

By: Coleman

H.B. No. 2116

A BILL TO BE ENTITLED

AN ACT

1
2 relating to standards of care and confinement for dogs and cats;
3 providing a penalty.

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

5 SECTION 1. Section 821.077(a), Health and Safety Code, is
6 amended to read as follows:

7 (a) An owner may not leave a dog outside and unattended [~~by~~
8 ~~use of a restraint that unreasonably limits the dog's movement~~]:

9 (1) in an enclosure of less than 150 square feet for
10 each dog over six months of age [~~between the hours of 10 p.m. and 6~~
11 ~~a.m.~~];

12 (2) [~~within 500 feet of the premises of a school, or~~
13 [~~(3)~~] in the case of extreme weather conditions,
14 including conditions in which:

15 (A) the actual or effective outdoor temperature
16 is below 32 degrees Fahrenheit;

17 (B) a heat advisory has been issued by a local or
18 state authority or jurisdiction; or

19 (C) a hurricane, tropical storm, or tornado
20 warning has been issued for the jurisdiction by the National
21 Weather Service; or

22 (3) in a restraint.

23 SECTION 2. Section 821.078, Health and Safety Code, is
24 amended to read as follows:

1 Sec. 821.078. EXCEPTIONS. Section 821.077 does not apply
2 to:

3 (1) ~~[a dog restrained to a running line, pulley, or~~
4 ~~trolley system and that is not restrained to the running line,~~
5 ~~pulley, or trolley system by means of a pinch-type, prong-type,~~
6 ~~choke-type, or improperly fitted collar,~~

7 ~~[(2)]~~ a dog restrained in compliance with the
8 requirements of a camping or recreational area as defined by a
9 federal, state, or local authority or jurisdiction;

10 ~~[(3)] a dog restrained for a reasonable period, not to~~
11 ~~exceed three hours in a 24-hour period, and no longer than is~~
12 ~~necessary for the owner to complete a temporary task that requires~~
13 ~~the dog to be restrained,]~~

14 (2) ~~[(4)]~~ a dog restrained while the owner is engaged
15 in, or actively training for, an activity that is conducted
16 pursuant to a valid license issued by this state if the activity for
17 which the license is issued is associated with the use or presence
18 of a dog;

19 (3) ~~[(5)]~~ a dog restrained while the owner is engaged
20 in conduct directly related to the business of shepherding or
21 herding cattle or livestock; or

22 (4) ~~[(6)]~~ a dog restrained while the owner is engaged
23 in conduct directly related to the business of cultivating
24 agricultural products, if the restraint is reasonably necessary for
25 the safety of the dog.

26 SECTION 3. Section 821.081, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 821.081. HAND-HELD LEASHES. This subchapter does not
2 prohibit a person from walking a dog with a hand-held leash if the
3 dog's owner or handler is physically present and in proximity to the
4 dog at all times so that the owner or handler may exercise immediate
5 physical control over the dog at any time.

6 SECTION 4. Chapter 821, Health and Safety Code, is amended
7 by adding Subchapter E to read as follows:

8 SUBCHAPTER E. STANDARDS OF CARE AND CONFINEMENT

9 Sec. 821.091. DEFINITIONS. In this subchapter:

10 (1) "Cat" means a mammal that is wholly or partly of
11 the species Felis domesticus.

12 (2) "Commercial breeder" means a person who possesses
13 11 or more adult intact female dogs or cats and is engaged in the
14 business of breeding dogs or cats for direct or indirect sale or for
15 exchange in return for consideration.

16 (3) "Dog" means a mammal that is wholly or partly of
17 the species Canis familiaris.

18 (4) "Executive commissioner" means the executive
19 commissioner of the Health and Human Services Commission.

20 (5) "Facility" means the premises used by a commercial
21 breeder for keeping or breeding dogs or cats. The term includes all
22 buildings, property, and confinement areas used to conduct the
23 commercial breeding business.

24 (6) "Possess" means to have custody of or control
25 over.

26 (7) "Veterinarian" means a veterinarian in good
27 standing and licensed to practice veterinary medicine in this state

1 or another state.

2 Sec. 821.092. APPLICABILITY OF SUBCHAPTER. (a) This
3 subchapter does not affect the applicability of any other law,
4 rule, order, ordinance, or other legal requirement of the federal
5 government, this state, or a political subdivision of this state.

6 (b) This subchapter does not prevent a municipality or
7 county from prohibiting or further regulating by order or ordinance
8 the possession, breeding, or selling of dogs or cats.

