

SUBJECT: Removing and replacing the offense of unlawful restraint of a dog

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Price, Sheffield, Arévalo, Burkett, Guerra, Klick, Oliverson, Zedler

0 nays

3 absent — Coleman, Collier, Cortez

SENATE VOTE: On final passage, April 10 — 28-3 (Birdwell, Buckingham, Hancock)

WITNESSES: *On companion bill, HB 1156:*

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).

Some have raised questions about whether the state should revise the

current statute prohibiting the tethering of dogs in response to concerns, including concerns about the requirement that owners be given 24 hours notice before a citation is issued.

DIGEST: CSSB 1090 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 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 injury to the dog.

The bill would not apply to a restraint attached to a pulley or 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 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 dogs and related to a valid state license;
- shepherding or herding cattle or livestock;
- engaged in an activity related to cultivating agricultural products;
- left in an open-air truck bed for no longer than necessary while the

- owner completed a temporary task;
- taken by its owner, or another person with the owner's permission, from the owner's residence and restrained for the owner or person to engage in an activity that required the dog to be temporarily restrained; or
 - engaged in or training for hunting or field trials.

The bill also would not prohibit a person from walking a dog with a handheld leash.

A violation of the bill would have to be committed knowingly and would be a class C misdemeanor. Each dog restrained in violation of the bill would be a separate offense.

The bill would not preempt a local regulation related to the restraint of a dog and would not prevent a municipality or county from further regulating the care of a dog, under certain conditions. The local regulations would have to be compatible with and equal to or more stringent than the requirements in the bill or relate to an issue not specifically addressed by the bill.

The bill would take effect September 1, 2017.

NOTES: CSSB 1090 made several changes to the Senate-passed version, including adding to the exceptions for the offense and eliminating a higher penalty for repeat offenses.

The companion bill, HB 1156 by S. Davis, et al., was placed on the April 26 General State Calendar and returned to the Public Health Committee on May 1.