

By: Pacheco

H.B. No. 386

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 clean and sturdy structure:

(A) that allows 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

1 or harness, a collar or harness that:

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

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

6 (C) is attached around the dog in a manner that
7 does not allow for escape and does not cause pain or injury to the
8 dog.

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

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

15 (1) adequate shelter;

16 (2) an area that allows the dog to avoid standing
17 water;

18 (3) shade from direct sunlight; and

19 (4) potable water.

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

22 (1) is a chain;

23 (2) has weights attached;

24 (3) is shorter in length than the greater of:

25 (A) five times the length of the dog, as measured
26 from the tip of the dog's nose to the base of the dog's tail; or

27 (B) 10 feet;

1 (4) is not attached to a properly fitted collar or
2 harness; or

3 (5) causes pain or injury to the dog.

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

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

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

13 Sec. 821.103. EXCEPTIONS. (a) It is an exception to the
14 application of Section 821.102 that:

15 (1) the owner uses a restraint on the dog in a public
16 camping or recreational area in compliance with the requirements of
17 the public camping or recreational area as defined by a federal,
18 state, or local authority or jurisdiction;

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

23 (3) the owner uses a restraint on the dog while the
24 owner and dog engage in conduct directly related to the business of
25 shepherding or herding cattle or livestock;

26 (4) the owner uses a restraint on the dog while the
27 owner and dog engage in conduct directly related to the business of

1 cultivating agricultural products;

2 (5) the owner leaves the dog unattended in an open-air
3 truck bed only for the time necessary for the owner to complete a
4 temporary task that requires the dog to be left unattended in the
5 truck bed;

6 (6) the owner, or another person with the owner's
7 permission, takes the dog from the owner's residence or property
8 and restrains the dog for not longer than the time necessary for the
9 owner to engage in an activity that requires the dog to be
10 temporarily restrained; or

11 (7) the owner uses a restraint on the dog while the
12 owner and dog are engaged in, or actively training for, hunting or
13 field trialing.

14 (b) Section 821.102(b)(3) does not apply to a restraint
15 attached to a trolley system that allows a dog to move along a
16 running line for a distance equal to or greater than the lengths
17 specified under that subdivision.

18 (c) This subchapter does not prohibit a person from walking
19 a dog with a handheld leash.

20 Sec. 821.104. EFFECT OF SUBCHAPTER ON OTHER LAW. This
21 subchapter does not preempt a local regulation relating to the
22 restraint of a dog or affect the authority of a political
23 subdivision to adopt or enforce an ordinance or requirement
24 relating to the restraint of a dog if the regulation, ordinance, or
25 requirement:

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

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

3 SECTION 2. Subchapter D, Chapter 821, Health and Safety
4 Code, is repealed.

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 governed by the law in effect on the date the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense occurred
12 before that date.

13 SECTION 4. This Act takes effect September 1, 2021.