

SUBJECT: Allowing a person to kill an attacking dog to protect livestock

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 6 ayes — Hardcastle, Miller, Burnam, D. Jones, Laney, Swinford

0 nays

1 absent — B. Brown

WITNESSES: For — Jerry Gilbert, Wichita County Farm Bureau and Area Ranchers of Wichita County; Ken Hodges, Texas Farm Bureau; Roy Ressel, Wichita Falls-Wichita County Public Health District and Texas Animal Control Association; Ed Small, Texas and Southwestern Cattleraisers Association; Grady Smith, Wichita County Sheriff's Department; Bob Turner, Texas Sheep and Goat Raisers Association; *Registered but did not testify:* Caton Fenz, Harris County Commissioners Court; Dolores Jo Gilbert, Wichita County Farm Bureau; Ken Horton, Texas Pork Producers Association; Susan Morris; Allison Rowland, Independent Cattlemen's Association of Texas; Ross Wilson, Texas Cattle Feeders Association; *(On committee substitute:)* Jim Allison, County Judges and Commissioners Association of Texas

Against — None

BACKGROUND: Health and Safety Code, chapter 822, subchapter B governs the treatment of dogs that endanger certain other animals. Under sec. 822.011, the owner of a dog that runs, worries, or kills goats, sheep, or poultry may not allow the dog to run at large. The owner is subject to a \$100 fine for each separate offense.

Subchapter C (Health and Safety Code, secs. 822.021-035) applies only in counties that vote in a referendum to adopt it and in areas where a city or county has not adopted registration or restraint ordinances. Secs. 822.033 and 822.034 allow a person to kill, detain, or poison a dog that attacks sheep, goats, calves, fowls, or other domestic animals. For the person to be exempt from liability for damages to the dog's owner for killing the dog, the dog's attack must be in progress, imminent, or recent. The owner of a dog known to have attacked protected animals must kill the dog or allow certain officers or

officials to enter the owner's premises to kill the dog. Sec. 822.032 prohibits unmuzzled dogs from running at large.

A state appeals court has ruled that deer are not domestic animals under statute and that people who kill dogs that attack deer are not exempt from liability.

Agriculture Code, sec. 161.001(a)(4) defines "exotic livestock" as plant-eating, single- or cloven-hooved mammals that are not indigenous to Texas, including animals in the deer, antelope, tapir, swine, horse, rhinoceros, and elephant families.

DIGEST:

CSHB 151 would allow owners of protected animals to detain or use deadly force against an attacking dog and be exempt from liability without the requirement of a county referendum. It would move these provisions from Health and Safety Code, chapter 822, Subchapter C (requiring a county referendum) to Subchapter B, which applies statewide.

The bill also would add "livestock" to the list of protected animals under Subchapter B, and would include "exotic livestock" in the definition of livestock in that subchapter.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 151 would extend legal protections to cattle and exotic livestock ranchers who are losing valuable animals to attacking dogs and apply these protections statewide without requiring a local-option county referendum. Under current law, ranchers cannot hold irresponsible dog owners liable for many types of livestock killed by these dogs, nor can they kill the offending dogs without liability. Livestock producers need to protect their income and their livelihood from dogs whose owners fail to control them.

CSHB 151 would give sheriffs and district courts the legal backing they need to help ranchers protect their property. Sheriff's departments cannot help ranchers stop dogs before they kill many kinds of livestock. Once a marauding dog has been caught in the act and killed, exotic and other livestock ranchers are not adequately protected from liability, even in counties that have approved a local referendum that specifically addresses dogs that

kill protected animals. This bill would provide legal support statewide for owners seeking to protect their animals against irresponsible dog owners.

CSHB 151 would address an important public safety issue posed by dog packs running wild in the country. City people often drop off unwanted dogs in rural areas, and once a dog is outside the city limit, the city's animal control division cannot destroy it. Hungry strays then roam the countryside in packs, attacking vulnerable livestock such as newborn calves or fawns. Confronting such dogs without the legal authority to kill them puts ranchers at risk, as many of these dogs have been exposed to rabid skunks and pose a hazard to human and animal health.

The original bill also would have applied statewide the county-option prohibition against unmuzzled dogs roaming at-large, but the committee substitute removed this provision because it would be essentially unenforceable. Country dogs are often exclusively outdoor dogs and are counted on to protect a large amount of property. Having to muzzle farm and ranch dogs could interfere with their duties and would burden their owners excessively. If such an issue must be addressed locally, counties may apply the muzzling requirement by referendum. It is easy to differentiate between a stray and a legitimate farm dog by looking for a collar and a rabies vaccination tag.

**OPPONENTS
SAY:**

If responsible owners were required to muzzle their animals in all cases, not just in counties adopting a referendum, they could be differentiated clearly from strays. This would make it obvious whether a dog was a problem animal or a legitimate farm dog and could prevent unnecessary killing of farm dogs, some of which could be expensive and valuable themselves.

**OTHER
OPPONENTS
SAY:**

CSHB 151 would not go far enough to protect exotic livestock, because it would not protect exotic fowl such as emus and ostriches specifically. The bill should contain language to protect these species as well, as they also can be expensive and vulnerable to attack.

CSHB 151 should conform the language in the code for consistency. The code protects "poultry" in sec. 822.011(a) and "fowls" in other sections. Fowl is the more general and preferred term, as it includes all birds, whereas poultry could be construed to mean only chickens and turkeys.

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NOTES: The original version of HB 151 would have made mandatory statewide the county-option dog-muzzling provision under Health and Safety Code, sec. 822.032. The committee substitute removed this provision and also specifically would protect an owner of exotic livestock from liability for killing an attacking dog.