

BILL ANALYSIS

C.S.S.B. 1090
By: Lucio
Public Health
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that the restraint of a dog with a chain, leash, or other device attached to a stationary object is common throughout Texas, but express concern that in cases where a dog might be restrained by cruel and inhumane means, it is sometimes too difficult to enforce protections against dog cruelty. C.S.S.B. 1090 seeks to address this issue by revising dog restraint requirements to ensure that the restraint of a dog is done in a humane manner and with minimal burden on the owner.

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.S.B. 1090 amends the Health and Safety Code to revise provisions relating to the unlawful restraint of a dog. The bill repeals provisions prohibiting an owner 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 provisions providing for certain exceptions and for penalties relating to the prohibition, including provisions providing for Class C misdemeanor and Class B misdemeanor offenses.

C.S.S.B. 1090 instead prohibits an owner from 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, shade from direct sunlight, and water. The bill prohibits an owner from 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 five times the length of the dog or 10 feet, is not attached to a properly fitted collar or harness, or causes injury to the dog. The bill provides certain exceptions to these prohibitions.

C.S.S.B. 1090 creates a Class C misdemeanor offense for a person who knowingly violates the bill's provisions. The bill establishes that the restraint of each dog with respect to which there is a violation is a separate offense. The bill authorizes the prosecution of an actor under the bill's offense provisions, other law, or both if conduct constituting an offense under the bill's provisions also constitutes an offense under the other law. The bill 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 that is not specifically addressed by the bill.

C.S.S.B. 1090 repeals Subchapter D, Chapter 821, Health and Safety Code.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1090 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

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 that:

(A) allows the dog protection from rain, hail, sleet, snow, and subfreezing temperatures; and

(B) is large enough to allow the dog to stand erect, sit, turn around, and lie down in a normal manner.

(2) "Collar" means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(3) "Harness" means any harness constructed of nylon, leather, or similar material, specifically designed to be used for 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 used for a dog, a collar or harness that:

(A) is the appropriate size for the dog based on the dog's size and body weight;

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

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

(6) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a

HOUSE COMMITTEE SUBSTITUTE

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(A) is the appropriate size for the dog based on the dog's size and body weight;

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

(C) is attached to the dog in a manner that does not allow for escape and does not cause injury to the dog.

(6) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a

dog to a stationary object or trolley system.

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

- (1) adequate shelter;
- (2) an area that allows the dog to avoid standing water;
- (3) shade from direct sunlight; and
- (4) potable water.

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

- (1) is a chain;
- (2) has weights attached;
- (3) is shorter in length than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (B) 10 feet;
- (4) is not attached to a properly fitted collar or harness; or
- (5) causes pain or injury to the dog.

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

- (1) a dog restrained in a public camping or recreational area in compliance with the requirements of the public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
- (2) a dog restrained while the owner and dog are engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;
- (3) a dog restrained while the owner and dog are engaged in conduct directly related to the business of shepherding or herding cattle or livestock;
- (4) a dog restrained while the owner and dog are engaged in conduct directly related to the business of cultivating agricultural products; or
- (5) a dog left in an open-air truck bed for no longer than necessary for the owner to complete a temporary task that required the dog to be left in the truck bed.

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- (4) water.

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

- (1) is a chain;
- (2) has weights attached;
- (3) is shorter in length than the greater of:
 - (A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
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- (3) a dog restrained while the owner and dog are engaged in conduct directly related to the business of shepherding or herding cattle or livestock;
- (4) a dog restrained while the owner and dog are engaged in conduct directly related to the business of cultivating agricultural products;
- (5) a dog left in an open-air truck bed for no longer than necessary for the owner to complete a temporary task that required the dog to be left in the truck bed;
- (6) a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner

(b) Section 821.102(b)(3) does not apply to a restraint that is attached to a trolley system that allows a dog to move along a running line for a distance that equals or exceeds the lengths specified under that subdivision.

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

Sec. 821.104. OFFENSE; PENALTY. (a) A person commits an offense if the person knowingly violates this subchapter. The restraint of each dog with respect to which there is a violation is a separate offense.

(b) An offense under this subchapter is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted under this subchapter.

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

Sec. 821.105. EFFECT OF SUBCHAPTER ON OTHER LAW.

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

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

SECTION 4. This Act takes effect September 1, 2017.

to engage in an activity that requires the dog to be temporarily restrained; or

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

(b) Section 821.102(b)(3) does not apply to a restraint that is attached to a pulley or trolley system that allows a dog to move along a running line for a distance that equals or exceeds the lengths specified under that subdivision.

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

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(b) An offense under this subchapter is a Class C misdemeanor.

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

Sec. 821.105. EFFECT OF SUBCHAPTER ON OTHER LAW.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.

SECTION 4. Same as engrossed version.