

BILL ANALYSIS

C.S.H.B. 2761
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is concern among interested parties that there is a lack of certain statutory authority for the disposition of an estray under a perilous condition if an owner does not immediately remove the estray. Interested parties also note that stray bison are not included in the list of animals protected under the estray law. They hypothesize that this omission is likely because bison have long been regarded as wildlife and have not traditionally been owned as private property. The parties report that, under the current classification, when a bison roams from its owner's land onto another person's property, that property owner is not required to provide certain notice of the bison, as is the case with certain livestock under the estray law, and may dispose of the animal as the property owner sees fit. C.S.H.B. 2761 seeks to address these issues by establishing provisions relating to the control of estrays, including stray bison, in order to strike a balance between the private property rights and the real property rights of neighboring landowners.

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. 2761 amends the Agriculture Code to authorize a sheriff or the sheriff's designee, if an owner does not immediately remove an estray, to proceed with a prescribed impoundment process, or proceed with disposition of the estray if a perilous condition exists. The bill removes a requirement that the sheriff or the sheriff's designee proceed with the impoundment process if the owner does not immediately remove an estray discovered on public property.

C.S.H.B. 2761 specifies that a sheriff or a sheriff's designee is not required to impound an estray if a perilous condition exists. The bill authorizes the sheriff or the sheriff's designee to immediately dispose of the estray by any means without notifying the owner of the estray if such a condition exists. The bill requires the sheriff to make a written report of the disposition and file the report with the county clerk for placement in the county estray records. The bill defines "perilous condition" as a circumstance or condition in which capture and impoundment of an estray presents an immediate threat to law enforcement personnel or to the health of the estray and expands the definition of "estrays" to include stray bison.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2761 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 142.001(1), Agriculture Code, is amended to read as follows:

(1) "Estray" means stray livestock, stray exotic livestock, stray bison, or stray exotic fowl.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 142.001, Agriculture Code, is amended by amending Subdivision (1) and adding Subdivision (2) to read as follows:

(1) "Estray" means stray livestock, stray exotic livestock, stray bison, or stray exotic fowl.

(2) "Perilous condition" means a circumstance or condition in which capture and impoundment of an estray presents an immediate threat to law enforcement personnel or to the health of the estray.

SECTION 2. Section 142.003, Agriculture Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) After receiving a report under Subsection (a) [~~of this section~~] that an estray has been discovered on public property, the sheriff or the sheriff's designee shall notify the owner, if known, that the estray's location has been reported, except that if the sheriff or the sheriff's [~~his~~] designee determines that the estray is dangerous to the public, the sheriff or the sheriff's designee [~~he~~] may immediately impound the estray without notifying the owner [~~. If the owner does not immediately remove the estray, the sheriff or the sheriff's designee shall proceed with the impoundment process prescribed by Section 142.009 of this code~~].

(d) If the owner does not immediately remove the estray:

(1) the sheriff or the sheriff's designee may proceed with the impoundment process prescribed by Section 142.009; or

(2) if a perilous condition exists, the sheriff or the sheriff's designee may proceed with disposition of the estray under Section 142.015.

No equivalent provision.

SECTION 3. Chapter 142, Agriculture Code, is amended by adding Section 142.015 to read as follows:

Sec. 142.015. DISPOSITION OF ESTRAY UNDER PERILOUS CONDITION. (a) A sheriff or a sheriff's designee is not required to impound an estray if a perilous condition

exists.

(b) If a perilous condition exists, the sheriff or the sheriff's designee may immediately dispose of the estray by any means without notifying the owner of the estray.

(c) The sheriff shall make a written report of the disposition and file the report with the county clerk for placement in the county estray records.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.