

BILL ANALYSIS

C.S.H.B. 2817
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that criminal penalties for individuals who kill another person's cattle, bison, or horses are inconsistent with similar offenses of parallel magnitude. C.S.H.B. 2817 seeks to address this issue by expanding the conduct that constitutes a third degree felony criminal mischief offense to include such behavior.

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. 2817 amends the Penal Code to expand the conduct constituting a third degree felony criminal mischief offense to include conduct in which an actor causes the death of one or more head of cattle or bison or one or more horses by discharging a firearm or other weapon or by any other means.

C.S.H.B. 2817 creates an exception to the application of the criminal mischief statute for intentionally or knowingly damaging, destroying, or tampering with the tangible property of the owner when the personal property was a head of cattle or bison killed, or a horse killed, in the course of the actor's regular agricultural labor duties and practices.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2817 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

SECTION 1. Section 28.03(b), Penal Code, is amended to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 28.03, Penal Code, is amended by amending Subsection (b) and

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$100; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$750;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is \$750 or more but less than \$2,500; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

(4) a state jail felony if the amount of pecuniary loss is:

(A) \$2,500 or more but less than \$30,000;

(B) less than \$2,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(C) less than \$2,500, if the property was a fence used for the production or containment of:

(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

(D) less than \$30,000 and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if:

(A) the amount of the pecuniary loss is \$30,000 or more but less than \$150,000; or

(B) the actor, by discharging a firearm or other weapon or by any other means, causes the death of one or more head of cattle or horses;

(6) a felony of the second degree if the

adding Subsection (k) to read as follows:

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$100; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$750;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is \$750 or more but less than \$2,500; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

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(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

(D) less than \$30,000 and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

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(B) the actor, by discharging a firearm or other weapon or by any other means, causes the death of one or more head of cattle or bison or one or more horses;

(6) a felony of the second degree if the

amount of pecuniary loss is \$150,000 or more but less than \$300,000; or
(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 or more.

SECTION 2. 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 in effect 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 3. This Act takes effect September 1, 2017.

amount of pecuniary loss is \$150,000 or more but less than \$300,000; or
(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 or more.

(k) It is an exception to the application of Subsection (a)(1) or (2) that the tangible personal property of the owner was a head of cattle or bison killed, or a horse killed, in the course of the actor's regular agricultural labor duties and practices.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.