



**OPPOSE HB 1800 by Walle
And SB 708 by Garcia
Addition of Aggressive & Nuisance Dog Designations
to Dangerous Dog Laws**

-  This is a poorly written bill that could deem every dog in Texas “aggressive” or a “nuisance” with severe legal implications. Texas already has some of the toughest dangerous dog laws in the country. A dog does not even have to bite to be declared dangerous.
-  This law enables neighbors to complain and have dogs declared aggressive or a nuisance even if the dog has not left the owner’s own home or yard. This bill is a boon for neighbors who enjoy complaining about others and is much more about relationships between neighbors than dogs.
-  This is a terrible bill and as written can deem every dog in Texas as aggressive or a nuisance. There is no way this bill can be amended to be fair to dog owners.
-  This bill provides that your dog can be deemed “aggressive” while it is in your home or yard. Currently, for a dog to be deemed dangerous, it has to be out of its enclosure. This means that if your dog is barking at the fence that he could be deemed “aggressive” and be subjected to the same requirements as a dog that was loose and bit someone.
-  The shocking thing about this far reaching bill is that a dog deemed aggressive is subjected to the same requirements as a dangerous dog—owner must build a secure enclosure, register the dog as aggressive, pay fees for owning an aggressive dog, pay for insurance and abide by any other stricter laws imposed by a city or county. All of these requirements are for a dog that was not running loose nor did it bite anyone. These requirements are imposed on a dog that is contained in the owner’s house or yard.
-  This bill adds a category for a “public nuisance dog” that would apply to a dog that has gotten out one single time and subject the owner to going to a hearing and other legal implications. This law could make almost every dog in Texas a public nuisance and it does not take into consideration that in some counties, dogs are allowed to be legally at large because they do not have leash laws. Dogs can be declared to be a nuisance for barking, attacking a domestic animal even if a cat comes into the dog’s own yard, and if the dog is part of a group and one of the dogs has gotten out before. That means that if you own two dogs and one got out, both can be declared a nuisance.

 Your dog can be deemed “aggressive” for the following reasons:

1. If the dog causes serious bodily injury in your own yard. This is already the law and is not necessary and is at odds with current law.

2. If the dog while not being loose or at large does something that causes someone to think the dog will cause serious bodily injury to a person or an animal, then he can be deemed “aggressive.” This would apply to a dog in its own fenced yard. If your dog is barking in its own yard, he can be declared aggressive if someone thinks he could cause serious bodily injury. Any dog regardless of size or breed can cause serious bodily injury so any dog in Texas could be declared an aggressive dog. This also means that if a stray cat is aggravating your dog while he’s fenced in your own backyard, then your dog can be determined aggressive.

3. If the dog “interferes” with a person’s freedom of movement “regardless of whether the dog is on the owner’s property,” then it can be deemed aggressive. This can actually mean that if a dog is too big for a sidewalk and someone has to go around him to get by, then he can be declared aggressive. It can mean that a small dog that has moved over the halfway point in a sidewalk and “interferes” with someone passing by can be declared aggressive. There are no requirements that the dog has to be acting in an aggressive fashion for this section to apply. The law seems to indicate that the dog has to be in the public right of way to apply, but then states it applies in the owner’s yard which makes absolutely no sense.

4. A dog can be declared aggressive if an animal control officer or police officers says so. If the officer believes the dog has an aggressive disposition and might harm a person or a domestic animal then the dog can be declared aggressive. This provision does not define “aggressive disposition” so it can mean anything a police officer or animal control officer wants it to mean. This gives these officers unbridled power to declare dogs aggressive and again, even dogs in their own backyard. This bill does not apply to dogs that are at large, but ones contained on their owner’s property.

5. The last aggressive designation is guilt by association because it provides that if a dog is with another dog and the other dog does something to be deemed aggressive or dangerous, then the unoffending dog can be deemed aggressive for good measure not based on any acts by that dog whatsoever.

84R9531 SCL-D

By: Walle

H.B. No. 1800

A BILL TO BE ENTITLED
AN ACT

relating to regulation of public nuisance, aggressive, and dangerous dogs;
authorizing fees and creating offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter D, Chapter 822, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. PUBLIC NUISANCE, AGGRESSIVE, AND DANGEROUS DOGS

SECTION 2. Section 822.041, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (6) to read as follows:

(1) "Aggressive dog" means a dog that:

(A) makes an unprovoked attack on a person that causes serious bodily injury and occurs on property where the dog is being kept if the person is

on the property with the owner's consent or invitation;

(B) commits, on property where the dog is being kept, unprovoked acts that cause a person to reasonably believe that the dog will attack and cause serious bodily injury to that person or a domestic animal if the property is without sufficient enclosures to protect the public or domestic animals;

(C) interferes with a person's freedom of movement in a public right-of-way, regardless of whether the dog is on the owner's property;

(D) a law enforcement officer or animal control authority reasonably believes has a dangerous disposition and is likely to be harmful to a person or domestic animal; or

(E) is part of a group of two or more dogs and was present when a dog from the group committed an act leading to that dog's classification as an aggressive or dangerous dog.

(1-a) "Animal control authority" means a municipal or county animal control office with authority over the area where the dog is kept or a county sheriff in an area with no animal control office.

(6) "Public nuisance dog" means a dog, as documented by an animal control authority, that:

(A) has substantially interfered with the right to enjoyment of life or property by a person other than the owner, including frequent, long, and continued barking or howling, repeated defecation on property other than that of the owner, or damaging property other than that of the owner;

(B) has at least once attacked a domestic animal;

(C) has run at large; or

(D) is part of a group of two or more dogs in which at least one dog is documented to have run at large.

