

BILL ANALYSIS

S.B. 5
By: Lucio
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The legislature passed a law nearly 15 years ago to protect communities from dogs that are improperly restrained and can pose a threat to public safety. However, there are concerns that the statute in its current form is not working and must instead be clarified to achieve the purpose lawmakers initially intended. Animal control officers, law enforcement agencies, county prosecutors, and animal advocates have requested that the tethering law be reformed to prevent cruel and inhumane tethering. S.B. 5 seeks to revise dog restraint requirements to ensure that dogs are restrained in a humane manner while minimizing the burden of compliance on owners.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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

S.B. 5 amends the Health and Safety Code to repeal and replace provisions relating to the unlawful restraint of a dog. The bill repeals provisions prohibiting an owner, with certain exceptions, from leaving a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement between the hours of 10 p.m. and 6 a.m., within 500 feet of the premises of a school, or in the case of extreme weather conditions. The bill repeals the penalty provisions regarding the failure to comply with provisions regarding the unlawful restraint of a dog within 24 hours of receiving an applicable written statement from a peace officer or animal control officer.

S.B. 5 prohibits an owner instead from doing the following:

- leaving a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
 - adequate shelter;
 - an area that allows the dog to avoid standing water and exposure to excessive animal waste;
 - shade from direct sunlight; and
 - potable water; or
- restraining a dog outside and unattended by use of a restraint that:
 - is a chain;
 - has weights attached;
 - is shorter in length than the greater of 10 feet or 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
- is attached to a collar or harness not properly fitted.

The bill provides certain exceptions to these prohibitions relating to:

- public camping or recreational areas;
- certain activities conducted under a valid state license;
- the business of shepherding or herding cattle or livestock;
- the business of cultivating agricultural products;
- a dog left unattended in an open-air truck bed in certain circumstances;
- temporary restraint of a dog in certain circumstances; and
- hunting or field trialing.

S.B. 5 provides that the limitation on the length of a restraint does not apply to a restraint attached to certain trolley systems. The bill expressly does not prohibit a person from walking a dog with a handheld leash.

S.B. 5 creates a Class C misdemeanor offense for a person who knowingly violates the bill's prohibitions and enhances the penalty for a subsequent conviction of the offense to a Class B misdemeanor. The restraint of each dog that is in violation is a separate offense. If conduct constituting an offense under the bill's provisions also constitutes an offense under any other law, the actor may be prosecuted under the bill's provisions, the other law, or both.

S.B. 5 expressly does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement is compatible with and equal to or more stringent than a requirement prescribed by the bill or relates to an issue not specifically addressed by the bill.

S.B. 5 defines "adequate shelter," "collar," "harness," "owner," "properly fitted," and "restraint" for purposes of the bill's provisions. The bill also defines "inclement weather" for purposes of the "adequate shelter" definition, which requires, among other things, that the dog be protected from such weather.

S.B. 5 repeals Subchapter D, Chapter 821, Health and Safety Code.

EFFECTIVE DATE

91st day after the last day of the legislative session.