

BILL ANALYSIS

C.S.H.B. 873
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Criminal Jurisprudence
Committee Report (Substituted)

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. C.S.H.B. 873 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

C.S.H.B. 873 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.

C.S.H.B. 873 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 any other substance that could cause harm to the health of a dog that is subjected to prolonged exposure to the substance, including feces or urine;
 - 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;
- is not attached to a properly fitted collar or harness; or
- causes pain or injury to the dog.

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.

C.S.H.B. 873 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.

C.S.H.B. 873 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 for either offense or both offenses.

C.S.H.B. 873 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.

C.S.H.B. 873 defines "adequate shelter," "collar," "harness," "owner," "properly fitted," and "restraint" for purposes of the bill's provisions.

C.S.H.B. 873 repeals Subchapter D, Chapter 821, Health and Safety Code.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 873 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the definition of "adequate shelter" to remove the requirement that the shelter be clean.

The substitute includes a provision not in the original requiring an owner to provide access to an area that allows a dog to avoid standing water and any other substance that could cause harm to the dog if subjected to prolonged exposure to the substance, including feces or urine.