section 42.09 or
2 42.092, Penal Code, involving the animal is prima facie evidence at
3 a hearing authorized by Section 821.022 that the animal has been
4 cruelly treated.

5 (b) A statement of an owner made at a hearing provided for
6 under this subchapter is not admissible in a trial of the owner for
7 an offense under Section 42.09 or 42.092, Penal Code.

8 SECTION 5. Section 801.3585, Occupations Code, is amended
9 to read as follows:

10 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;
11 IMMUNITY. A veterinarian who in good faith and in the normal course
12 of business reports to the appropriate governmental entity a
13 suspected incident of animal cruelty under Section 42.09 or 42.092,
14 Penal Code, is immune from liability in a civil or criminal action
15 brought against the veterinarian for reporting the incident.

16 SECTION 6. Section 1702.283, Occupations Code, is amended
17 to read as follows:

18 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
19 convicted of cruelty to animals under Section 42.09 or 42.092,
20 Penal Code:

21 (1) is ineligible for a license as a guard dog company
22 or for registration as a dog trainer; and

23 (2) may not be employed to work with dogs as a security
24 officer by a security services contractor or security department of
25 a private business that uses dogs to protect individuals or
26 property or to conduct investigations.

27 SECTION 7. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.
2 An offense committed before the effective date of this Act is
3 governed by the law in effect when the offense was committed, and
4 the former law is continued in effect for that purpose. For
5 purposes of this section, an offense was committed before the
6 effective date of this Act if any element of the offense was
7 committed before that date.

8 SECTION 8. This Act takes effect September 1, 2007.