

BILL ANALYSIS

C.S.H.B. 2562
By: Sheets
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that tethering or restraining a dog by means of a chain, rope, leash, cable or other device attached to a stationary object is common throughout Texas and usually occurs on the dog owner's premises. The parties note that Texas law enforcement officers, animal control officers, and humane agencies receive daily calls from citizens concerned about a dog being tethered by cruel and inhumane means. The parties contend that current prohibitions against such mistreatment do not adequately protect dogs and are very difficult to enforce. C.S.H.B. 2562 seeks to further address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 2562 amends the Health and Safety Code to remove conditions constituting the unlawful restraint of a dog and to instead prohibit an owner from leaving a dog outside and unattended without providing the dog continuous access to adequate shelter, shade from direct sunlight, and potable water. The bill defines "adequate shelter" as a clean, weatherproof structure that allows the dog to remain dry in inclement weather and preserve its body heat in subfreezing weather and is large enough to allow the dog to stand erect, sit, turn around, and lie down in a normal manner.

C.S.H.B. 2562 prohibits an owner from restraining a dog outside and unattended by use of a restraint that is not attached to a properly fitted collar or to any harness specifically designed to be used for a dog; is shorter than a specified length, unless the restraint is attached to a trolley system and allows a dog to move along a running line for a distance greater than the minimum length specified for the restraint; has weights attached or contains metal chain links in a width that exceeds one-quarter of an inch; or may cause the dog to become tangled in the restraint. The bill changes the definition of "properly fitted" from, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch to, with respect to a collar or harness used for a dog, a collar or harness that is the appropriate size for the dog, does not choke the dog or impede the dog's normal breathing or swallowing, and is attached to the dog in a manner that does not cause injury to the dog.

C.S.H.B. 2562 removes the exceptions to the statutory provisions regarding the conditions constituting the unlawful restraint previously applicable to a dog restrained to a running line,

pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar and to a dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained. The bill specifies that the exception to such provisions for a dog restrained in compliance with the requirements of a camping or recreational area applies to a dog restrained in a public camping or recreational area. The bill clarifies that the exceptions to such provisions that relate to a dog restrained while the owner is engaged in certain conduct or activities applies to conduct or an activity in which the dog is also engaged.

C.S.H.B. 2562 expands the conduct that constitutes the Class C misdemeanor offense of knowingly violating statutory provisions regarding the care of a dog left outside and unattended and the unlawful restraint of a dog by removing the condition that such a violation be committed knowingly. The bill repeals a provision establishing that, when a person fails to comply with such statutory provisions with respect to more than one dog, such conduct constitutes a separate offense. The bill instead establishes that each dog with respect to which a violation occurs and each day that a violation continues is a separate offense. The bill repeals the statutory requirement for a peace officer or animal control officer who has probable cause to believe that an owner is committing such a violation to provide the owner with a written statement of that fact and removes a provision establishing that a person commits an offense if the person provided such a statement fails to comply with the applicable provisions within 24 hours of the time the owner is provided with the statement. The bill changes the required disposition of a penalty collected for a violation of statutory provisions regarding the care of a dog left outside and unattended and the unlawful restraint of a dog to require the clerk of a court that collects the penalty to remit the penalty for deposit in the general fund of the municipality or the county served by the court, rather than in the county's general fund.

C.S.H.B. 2562 establishes that statutory provisions regarding the care of a dog left outside and unattended and the unlawful restraint of a dog do not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of the state or a political subdivision of the state nor prevent a municipality or county from prohibiting or further regulating by ordinance or order the ownership, possession, restraint, confinement, or care of a dog.

C.S.H.B. 2562 repeals Sections 821.079(b) and (e), Health and Safety Code.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2562 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. The heading to Subchapter D, Chapter 821, Health and Safety Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 821.076, Health and Safety Code, is amended.	SECTION 2. Same as introduced version.

SECTION 3. Section 821.077, Health and Safety Code, is amended to read as follows: Sec. 821.077. CARE OF DOG LEFT OUTSIDE AND UNATTENDED; UNLAWFUL RESTRAINT [OF DOG]. (a) In this section, "adequate shelter" means a building or structure that:

- (1) has a weatherproof roof, floor and sides that protect the dog from wet and subfreezing weather;
- (2) has an entrance on only one side;
- (3) is of a size that allows the dog to stand erect, sit, turn around, and lie down in a comfortable and normal position;
- (4) is maintained in good repair;
- (5) has sufficient dry bedding material or other protection that allows the dog to maintain its body heat in temperatures below 32 degrees Fahrenheit;
- (6) provides the dog with easy entrance and exit access; and
- (7) is not a metal or plastic barrel or similar container.

