

By: Sheets

H.B. No. 2562

A BILL TO BE ENTITLED

AN ACT

relating to the care and unlawful restraint of a dog; creating an offense.

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

SECTION 1. The heading to Subchapter D, Chapter 821, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. DOG LEFT OUTSIDE AND UNATTENDED; UNLAWFUL RESTRAINT
[~~OF DOG~~]

SECTION 2. Section 821.076, Health and Safety Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Harness" means any harness constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(3) "Properly fitted" means, with respect to a collar or harness used for a dog, a collar or harness that:

(A) is the appropriate size for the dog;

(B) does not choke the dog or impede the dog's normal breathing or swallowing; and

(C) is attached to the dog in a manner that does not cause injury to the dog [~~measures the circumference of a dog's neck plus at least one inch~~].

SECTION 3. Section 821.077, Health and Safety Code, is amended to read as follows:

1 Sec. 821.077. CARE OF DOG LEFT OUTSIDE AND UNATTENDED;
2 UNLAWFUL RESTRAINT [OF DOG]. (a) In this section, "adequate
3 shelter" means a building or structure that:

4 (1) has a weatherproof roof, floor and sides that
5 protect the dog from wet and subfreezing weather;

6 (2) has an entrance on only one side;

7 (3) is of a size that allows the dog to stand erect,
8 sit, turn around, and lie down in a comfortable and normal position;

9 (4) is maintained in good repair;

10 (5) has sufficient dry bedding material or other
11 protection that allows the dog to maintain its body heat in
12 temperatures below 32 degrees Fahrenheit;

13 (6) provides the dog with easy entrance and exit
14 access; and

15 (7) is not a metal or plastic barrel or similar
16 container.

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

19 (1) adequate shelter;

20 (2) shade from direct sunlight; and

21 (3) potable water ~~[by use of a restraint that~~
22 ~~unreasonably limits the dog's movement:~~

23 ~~[(1) between the hours of 10 p.m. and 6 a.m.;~~

24 ~~[(2) within 500 feet of the premises of a school; or~~

25 ~~[(3) in the case of extreme weather conditions,~~
26 ~~including conditions in which:~~

27 ~~[(A) the actual or effective outdoor temperature~~

1 ~~is below 32 degrees Fahrenheit,~~

2 ~~[(B) a heat advisory has been issued by a local or~~
3 ~~state authority or jurisdiction, or~~

4 ~~[(C) a hurricane, tropical storm, or tornado~~
5 ~~warning has been issued for the jurisdiction by the National~~
6 ~~Weather Service].~~

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

10 (1) is not attached to a properly fitted ~~[uses a]~~
11 collar or harness ~~[that is pinch-type, prong-type, or choke-type or~~
12 ~~that is not properly fitted to the dog];~~

13 (2) is a length shorter than the greater of:

14 (A) five times the length of the dog, as measured
15 from the tip of the dog's nose to the base of the dog's tail; or

16 (B) 10 feet;

17 (3) ~~[is in an unsafe condition, or]~~ does not have a
18 swivel on both ends;

19 (4) ~~[causes injury to the dog]~~ may cause the dog to
20 become entangled in the restraint; or

21 (5) has weights attached or contains metal chain links
22 in a width that exceeds one-quarter of an inch.

23 SECTION 4. Section 821.078, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 821.078. EXCEPTIONS. (a) Section 821.077 does not
26 apply to:

27 (1) ~~[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;~~

~~[(2)]~~ a dog restrained in a public camping or recreational area in compliance with the requirements of the public ~~[a]~~ camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(2) ~~[(3)]~~ 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;

~~[(4)]~~ a dog restrained while the owner and dog are ~~[is]~~ engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

(3) ~~[(5)]~~ a dog restrained while the owner and dog are ~~[is]~~ engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

(4) ~~[(6)]~~ a dog restrained while the owner and dog are ~~[is]~~ engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(b) Section 821.077(c)(2) does not apply to a restraint that is attached to a trolley system and allows a dog to move along a running line for a distance that exceeds the limitations specified under that section.

SECTION 5. The heading to Section 821.079, Health and Safety Code, is amended to read as follows:

Sec. 821.079. CRIMINAL PENALTY.

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 to read as follows:

Sec. 821.080. DISPOSITION OF PENALTY. Notwithstanding any other law, the clerk of a court that collects a penalty under this subchapter shall remit the penalty collected for deposit in the general fund of the municipality or county served by the court.

SECTION 8. Subchapter D, Chapter 821, Health and Safety Code, is amended by adding Section 821.082 to read as follows:

Sec. 821.082. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state.

1 (b) This subchapter does not prevent a municipality or
2 county from prohibiting or further regulating by ordinance or order
3 the ownership, possession, restraint, confinement, or care of a
4 dog.

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

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

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