

By: Wentworth

S.B. No. 405

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of dogs; creating an offense.

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

SECTION 1. The heading to Subchapter D, Chapter 822, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. REGULATION OF ~~[DANGEROUS]~~ DOGS

SECTION 2. Section 822.041, Health and Safety Code, is amended to read as follows:

Sec. 822.041. DEFINITIONS. In this subchapter:

(1) ~~["Animal control authority" means a municipal or county animal control office with authority over the area where the dog is kept or a county sheriff in an area with no animal control office.~~

~~[(2) "Dangerous dog" means a dog that:~~

~~[(A) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or~~

~~[(B) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.~~

~~[(3)]~~ "Dog" means a domesticated animal that is a

member of the canine family.

(2) ~~[(4)]~~ "Secure enclosure" means a fenced area or structure that is:

(A) locked;

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

(C) capable of preventing the escape or release of a dog~~+~~

~~[(D) clearly marked as containing a dangerous dog; and]~~

~~[(E) in conformance with the requirements for enclosures established by the local animal control authority].~~

(3) ~~[(5)]~~ "Owner" means a person who owns or has custody or control of the dog.

SECTION 3. The heading to Section 822.044, Health and Safety Code, is amended to read as follows:

Sec. 822.044. ATTACK BY ~~[DANGEROUS]~~ DOG; OFFENSE.

SECTION 4. Section 822.044, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsection (e) to read as follows:

(a) A person commits an offense if the person is the owner of a ~~[dangerous]~~ dog and the dog makes an unprovoked attack on another person that ~~[outside the dog's enclosure and]~~ causes bodily injury to the other person.

(c) If a person is found guilty of an offense under this section, the court shall ~~[may]~~ order the ~~[dangerous]~~ dog destroyed by a person listed in Section 822.004 ~~[822.003]~~.

1 (e) It is an exception to the application of Subsection (a)
2 and a defense in a suit brought under Subsection (d) that the person
3 attacked by the dog was at the time of the attack engaged in conduct
4 prohibited by Section 30.02 or 30.05, Penal Code.

5 SECTION 5. Subchapter D, Chapter 822, Health and Safety
6 Code, is amended by adding Section 822.0445 to read as follows:

7 Sec. 822.0445. LEASH OR ENCLOSURE REQUIRED IN CERTAIN
8 AREAS. (a) This section does not apply within the unincorporated
9 areas of a county.

10 (b) An owner of a dog must restrain the dog at all times on a
11 leash in the immediate control of the owner or in a secure
12 enclosure.

13 SECTION 6. The heading to Section 822.045, Health and
14 Safety Code, is amended to read as follows:

15 Sec. 822.045. VIOLATION OF LEASH OR ENCLOSURE REQUIREMENT
16 OR LOCAL REGULATION ~~[VIOLATIONS]~~.

17 SECTION 7. Section 822.045, Health and Safety Code, is
18 amended by amending Subsection (a) and adding Subsection (d) to
19 read as follows:

20 (a) A person who owns or keeps custody or control of a
21 ~~[dangerous]~~ dog commits an offense if the person fails to comply
22 with Section 822.0445 ~~[822.042 or Section 822.0422(b)]~~ or an
23 applicable municipal or county regulation relating to ~~[dangerous]~~
24 dogs.

25 (d) It is a defense to prosecution under this section that,
26 at the time of the conduct charged, the person and the dog:

27 (1) are within the boundaries of a park designated as a

1 dog park by a municipality or county;

2 (2) are participating in a show, test, or trial
3 organized by a recognized sanctioning body for dog shows, tests, or
4 trials; or

5 (3) are participating in an organized competition in a
6 canine sport not prohibited by law.

7 SECTION 8. Section 822.046, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 822.046. DEFENSE. (a) It is a defense to prosecution
10 under this subchapter [~~Section 822.044 or Section 822.045~~] that the
11 person is:

12 (1) a veterinarian;~~]~~

13 (2) a peace officer;~~]~~

14 (3) a person employed by a recognized animal
15 shelter;~~]~~ or

16 (4) a person employed by the state or a political
17 subdivision of the state to deal with stray animals and has
18 temporary ownership, custody, or control of the dog in connection
19 with that position.

20 (b) It is a defense to prosecution under this subchapter
21 [~~Section 822.044 or Section 822.045~~] that the person is an employee
22 of the [~~institutional division of the~~] Texas Department of Criminal
23 Justice or a law enforcement agency and trains or uses dogs for law
24 enforcement or corrections purposes.

25 (c) It is a defense to prosecution under this subchapter
26 [~~Section 822.044 or Section 822.045~~] that the person is a dog
27 trainer or an employee of a guard dog company under Chapter 1702,

Occupations Code.

(d) It is a defense to prosecution under this subchapter that the person is disabled and uses the dog to provide assistance and the dog is trained to provide assistance to a person with a disability.

(e) It is a defense to prosecution under this subchapter that, at the time of the conduct charged, the person and the dog are participating in an organized search and rescue effort.

SECTION 9. Section 822.047, Health and Safety Code, is amended to read as follows:

Sec. 822.047. LOCAL REGULATION OF [~~dangerous~~] DOGS. A county or municipality may place additional requirements or restrictions on [~~dangerous~~] dogs if the requirements or restrictions:

(1) are not specific to one breed or several breeds of dogs; and

(2) are more stringent than restrictions provided by this subchapter.

SECTION 10. Section 822.012, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) If conduct constituting an offense under this section is also an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 11. Section 822.031, Health and Safety Code, is amended to read as follows:

Sec. 822.031. UNREGISTERED DOGS PROHIBITED FROM RUNNING AT LARGE. (a) The owner or person having control of a dog at least

1 six months of age in a county adopting this subchapter may not allow
2 the dog to run at large in an unincorporated area of the county
3 unless the dog:

4 (1) is registered under this subchapter with the
5 county in which the dog runs at large; and

6 (2) has fastened about its neck a dog identification
7 tag issued by the county.

8 (b) Section 822.0445 applies to a dog in an incorporated
9 area of a county.

10 SECTION 12. The following sections of the Health and Safety
11 Code are repealed:

12 (1) Section 822.042;

13 (2) Section 822.0421;

14 (3) Section 822.0422;

15 (4) Section 822.0423; and

16 (5) Section 822.043.

17 SECTION 13. (a) The change in law made by this Act applies
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 14. This Act takes effect September 1, 2007.