9 (c) This subchapter does not apply to an animal regulated
10 under the Texas Racing Act (Article 179e, Vernon's Texas Civil
11 Statutes).

12 Sec. 821.093. ADOPTION OF STANDARDS. (a) The executive
13 commissioner shall adopt rules for the proper feeding, watering,
14 housing, care, including veterinary care, grooming, treatment,
15 transportation, and disposition of dogs and cats by a commercial
16 breeder to ensure the overall health and welfare of each dog or cat
17 in the commercial breeder's facility.

18 (b) The standards adopted under this section must at a
19 minimum:

20 (1) require dogs and cats to be offered food at least
21 once every 24 hours and to have continuous access to water unless
22 otherwise prescribed by a veterinarian;

23 (2) provide for safe and adequately sized indoor and
24 outdoor confinement areas;

25 (3) require daily removal of animal waste;

26 (4) include requirements for exercise, grooming, and
27 bathing;

1 (5) include requirements for socialization through
2 physical contact between dogs and humans and cats and humans;

3 (6) include requirements to address disease and
4 illness;

5 (7) require methods of transporting dogs and cats that
6 protect the health and welfare of the animals; and

7 (8) include requirements for adequate training of
8 staff.

9 (c) The standards adopted under this section must prohibit:

10 (1) a commercial breeder from housing females in
11 estrus with unneutered males, except for breeding purposes;

12 (2) the placement of a primary enclosure on top of
13 another primary enclosure without an impervious barrier between
14 enclosures;

15 (3) the tethering or leashing of dogs or cats in a
16 facility as a means of confinement; and

17 (4) a commercial breeder from selling, trading, or
18 giving away a dog or cat before the animal is eight weeks of age.

19 Sec. 821.094. ADDITIONAL STANDARDS. The executive
20 commissioner by rule may establish any additional standards
21 considered necessary to protect the public health and the welfare
22 of dogs and cats covered under this subchapter.

23 Sec. 821.095. CONSIDERATION OF DOG AND CAT HEALTH AND
24 WELFARE STANDARDS. In adopting standards under this subchapter,
25 the executive commissioner shall consider relevant state, federal,
26 and nationally recognized standards for the health and welfare of
27 dogs and cats.

1 SECTION 5. Sections 42.092(b) and (c), Penal Code, are
2 amended to read as follows:

3 (b) A person commits an offense if the person intentionally,
4 knowingly, or recklessly:

5 (1) tortures an animal or in a cruel manner kills or
6 causes serious bodily injury to an animal;

7 (2) without the owner's effective consent, kills,
8 administers poison to, or causes serious bodily injury to an
9 animal;

10 (3) fails unreasonably to provide necessary food,
11 water, care, or shelter for an animal in the person's custody;

12 (4) abandons unreasonably an animal in the person's
13 custody;

14 (5) transports or confines an animal in a cruel
15 manner;

16 (6) without the owner's effective consent, causes
17 bodily injury to an animal;

18 (7) causes one animal to fight with another animal, if
19 either animal is not a dog;

20 (8) uses a live animal as a lure in dog race training
21 or in dog coursing on a racetrack; ~~or~~

22 (9) seriously overworks an animal; or

23 (10) violates a standard adopted under Section 821.093
24 or 821.094, Health and Safety Code.

25 (c) An offense under Subsection (b)(3), (4), (5), (6), ~~or~~
26 (9), or (10) is a Class A misdemeanor, except that the offense is a
27 state jail felony if the person has previously been convicted two

1 times under this section, two times under Section 42.09, or one time
2 under this section and one time under Section 42.09. An offense
3 under Subsection (b)(1), (2), (7), or (8) is a state jail felony,
4 except that the offense is a felony of the third degree if the
5 person has previously been convicted two times under this section,
6 two times under Section 42.09, or one time under this section and
7 one time under Section 42.09.

8 SECTION 6. Sections 821.076(3) and 821.077(b), Health and
9 Safety Code, are repealed.

10 SECTION 7. The executive commissioner of the Health and
11 Human Services Commission shall adopt initial standards required by
12 Section 821.093, Health and Safety Code, as added by this Act, not
13 later than December 1, 2011.

14 SECTION 8. The changes in law made by this Act to Subchapter
15 D, Chapter 821, Health and Safety Code, apply only to an offense
16 committed on or after the effective date of this Act. An offense
17 committed before the effective date of this Act is covered by the
18 law in effect at the time the offense was committed, and the former
19 law is continued in effect for that purpose. For purposes of this
20 section, an offense is committed before the effective date of this
21 Act if any element of the offense occurs before that date.

22 SECTION 9. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2011.