

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2817
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Agriculture, Water & Rural Affairs
5/18/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that criminal penalties for individuals who kill another person's cattle, bison, or horses are inconsistent with similar offenses of parallel magnitude. H.B. 2817 addresses this issue by expanding the conduct that constitutes a third degree felony criminal mischief offense to include such behavior.

H.B. 2817 amends the Penal Code to expand the conduct constituting a third degree felony criminal mischief offense to include conduct in which an actor causes the death of one or more head of cattle or bison or one or more horses by discharging a firearm or other weapon or by any other means.

H.B. 2817 creates an exception to the application of the criminal mischief statute for intentionally or knowingly damaging, destroying, or tampering with the tangible property of the owner when the personal property was a head of cattle or bison killed, or a horse killed, in the course of the actor's regular agricultural labor duties and practices. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 2817 amends current law relating to the prosecution of, punishment for, and deterrence of certain offenses involving cattle, bison, or horses, authorizes an administrative penalty, authorizes an assessment, and increases a criminal penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 1 (Sections 153.002 and 153.004, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 6, Agriculture Code, by adding Chapter 153, to read as follows:

CHAPTER 153. PREVENTION AND INVESTIGATION OF CATTLE THEFT

Sec. 153.001. DEFINITIONS. Defines "association" and "program."

Sec. 153.002. ESTABLISHMENT OF PROGRAM. (a) Requires the Texas Department of Agriculture (TDA) by rule to establish a cattle inspection program (program) to discourage and investigate property crimes involving cattle in this state on request by the Texas and Southwestern Cattle Raisers Association (association), and if a similar program authorized by federal law is canceled, suspended, repealed, or otherwise scheduled for discontinuation.

(b) Requires that the program utilize existing cattle industry infrastructure to the extent possible.

(c) Requires TDA to establish an advisory committee to advise TDA on program rules. Requires the advisory committee, at least once every two years, to review the program rules and submit findings and recommendations to TDA.

Sec. 153.003. INSPECTIONS. Requires that program rules authorize the special rangers appointed under Article 2.125 (Special Rangers of Texas and Southwestern Cattle Raisers Association), Code of Criminal Procedure, and other association employees designated by the special rangers, to inspect and record brands and other identifying characteristics of cattle at livestock auction markets.

Sec. 153.004. ASSESSMENT. (a) Requires that program rules establish a per-head regulatory assessment in an amount necessary to reimburse the association for direct costs incurred under this chapter.

(b) Requires TDA, in determining the amount of the assessment, to consider certain factors.

(c) Requires TDA, on request by the association, to review the amount of the assessment and consider any necessary revision.

(d) Requires that each livestock auction market collect the assessment and remit the amount collected to the association.

(e) Provides that assessments collected under this section are not state funds and are not required to be deposited in the state treasury.

(f) Provides that a person who has possession, custody, or control of an assessment collected under this section and not remitted to the association before the 31st day after the date collected is subject to an administrative penalty in an amount provided by TDA rule.

Sec. 153.005. STATE OVERSIGHT. (a) Requires TDA to approve the association's budget for the program each year.

(b) Requires TDA to review and act on the association's budget for the program each year not later than the 45th day after the date the association submits the budget to TDA.

(c) Authorizes TDA or the state auditor to inspect the association's financial records related to the program at any time.

SECTION 2. Amends Section 28.03, Penal Code, by amending Subsection (b) and adding Subsection (k), as follows:

(b) Provides that, except as provided by Subsections (f) (relating to an offense being a state jail felony if the damage or destruction is inflicted on a certain place) and (h) (relating to an offense being considered a state jail felony if the amount of the pecuniary loss to certain real property or to tangible personal property exceeds a certain amount), an offense under this section (Criminal Mischief) is a felony of the third degree if the actor, by discharging a firearm or other weapon or by any other means, causes the death of one or more head of cattle or bison or one or more horses.

(k) Provides that Subsection (a)(1) (relating to a person committing an offense by knowingly destroying tangible property) or (2) (relating to a person committing an offense by intentionally or knowingly tampering with tangible personal property) does not apply if the tangible personal property of the owner was a head of cattle or bison killed, or a horse killed, in the course of the actor's:

(1) actual discharge of official duties as a member of the United States armed forces or the state military forces as defined by Section 437.001 (Definitions), Government Code; or

(2) regular agricultural labor duties and practices.

SECTION 3. Makes application of Section 28.03, Penal Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2017.