

- SUBJECT:** Removing and replacing the offense of unlawful restraint of a dog
- COMMITTEE:** Public Health — favorable, without amendment
- VOTE:** 10 ayes — Price, Sheffield, Arévalo, Burkett, Collier, Cortez, Guerra, Klick, Oliverson, Zedler
- 0 nays
- 1 absent — Coleman
- WITNESSES:** For — Alexandra Johnston, Denton County Sheriff's Office; Nancy Bellows, Society for Animal Rescue and Adoption (SARA); Art Munoz, SPCA of Texas; Jamey Cantrell, Texas Animal Control Association; Shelby Bobosky, Texas Humane Legislation Network; Jeff Honea, Wolfe City Police Department; Linda Halpern; (*Registered, but did not testify*: Donna Warndof, Harris County; Katie Jarl, the Humane Society of the United States; Laura Donahue, Karen Roberts, and Skip Trimble; Texas Humane Legislation Network; Shanna Igo, Texas Municipal League; Elizabeth Choate, Texas Veterinary Medical Association; and 65 individuals)
- Against — None
- BACKGROUND:** Health and Safety Code, ch. 821, subch. D defines and establishes an offense for the unlawful restraint of a dog. A person whom a peace officer or animal control officer believes is in violation of the law must receive a written warning and 24 hours to comply. Those who fail to comply commit a class C misdemeanor (maximum fine of \$500). Subsequent offenses are a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).
- DIGEST:** HB 1156 would repeal Health and Safety Code, ch. 821, subch. D and create a new subchapter defining and establishing an offense for the unlawful restraint of a dog.

The bill would prohibit an owner from leaving a dog unattended and restrained outside unless the owner provided the dog with potable water, along with adequate shelter and shade from direct sunlight in an area where the dog could avoid standing water.

An owner could not restrain a dog unattended outside with a restraint that:

- was a chain;
- had weights attached;
- was shorter than the greater of five times the dog's length or 10 feet;
- was not attached to a properly fitted collar or harness; or
- caused pain or injury to the dog.

The bill would not apply to a dog restrained while:

- in a public camping or recreation area in compliance with that area's policies;
- the owner and dog were engaged in an activity associated with the use or presence of a dog and related to a valid state license;
- shepherding or herding cattle or livestock;
- engaged in an activity related to cultivating agricultural products; or
- left in an open-air truck bed for no longer than necessary while the owner was completing a temporary task.

HB 1156 would not apply to a restraint attached to a trolley system that allowed the dog to move along a running line equal to or longer than the restraint length requirement described above. The bill also would not prohibit a person from walking a dog with a handheld leash.

A violation of HB 1156 would be punishable by a class C misdemeanor (maximum fine of \$500), with subsequent violations punishable by a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000). Each dog restrained in violation of HB 1156 would be a separate offense.

The bill would not affect the applicability of other laws, would not prevent an offense from being prosecuted under another applicable law, and would not prevent a municipality or county from further regulating the care of a dog.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

**SUPPORTERS  
SAY:**

HB 1156 would replace a currently unworkable law requiring peace officers to give a written warning and 24 hours to comply with restraint requirements before issuing a citation. Because of this requirement, no one has been prosecuted under the law since its enactment in 2007. Many individuals temporarily amend their behavior only to return to improper restraint practices after the 24 hour warning period has ended. Additionally, officers in rural areas may not have time to return to check on an improperly restrained dog. Giving peace officers the ability to issue a citation upon a first offense would correct the situation and stop abusive owners from continuing to improperly restrain their dogs.

The bill would clarify existing law so that dog owners and peace officers knew the exact requirements for tethering a dog and the associated punishments. Issuing a citation for the unlawful restraint of a dog could catch the problem before it became too severe, preventing it from escalating to the level of animal cruelty punishable under Penal Code, sec. 42.092. This preventive step not only would curb animal cruelty but also could reduce the potential jail time served for the associated charges. This in turn could decrease the number of people taken to jail and help ease crowding.

The bill would not infringe upon the activities of hunters, ranchers, or farmers because it contains exemptions that would allow a dog to be tethered during these activities.

An exception for a dog to be restrained outside a public place while its owner is inside is unnecessary, as it is only a few feet from its owner and is effectively being attended to. Peace officers have discretion for the

enforcement of code and could make reasonable judgment about the appropriateness of leaving a dog tethered outside of a public place for less than an hour. Furthermore, such an exception would be unenforceable because an animal control officer or peace officer would need to have been present for more than one hour.

OPPONENTS SAY: HB 1156 is unnecessary because current law provides adequate regulation for the restraint of a dog. In addition, Penal Code, sec. 42.092 addresses the issue by establishing the offense of animal cruelty.

The bill could infringe on the activities of hunters, ranchers, and farmers by limiting their ability to restrain their dogs in the course of their activities.

OTHER OPPONENTS SAY: HB 1156 should make exceptions for temporary restraint of a dog for not longer than necessary and no longer than an hour outside a public place where the dog was not admitted while the owner completed a task inside.

NOTES: A companion bill, SB 1090 by Lucio, was approved by the Senate on April 10 and referred to the House Public Health Committee on April 18.