

By: Collier

H.B. No. 34

A BILL TO BE ENTITLED

AN ACT

relating to the unlawful restraint of a dog; creating a criminal offense.

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

SECTION 1. Chapter 821, Health and Safety Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. UNLAWFUL RESTRAINT OF DOG

Sec. 821.101. DEFINITIONS. In this subchapter:

(1) "Adequate shelter" means a sturdy structure:

(A) that provides the dog protection from rain, hail, sleet, snow, and subfreezing temperatures; and

(B) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

(2) "Collar" means a band constructed of nylon, leather, or similar material, specifically designed to be placed around the neck of a dog.

(3) "Harness" means a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

(4) "Owner" means a person who owns or has custody or control of a dog.

(5) "Properly fitted" means, with respect to a collar or harness, a collar or harness that:

1 (A) is appropriately sized for the dog based on
2 the dog's measurements and body weight;

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

5 (C) is attached around the dog in a manner that
6 prevents the dog from escaping and does not cause pain or injury to
7 the dog.

8 (6) "Restraint" means a chain, rope, tether, leash,
9 cable, or other device that attaches a dog to a stationary object or
10 trolley system.

11 Sec. 821.102. UNLAWFUL RESTRAINT OF DOG; OFFENSE. (a) An
12 owner may not leave a dog outside and unattended by use of a
13 restraint unless the owner provides the dog access to:

14 (1) adequate shelter;

15 (2) an area that allows the dog to avoid standing water
16 and any other substance that could cause harm to the health of a dog
17 subjected to prolonged exposure to the substance, including feces
18 or urine;

19 (3) shade from direct sunlight; and

20 (4) potable water.

21 (b) An owner may not restrain a dog outside and unattended
22 by use of a restraint that:

23 (1) is a chain;

24 (2) has weights attached;

25 (3) is attached to a collar or harness not properly
26 fitted; or

27 (4) causes pain or injury to the dog.

1 (c) A person commits an offense if the person knowingly
2 violates this section. The restraint of each dog that is in
3 violation is a separate offense.

4 (d) An offense under this section is a Class C misdemeanor,
5 except that the offense is a Class B misdemeanor if the person has
6 previously been convicted under this section.

7 (e) If conduct constituting an offense under this section
8 also constitutes an offense under any other law, the actor may be
9 prosecuted under this section, the other law, or both.

10 Sec. 821.103. EXCEPTIONS. (a) Section 821.102 does not
11 apply to:

12 (1) the use of a restraint on a dog in a public camping
13 or recreational area in compliance with the requirements of the
14 public camping or recreational area as defined by a federal, state,
15 or local authority or jurisdiction;

16 (2) the use of a restraint on a dog while the owner and
17 dog engage in, or actively train for, an activity conducted under a
18 valid license issued by this state provided the activity is
19 associated with the use or presence of a dog;

20 (3) the use of a restraint on a dog while the owner and
21 dog engage in conduct directly related to the business of
22 shepherding or herding cattle or livestock;

23 (4) the use of a restraint on a dog while the owner and
24 dog engage in conduct directly related to the business of
25 cultivating agricultural products;

26 (5) a dog left unattended in an open-air truck bed only
27 for the time necessary for the owner to complete a temporary task

1 that requires the dog to be left unattended in the truck bed;

2 (6) a dog taken by the owner, or another person with
3 the owner's permission, from the owner's residence or property and
4 restrained by the owner or the person for not longer than the time
5 necessary for the owner to engage in an activity that requires the
6 dog to be temporarily restrained; or

7 (7) a dog restrained while the owner and dog are
8 engaged in, or actively training for, hunting or field trialing.

9 (b) This subchapter does not prohibit a person from walking
10 a dog with a handheld leash.

11 Sec. 821.104. EFFECT OF SUBCHAPTER ON OTHER LAW. This
12 subchapter does not preempt a local regulation relating to the
13 restraint of a dog or affect the authority of a political
14 subdivision to adopt or enforce an ordinance or requirement
15 relating to the restraint of a dog if the regulation, ordinance, or
16 requirement:

17 (1) is compatible with and equal to or more stringent
18 than a requirement prescribed by this subchapter; or

19 (2) relates to an issue not specifically addressed by
20 this subchapter.

21 SECTION 2. Subchapter D, Chapter 821, Health and Safety
22 Code, is repealed.

23 SECTION 3. The change in law made by this Act applies only
24 to an offense committed on or after the effective date of this Act.
25 An offense committed before the effective date of this Act is
26 governed by the law in effect on the date the offense was committed,
27 and the former law is continued in effect for that purpose. For

1 purposes of this section, an offense was committed before the
2 effective date of this Act if any element of the offense occurred
3 before that date.

4 SECTION 4. This Act takes effect on the 91st day after the
5 last day of the legislative session.