

By: Villalba

H.B. No. 401

A BILL TO BE ENTITLED

AN ACT

relating to civil or criminal liability for leaving certain animals unattended in or removing certain individuals or animals from a motor vehicle.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 92A to read as follows:

CHAPTER 92A. LIMITATION OF LIABILITY FOR REMOVING CERTAIN INDIVIDUALS OR ANIMALS FROM MOTOR VEHICLE

Sec. 92A.001. DEFINITIONS. In this chapter:

(1) "Domestic animal" means a dog, cat, or other domesticated animal that may be kept as a household pet. The term does not include a livestock animal, as defined by Section 87.001.

(2) "Motor vehicle" means a vehicle that is self-propelled or a trailer or semitrailer designed for use with a self-propelled vehicle.

(3) "Vulnerable individual" means an individual who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the individual's self from harm.

Sec. 92A.002. LIMITATION OF LIABILITY. A person who, by force or otherwise, enters a motor vehicle for the purpose of removing a vulnerable individual or a domestic animal from the vehicle is immune from civil liability for damages resulting from that entry or removal if the person:

1 (1) determines that:

2 (A) the motor vehicle is locked; or

3 (B) there is no reasonable method for the
4 individual or animal to exit the motor vehicle without assistance;

5 (2) has a good faith and reasonable belief, based on
6 known circumstances, that entry into the motor vehicle is necessary
7 to avoid imminent harm to the individual or animal;

8 (3) before entering the motor vehicle, ensures that
9 law enforcement is notified or 911 is called if the person is not a
10 law enforcement officer or other first responder;

11 (4) uses no more force to enter the motor vehicle than
12 is necessary;

13 (5) remains with the individual or animal in a safe
14 location that is in reasonable proximity to the motor vehicle until
15 a law enforcement officer or other first responder arrives or, if
16 based on known circumstances the person has a good faith and
17 reasonable belief that it is necessary to remove the individual or
18 animal from the vicinity of the vehicle, leaves in a secure and
19 conspicuous location on or within the vehicle written notice that
20 provides the person's name and information and is otherwise
21 sufficient to allow the individual or animal to be easily located;
22 and

23 (6) in the case of an animal, as soon as practicable
24 surrenders the animal to:

25 (A) another person that the person reasonably
26 believes is the animal's owner or caregiver; or

27 (B) a law enforcement officer or other first

1 responder.

2 Sec. 92A.003. EFFECT ON OTHER LAWS. This chapter does not
3 affect limitation under Section 74.151 or 74.152 of a person's
4 liability for good faith administration of emergency care.

5 SECTION 2. Chapter 9, Penal Code, is amended by adding
6 Subchapter G to read as follows:

7 SUBCHAPTER G. PROTECTION OF CERTAIN INDIVIDUALS OR ANIMALS IN
8 MOTOR VEHICLES

9 Sec. 9.71. DEFINITIONS. In this subchapter:

10 (1) "Animal" and "motor vehicle" have the meanings
11 assigned by Section 42.092.

12 (2) "Vulnerable individual" means an individual who by
13 reason of age or physical or mental disease, defect, or injury is
14 substantially unable to protect the individual's self from harm.

15 Sec. 9.72. JUSTIFIED REMOVAL OF INDIVIDUAL OR ANIMAL FROM
16 MOTOR VEHICLE. A person's conduct is justified when the actor, by
17 force or otherwise, enters a motor vehicle for the purpose of
18 removing a vulnerable individual or an animal from the vehicle if
19 the actor:

20 (1) determines that:

21 (A) the motor vehicle is locked; or

22 (B) there is no reasonable method for the
23 individual or animal to exit the motor vehicle without assistance;

24 (2) has a good faith and reasonable belief, based on
25 known circumstances, that entry into the motor vehicle is necessary
26 to avoid imminent harm to the individual or animal;

27 (3) before entering the motor vehicle, ensures that

1 law enforcement is notified or 911 is called if the person is not a
2 law enforcement officer or other first responder;

3 (4) uses no more force to enter the motor vehicle than
4 is necessary;

5 (5) remains with the individual or animal in a safe
6 location that is in reasonable proximity to the motor vehicle until
7 a law enforcement officer or other first responder arrives or, if
8 based on known circumstances the actor has a good faith and
9 reasonable belief that it is necessary to remove the individual or
10 animal from the vicinity of the vehicle, leaves in a secure and
11 conspicuous location on or within the vehicle written notice that
12 provides the actor's name and information and is otherwise
13 sufficient to allow the individual or animal to be easily located;
14 and

15 (6) in the case of an animal, as soon as practicable
16 surrenders the animal to:

17 (A) a person that the actor reasonably believes
18 is the animal's owner or caregiver; or

19 (B) a law enforcement officer or other first
20 responder.

