

BILL ANALYSIS

Senate Research Center
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H.B. 1096
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Criminal Justice
5/20/2005
Committee Report (Amended)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, Chapter 822 (Regulation of Animals), Health and Safety Code, defines and regulates animal safety, including the regulation of dogs and dog attacks. Current law states that a dog attack may be classified as a Class C misdemeanor if the dog fits the definition of "dangerous." If serious bodily injury or death occurs, the attack is then classified a Class A misdemeanor.

H.B. 1096 requires that all dogs, not only categorically dangerous dogs, be regulated in the City of Houston. A dog attack will be classified as a Class B misdemeanor, unless serious bodily injury or death occurs, in which case the offense will be a third-degree felony. Furthermore, an owner of a dog must restrain the dog at all times on a leash in the immediate control of the owner, regardless of whether or not the dog is classified as dangerous. An offense of this leash law will be classified as a Class C misdemeanor.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 822, Health and Safety Code, by adding Subchapter F, as follows:

SUBCHAPTER F. REGULATION OF DOGS IN CERTAIN MUNICIPALITIES

Sec. 822.151. APPLICABILITY; APPLICABILITY OF OTHER LAW. (a) Sets forth the municipalities to which this subchapter applies.

(b) Provides that Subchapter D (Dangerous Dogs) does not apply to a municipality subject to this subchapter.

Sec. 822.152. DEFINITIONS. Defines "dog," "owner," and "secure enclosure."

Sec. 822.153. ATTACK BY DOG. (a) Provides that a person acting with criminal negligence commits an offense if the person is the owner of a dog and the dog makes an unprovoked attack on another person.

(b) Provides that an offense under this section is a Class B misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a third-degree felony.

(c) Requires the court, if a person is found guilty of an offense under this section, to order the dog to be destroyed.

(d) Provides that a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000, in addition to criminal prosecution. Authorizes an attorney for the municipality to file suit to collect the penalty. Requires penalties collected under this subsection to be retained by the municipality.

Sec. 822.154. REQUIREMENT OF LEASH OR ENCLOSURE. (a) Requires an owner of a dog to restrain the dog at all times on a leash in the immediate control of the owner when the dog is not on the owner's property or in a secure enclosure.

(b) Provides that a person who owns or keeps custody or control of a dog commits an offense if the person fails to comply with this section.

(c) Provides that, except as provided by Subsection (d), an offense under this section is a Class C misdemeanor.

(d) Provides that an offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

Sec. 822.155. DEFENSE. (a) Provides that it is a defense to prosecution that a person is a veterinarian or other personnel authorized to handle animals who has temporary ownership, custody, or control of the dog in connection with that position.

(b) Provides that it is a defense to prosecution under this subchapter that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(c) Provides that it is a defense to prosecution under this subchapter that the person is a dog trainer or an employee of a guard dog company.

(d) Provides that it is a defense to prosecution under this subchapter that the person is disabled and uses the dog to provide assistance and the dog is trained to provide assistance to a person with a disability.

(e) Provides that it is a defense to prosecution under this subchapter that, at the time of the conduct charged, the person and the dog are within the boundaries of a park designated as a dog park by the municipality.

(f) Provides that it is a defense to prosecution under this subchapter that, at the time of the conduct charged, the person and the dog are participating in or training for a show, test, or trial organized by a recognized sanctioning body for dog shows, tests, or trials.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2005.

SUMMARY OF COMMITTEE CHANGES

Committee Amendment No. ____ [no amendment number given]:

Amends SECTION 1, Section 822.153(b), Health and Safety Code (house engrossment, page 2, line 5) by replacing "Class B" with "Class C."

Amends SECTION 1, Section 822.153(b), Health and Safety Code (house engrossment, page 2, line 7) by replacing "third-degree felony" with "Class A misdemeanor."