SECTION 3. Subchapter D, Chapter 822, Health and Safety Code, is amended by adding Sections 822.0415 and 822.0416 to read as follows:

Sec. 822.0415. REQUIREMENTS FOR OWNER OF PUBLIC NUISANCE DOG; SEIZURE.

(a) Not later than the 30th day after the date a person learns that the person is the owner of a public nuisance dog, the person shall:

(1) abate the nuisance that serves as the basis for the determination that the dog is a public nuisance dog; and

(2) comply with an applicable municipal or county regulation, requirement, or restriction on a public nuisance dog.

(b) For purposes of this section, a person learns that the person is the owner of a public nuisance dog when:

(1) the owner knows of a nuisance described by Section 822.041(6)(A), (B), (C), or (D);

(2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is a public nuisance dog under Section 822.0423; or

(3) the owner is informed by the animal control authority that the dog is a public nuisance dog under Section 822.0421.

(c) An animal control authority may not seize a public nuisance dog unless the dog is running at large.

Sec. 822.0416. REQUIREMENTS FOR OWNER OF AGGRESSIVE DOG. (a) Not later

than the 30th day after the date a person learns that the person is the owner of an aggressive dog, the person shall:

(1) register the aggressive dog with the animal control authority for the area in which the dog is kept;

(2) restrain the aggressive dog at all times on a leash in the immediate control of a person or in a secure enclosure; and

(3) comply with an applicable municipal or county regulation, requirement, or restriction on an aggressive dog.

(b) For purposes of this section, a person learns that the person is the owner of an aggressive dog when:

(1) the owner knows of an act described by Section 822.041(1)(A), (B), (C), (D), or (E);

(2) the owner receives notice that a justice court, county court, or municipal court has found that the dog is an aggressive dog under Section 822.0423; or

(3) the owner is informed by the animal control authority that the dog is an aggressive dog under Section 822.0421.

SECTION 4. Section 822.0421, Health and Safety Code, is amended to read as follows:

Sec. 822.0421. DETERMINATION THAT DOG IS PUBLIC NUISANCE, AGGRESSIVE, OR DANGEROUS. (a) If a person reports an incident described by Section 822.041(1), (2), or (6) [~~822.041(2)~~], the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a public nuisance, aggressive, or dangerous dog, it shall notify the owner of that fact.

(b) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a public nuisance, aggressive, or dangerous dog, may appeal the determination of the animal control authority to a justice, county, or municipal court of competent jurisdiction. An owner may appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county, or municipal court.

SECTION 5. Section 822.0423(a), Health and Safety Code, is amended to read as follows:

(a) The court, on receiving a report of an incident under Section 822.0422 or an incident described by Section 822.041(1) or (6) or on application under Section 822.042(c), shall set a time for a hearing to determine whether the dog is a public nuisance, aggressive, or dangerous dog or whether the owner of the dog has complied with Section 822.0415, 822.0416, or 822.042, as applicable. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered, if applicable.

SECTION 6. Section 822.043, Health and Safety Code, is amended to read as follows:

Sec. 822.043. REGISTRATION. (a) An animal control authority for the

area in which the dog is kept shall annually register an aggressive or [a] dangerous dog if the owner:

(1) presents proof of:

(A) liability insurance or financial responsibility, if [a] required by Section 822.042;

(B) current rabies vaccination of the [~~dangerous~~] dog; and

(C) the secure enclosure in which the [~~dangerous~~] dog will be kept; and

(2) pays an annual registration fee in the amount determined by the governing body of the municipality or county in which the animal control authority is located [~~of \$50~~].

(b) The animal control authority shall provide to the owner registering an aggressive or [a] dangerous dog a registration tag. The owner must place the tag on the dog's collar.

(c) If an owner of a registered aggressive or dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority for the area in which the new address is located. On presentation by the current owner of the aggressive or dangerous dog's prior registration tag and payment of a fee in the amount determined by the governing body of the municipality or county in which the animal control authority is located [~~of \$25~~], the animal control authority shall issue a new registration tag to be placed on the aggressive or dangerous dog's collar.

(d) An owner of a registered aggressive or dangerous dog shall notify the office in which the aggressive or dangerous dog was registered of any attacks the aggressive or dangerous dog makes on people.

(e) Except as provided by this subsection, an animal control authority may, on court order following a hearing under Section 822.0423 or consent of the owner, implant a microchip into a public nuisance dog described by Section 822.041(6)(C) or an aggressive or dangerous dog instead of or in addition to providing a tag under Subsection (b) or (c).

SECTION 7. Section 822.045(a), Health and Safety Code, is amended to read as follows:

(a) A person who owns or keeps custody or control of a public nuisance, aggressive, or dangerous dog commits an offense if the person fails to comply with Section 822.0415, 822.0416, or 822.042, as applicable, [a] Section 822.0422(b), or an applicable municipal or county regulation relating to public nuisance, aggressive, or dangerous dogs.

SECTION 8. Section 822.047, Health and Safety Code, is amended to read as follows:

Sec. 822.047. LOCAL REGULATION OF PUBLIC NUISANCE, AGGRESSIVE, AND DANGEROUS DOGS. (a) A county or municipality may place additional requirements or restrictions on aggressive or dangerous dogs if the requirements or restrictions:

(1) are not specific to one breed or several breeds of dogs; and

(2) are more stringent than restrictions provided by this subchapter.

(b) The commissioners court of a county by order of the governing body of a municipality by ordinance may exempt the county or municipality, as applicable, from the requirements and restrictions on public nuisance dogs under this chapter if the commissioners court or governing body determines that local regulation adequately provides for the abatement of stray dogs, barking dogs, dogs that are aggressive toward other animals, destructive dogs, and nuisance dogs.

SECTION 9. This Act takes effect September 1, 2015.