

BILL ANALYSIS

C.S.H.B. 73
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Ranchers and farmers, both landowners and lessees, are currently liable for damage caused by trespassers illegally entering their property and by natural disasters or other events outside of their control. Additionally, while there are certain protections from liability when law enforcement officers or firefighters cause damage while exercising their duties to serve and protect, those protections do not cover all circumstances. Liability results in the loss of time, resources, and money for the rancher or farmer, even if they are responsible stewards of their land who secure their property and livestock. As a result, the current law unfairly punishes responsible and diligent ranchers, farmers, landowners, and lessees.

There are increasing instances of fence cuttings, broken gates, chases that lead to fence damage, and individuals unlawfully entering premises across the state, due in part to the existing conditions at the border. These increases in damage and trespassing exacerbate the unfairness of current law and necessitate a change. C.S.H.B. 73 seeks to protect responsible individuals while ensuring negligent individuals remain liable by expanding certain existing exemptions from liability for owners, lessees, and occupants of land in connection with livestock and agricultural land to cover an additional set of circumstances.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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. 73 amends the Civil Practice and Remedies Code to expand the scope of the exemption from liability available for a landowner for damages in connection with livestock due to an act or omission of a firefighter or peace officer as follows:

- extends the exemption to a lessee of property with respect to the lessee's livestock;
- changes the nature of damages to which the exemption applies from those arising from an incident or accident caused by livestock to those arising from an incident or accident involving livestock; and
- includes in the exemption damages that are due to the following:
 - an act or omission of a trespasser who enters the landowner's or lessee's property;
 - an act or omission of a third party who enters the property of the landowner or lessee without their express or implied permission and damages a fence or gate on the property, including damage caused by a vehicle or other means; or
 - wildlife or an act of God.

C.S.H.B. 73 expands the scope of the exemption from liability available for an owner, lessee, or occupant of agricultural land for damage or injury to any person or property arising from the actions of a peace officer or federal law enforcement officer to include damage or injury arising from any of the following:

- the actions of a trespasser who enters the land;
- the actions of a third party who enters the land without the landowner's, lessee's, or occupant's express or implied permission and damages a fence or gate on the land, including damage caused by a vehicle or other means; or
- wildlife or an act of God.

C.S.H.B. 73 expands the scope of the exemption from liability available to an owner, lessee, or occupant of agricultural land for damage or injury to any person or property that arises from the actions of an individual who enters or causes another person to enter the land without permission because of the actions of a peace officer or federal law enforcement officer to include damage or injury that is because of the following:

- the actions of a trespasser who enters the land;
- the actions of a third party who, without the landowner's, lessee's, or occupant's express or implied permission, damages a fence or gate on the land, including damage caused by a vehicle or other means; or
- wildlife or an act of God.

C.S.H.B. 73 requires the owner or lessee of land on which an event triggering any of these exemptions from liability occurs to cure a resulting defect on the land, if any, in a reasonable time.

C.S.H.B. 73 applies only to a cause of action that accrues on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 73 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute makes the provisions of the introduced that expand the applicable exemptions from liability to include damage or injury relating to the actions of a third party who damages a fence also applicable with respect to gate damage. The substitute also adds the condition that the third party entered the property or land or caused the damage, as applicable, without the express or implied permission of the landowner, lessee, or occupant.

The substitute does not include language from the introduced extending the exemptions from liability to damage or injury relating to causes outside the landowner's control other than wildlife or an act of God.

The substitute includes a requirement absent from the introduced for the owner or lessee of land on which an event triggering the applicable exemptions from liability occurs to cure a resulting defect on the land, if any, in a reasonable time.

The substitute applies only to a cause of action that accrues on or after the bill's effective date, whereas the introduced did not make this specification.

Whereas the introduced provided for the bill's possible immediate effect, contingent on receiving the requisite constitutional vote, the substitute provides for the bill to take effect September 1, 2023, with no possibility for immediate effect.