(b) An owner may not leave a dog outside and unattended unless the owner provides the dog continuous access to:

- (1) adequate shelter;
- (2) shade from direct sunlight; and
- (3) potable water [by use of a restraint that unreasonably limits the dog's movement:
 - [(1) between the hours of 10 p.m. and 6 a.m.;
 - [(2) within 500 feet of the premises of a school; or
 - [(3) in the case of extreme weather conditions, including conditions in which:
 - [(A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - [(B) a heat advisory has been issued by a local or state authority or jurisdiction; or
 - [(C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service].

(c) An owner may not restrain a dog outside and unattended by use of a restraint that [(b) In this section, a restraint unreasonably limits a dog's movement if the restraint]:

- (1) is not attached to a properly fitted [uses a] collar or harness [that is pinch type, prong type, or choke type or that is not properly fitted to the dog];
- (2) is a length shorter than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

SECTION 3. Section 821.077, Health and Safety Code, is amended to read as follows: Sec. 821.077. CARE OF DOG LEFT OUTSIDE AND UNATTENDED; UNLAWFUL RESTRAINT [OF DOG]. (a) In this section, "adequate shelter" means a clean, weatherproof structure that:

- (1) allows the dog to remain dry in inclement weather and preserve its body heat in subfreezing weather; and

(2) is large enough to allow the dog to stand erect, sit, turn around, and lie down in a normal manner.

(b) An owner may not leave a dog outside and unattended unless the owner provides the dog continuous access to:

- (1) adequate shelter;
- (2) shade from direct sunlight; and
- (3) potable water [by use of a restraint that unreasonably limits the dog's movement:
 - [(1) between the hours of 10 p.m. and 6 a.m.;
 - [(2) within 500 feet of the premises of a school; or
 - [(3) in the case of extreme weather conditions, including conditions in which:
 - [(A) the actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - [(B) a heat advisory has been issued by a local or state authority or jurisdiction; or
 - [(C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service].

(c) An owner may not restrain a dog outside and unattended by use of a restraint that [(b) In this section, a restraint unreasonably limits a dog's movement if the restraint]:

- (1) is not attached to a properly fitted [uses a] collar or harness [that is pinch type, prong type, or choke type or that is not properly fitted to the dog];
- (2) is a length shorter than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;
(3) ~~[is in an unsafe condition; or]~~ does not have a swivel on both ends;
(4)~~[causes injury to the dog]~~ may cause the dog to become entangled in the restraint; or
(5) has weights attached or contains metal chain links in a width that exceeds one-quarter of an inch.

SECTION 4. Section 821.078, Health and Safety Code, is amended.

SECTION 5. The heading to Section 821.079, Health and Safety Code, is amended.

SECTION 6. Sections 821.079(a), (c), and (f), Health and Safety Code, are amended to read as follows:

(a) A person commits an offense if the person ~~[knowingly]~~ violates this subchapter. Each dog with respect to which there is a violation and each day that a violation continues is a separate offense.

(c) Except as provided by Subsection (d), an offense under this subchapter ~~[subsection]~~ is a Class C misdemeanor.

(f) If conduct constituting an offense under this subchapter ~~[section]~~ also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 7. Section 821.080, Health and Safety Code, is amended.

SECTION 8. Subchapter D, Chapter 821, Health and Safety Code, is amended.

SECTION 9. Sections 821.079(b) and (e), Health and Safety Code, are repealed.

(B) 10 feet;

(3) has weights attached or contains metal chain links in a width that exceeds one-quarter of an inch ~~[is in an unsafe condition]~~; or

(4) may cause the dog to become tangled in the restraint ~~[causes injury to the dog]~~.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. Sections 821.079(a), (c), and (f), Health and Safety Code, are amended to read as follows:

(a) A person commits an offense if the person ~~[knowingly]~~ violates this subchapter. Each dog with respect to which there is a violation and each day that a violation continues is a separate offense.

(c) Except as provided by Subsection (d), an ~~[A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement. An]~~ offense under this subchapter ~~[subsection]~~ is a Class C misdemeanor.

(f) If conduct constituting an offense under this subchapter ~~[section]~~ also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2015.

SECTION 10. Same as introduced version.

SECTION 11. Same as introduced version.