21 SECTION 3. Section 22.10, Penal Code, is amended to read as
22 follows:

23 Sec. 22.10. LEAVING A CHILD OR NONLIVESTOCK ANIMAL IN A
24 VEHICLE. (a) A person commits an offense if the person [~~he~~]
25 intentionally or knowingly leaves a child or animal in a motor
26 vehicle for longer than five minutes and, as applicable, knows [~~7~~
27 ~~knowing~~] that:

1 (1) the child is:

2 (A) [~~(1)~~] younger than seven years of age; and

3 (B) [~~(2)~~] not attended by an individual in the
4 vehicle who is 14 years of age or older; or

5 (2) the animal is:

6 (A) not attended by an individual in the vehicle
7 who is 14 years of age or older; and

8 (B) exposed to harm, including harm caused by
9 temperature or lack of ventilation, while being confined in the
10 vehicle.

11 (b) An offense under this section is a Class C misdemeanor.

12 (c) To the extent that a local ordinance, rule, or
13 regulation adopted by a political subdivision of this state
14 prohibits or restricts leaving in a motor vehicle an unaccompanied
15 animal to a greater degree than this section:

16 (1) Section 1.08 does not apply to the ordinance,
17 rule, or regulation; and

18 (2) the ordinance, rule, or regulation is not
19 preempted or superseded by this section.

20 (d) In this section, "animal" has the meaning assigned by
21 Section 42.092.

22 SECTION 4. Section 42.092(a), Penal Code, is amended by
23 adding Subdivision (6-a) to read as follows:

24 (6-a) "Motor vehicle" means a vehicle that is
25 self-propelled or a trailer or semitrailer designed for use with a
26 self-propelled vehicle.

27 SECTION 5. Sections 42.092(b) and (c), Penal Code, are

1 amended to read as follows:

2 (b) A person commits an offense if the person intentionally,
3 knowingly, or recklessly:

4 (1) tortures an animal or in a cruel manner kills or
5 causes serious bodily injury to an animal;

6 (2) without the owner's effective consent, kills,
7 administers poison to, or causes serious bodily injury to an
8 animal;

9 (3) fails unreasonably to provide necessary food,
10 water, care, or shelter for an animal in the person's custody;

11 (4) abandons unreasonably an animal in the person's
12 custody;

13 (5) transports or confines an animal in a cruel
14 manner;

15 (6) without the owner's effective consent, causes
16 bodily injury to an animal;

17 (7) causes one animal to fight with another animal, if
18 either animal is not a dog;

19 (8) uses a live animal as a lure in dog race training
20 or in dog coursing on a racetrack; ~~or~~

21 (9) seriously overworks an animal; or

22 (10) leaves an animal unattended in a motor vehicle
23 under circumstances that expose the animal to life-threatening heat
24 or cold without providing proper protection for the animal.

25 (c) An offense under Subsection (b)(3), (4), (5), (6), ~~or~~
26 (9), or (10) is a Class A misdemeanor, except that the offense is a
27 state jail felony if the person has previously been convicted two

1 times under this section, two times under Section 42.09, or one time
2 under this section and one time under Section 42.09. An offense
3 under Subsection (b)(1), (2), (7), or (8) is a state jail felony,
4 except that the offense is a felony of the third degree if the
5 person has previously been convicted two times under this section,
6 two times under Section 42.09, or one time under this section and
7 one time under Section 42.09.

8 SECTION 6. (a) Chapter 92A, Civil Practice and Remedies
9 Code, as added by this Act, applies only to a cause of action that
10 accrues on or after the effective date of this Act.

11 (b) The change in law made by this Act by adding Subchapter
12 G, Chapter 9, Penal Code, and amending Sections 22.10 and 42.092,
13 Penal Code, applies only to an offense committed on or after the
14 effective date of this Act. An offense committed before the
15 effective date of this Act is governed by the law in effect on the
16 date the offense was committed, and the former law is continued in
17 effect for that purpose. For purposes of this subsection, an
18 offense was committed before the effective date of this Act if any
19 element of the offense occurred before that date.

20 SECTION 7. This Act takes effect September 1, 2017.