

## **BILL ANALYSIS**

C.S.H.B. 1043  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Although cockfighting is banned across the country and has been a crime in Texas for more than 100 years, this illegal activity is still rampant throughout the state and is often accompanied by gambling, alcohol, drugs, and firearms. Reports indicate that it is common for individuals to transport cocks across international boundaries that, because they are often used in cockfighting, have not received proper veterinary care such as vaccinations. As such animals are transported back into the United States, some return with transmittable poultry diseases, placing Texas' poultry stock at a high risk for contracting these diseases.

The current standards for prosecuting a cockfighting offense in Texas involve witnessing two people engaging cocks in a fight. When cockfighting raids are conducted, law enforcement generally are able to prosecute only one or two persons for the cockfighting offense because, typically, only one fighting event occurs at a time. Unlike many other states, it is not a crime in Texas to own or operate a facility for cockfighting, own cockfighting equipment, train a cock to fight, or attend a cockfight. C.S.H.B. 1043 attempts to address these issues by creating an offense for engaging in certain conduct relating to cockfighting and setting out criminal and civil consequences of committing that offense.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1043 amends the Penal Code to make it a state jail felony to knowingly cause a cock to fight with another cock; to participate in the earnings of or to operate a facility used for cockfighting; to use or permit another to use any real estate, building, room, tent, arena, or other property for cockfighting; or to manufacture, buy, sell, barter, exchange, possess, advertise, or otherwise offer a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting. The bill makes it a Class A misdemeanor to knowingly own or train a cock with the intent that the cock be used in an exhibition of cockfighting. The bill makes it a Class C misdemeanor to knowingly attend as a spectator an exhibition of cockfighting and enhances the penalty for a subsequent conviction of such an offense to a Class A misdemeanor. The bill establishes an affirmative defense to prosecution for a cockfighting offense if the actor's conduct occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance or the conduct was incidental to collecting bridles, gaffs, or slashers. The bill provides that such affirmative defense is not available if evidence shows that the actor is also engaging in use of the cocks for cockfighting. The bill defines "bridle," "cock," "cockfighting," "gaff," and "slasher."

## **EFFECTIVE DATE**

September 1, 2011.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1043 contains a provision not included in the original defining "bridle."

C.S.H.B. 1043 differs from the original by establishing an affirmative defense to prosecution for a cockfighting offense if the actor's conduct occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance or if the conduct was incidental to collecting bridles, gaffs, or slashers, whereas the original establishes an affirmative defense to prosecution for knowingly owning or training a cock with the intent that the cock be used in an exhibition of cockfighting if the actor owns or trains a cock with the intent that the cock be used as a show bird or pet. The substitute contains a provision not included in the original providing that the affirmative defense is not available if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

C.S.H.B. 1043 differs from the original by enhancing the penalty for a subsequent conviction of knowingly attending as a spectator an exhibition of cockfighting from a Class C misdemeanor to a Class A misdemeanor, whereas the original does not include that enhancement.

C.S.H.B. 1043 omits a provision included in the original including a person charged with a Class A misdemeanor cockfighting offense among the persons to whom a peace officer charging the person is authorized to issue a citation as an alternative to taking the person before a magistrate. The substitute omits provisions included in the original relating to the destruction or forfeiture of cockfighting equipment and procedures regarding the disposition of cockfighting equipment that is seized and returned to a magistrate and defining "cockfighting equipment."

C.S.H.B. 1043 omits a provision included in the original redefining "contraband" for purposes of forfeiture of contraband to include property used or intended to be used and property that represents proceeds gained or acquired in a manner relating to the commission of a cockfighting offense. The substitute omits a provision included in the original authorizing the attorney representing the state, if certain cockfighting contraband is subject to forfeiture under two different laws relating to forfeiture of contraband and to the disposition of contraband, to proceed under either law.

C.S.H.B. 1043 omits a provision included in the original establishing that to the extent of any conflict, the bill's provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes. The substitute omits a transition provision included in the original.