

By: Woolley, Christian, et al.

H.B. No. 2328

Substitute the following for H.B. No. 2328:

By: Pena

C.S.H.B. No. 2328

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(4) transports or confines a livestock [~~an~~] animal in a cruel manner;

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

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

(7) uses a live livestock animal as a lure in dog race

1 training or in dog coursing on a racetrack;

2 (8) trips a horse;

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

6 (10) seriously overworks a livestock [~~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 (3) [~~(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 (4) "Livestock animal" means:

25 (A) cattle, sheep, swine, goats, ratites, or
26 poultry commonly raised for human consumption;

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

1 (C) native or nonnative hoofstock raised under
2 agriculture practices.

3 (5) "Necessary food, water, care, or shelter" includes
4 food, water, care, or shelter provided to the extent required to
5 maintain the livestock animal in a state of good health.

6 (6) "Trip" means to use an object to cause a horse to
7 fall or lose its balance.

8 (c) [~~(d)~~] An offense under Subsection (a)(2), (3), (4),
9 (9), or (10) is a Class A misdemeanor, except that the offense is a
10 state jail felony if the person has previously been convicted two
11 times under this section, two times under Section 42.092, or one
12 time under this section and one time under Section 42.092. An
13 offense under Subsection (a)(1), (5), (6), (7), or (8) is a state
14 jail felony, except that the offense is a felony of the third degree
15 if the person has previously been convicted two times under this
16 section, two times under Section 42.092, or one time under this
17 section and one time under Section 42.092.

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

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

26 (e) [~~(g)~~] It is a defense to prosecution for an offense
27 under this section that the actor was engaged in bona fide

1 experimentation for scientific research [~~the person had a~~
2 ~~reasonable fear of bodily injury to the person or to another by a~~
3 ~~dangerous wild animal as defined by Section 822.101, Health and~~
4 ~~Safety Code~~].

5 (f) [~~(h)~~] It is an exception to the application of this
6 section that the conduct engaged in by the actor is a generally
7 accepted and otherwise lawful:

8 (1) form of conduct occurring [~~use of an animal if~~
9 ~~that use occurs~~] solely for the purpose of:

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

11 (B) wildlife or depredation control as regulated
12 by state and federal law; or

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

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

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

21 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this
22 section:

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

26 (2) "Animal" means a nonhuman mammal, bird, or captive
27 amphibian or reptile that is not a livestock animal.

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

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

6 (5) "Livestock animal" has the meaning assigned by
7 Section 42.09.

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

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

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

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

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

20 (4) abandons unreasonably an animal in the person's
21 custody;

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

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

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

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

3 (9) seriously overworks an animal.

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

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

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

18 (2) the actor was engaged in bona fide experimentation
19 for scientific research.

20 (e) It is a defense to prosecution under Subsection (b)(2)
21 or (6) that the animal was a dog or coyote that was discovered on the
22 person's property in the act of or immediately after injuring or
23 killing the person's livestock animals and that the person killed
24 or injured the animal at the time of this discovery.

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

1 (1) form of conduct occurring solely for the purpose
2 of:

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

4 (B) wildlife or depredation control as regulated
5 by state and federal law; or

6 (2) animal husbandry or agriculture practice
7 involving livestock animals.

8 SECTION 3. Section 54.0407, Family Code, is amended to read
9 as follows:

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

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

17 (a) A finding in a court of competent jurisdiction that the
18 owner of an animal is guilty of an offense under Section 42.09 or
19 42.092, Penal Code, involving the animal is prima facie evidence at
20 a hearing authorized by Section 821.022 that the animal has been
21 cruelly treated.

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

25 SECTION 5. Section 801.3585, Occupations Code, is amended
26 to read as follows:

27 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;

1 IMMUNITY. A veterinarian who in good faith and in the normal course
2 of business reports to the appropriate governmental entity a
3 suspected incident of animal cruelty under Section 42.09 or 42.092,
4 Penal Code, is immune from liability in a civil or criminal action
5 brought against the veterinarian for reporting the incident.

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

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

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

13 (2) may not be employed to work with dogs as a security
14 officer by a security services contractor or security department of
15 a private business that uses dogs to protect individuals or
16 property or to conduct investigations.

17 SECTION 7. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect when the offense was committed, and
21 the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

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