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H.B. No. 873

Substitute the following for H.B. No. 873:

By: Hinojosa

C.S.H.B. No. 873

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 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 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 does not allow for escape and does not cause pain or injury to the  
7 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 that is subjected to prolonged exposure to the substance, including  
18 feces 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 shorter in length than the greater of:

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

1                   (B) 10 feet;

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

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

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

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

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

14           Sec. 821.103. EXCEPTIONS. (a) Section 821.102 does not  
15 apply to:

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

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

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

27                   (4) the use of a restraint on a dog while the owner and

1 dog engage in conduct directly related to the business of  
2 cultivating agricultural products;

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

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

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

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

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

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

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

27 (2) relates to an issue not specifically addressed by

1 this subchapter.

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

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

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