



**OPPOSE HB 2562 By Sheets, Laubenberg, Farrar
Relating to "Care," and Sheltering for ALL dogs**

**THIS IS NOT A TETHERING LAW AS CLAIMED,
BUT A "BACK DOOR" ATTEMPT TO AMEND OUR TEXAS ANIMAL CRUELTY LAW
By Humane Society of U.S. and Texas Humane Legislation Network (their Texas partner)
Who held a joint "Texas Lobby Day" with ASPCA at the Capitol!**

-  Currently there is a state law on tethering dogs that is confusing and not enforceable as written. HB 2562 amends existing law regarding tethering and adds provisions for ALL "unattended" outside dogs, including those that are not tethered. "Unattended" is not defined by any length of time. This bill goes far beyond any reasonable requirements for proper care of dogs and shows a lack of animal expertise.**
-  Texas Penal Code 42.092 Cruelty to Nonlivestock Animals, Section (a) (7) already defines "Necessary food, water, care, or shelter:" as including food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health. This is a very reasonable definition instead of the onerous regulations proposed below in HB 2562:**
-  Unfortunately many times laws are written from the urban dog owner's perspective without taking into consideration low income dog owners and many working dog breeds or farm dogs. HB 2562 is full of room for abusive enforcement and harassment by "animal rights" extremists, whose goal is to end all use of animals.**
-  ALL OUTSIDE DOGS (Tethered or Untethered): Owner must provide CONTINUOUS ACCESS to: 1) Adequate shelter, 2) Shade from direct sunlight, 3) Potable water. **HB 2562 further mandates:**
ADEQUATE SHELTER: 1) NO plastic or metal barrels; 2) Size must allow dog to STAND ERECT, SIT, TURN AROUND, AND LIE DOWN IN A COMFORTABLE MANNER; 3) Must have one opening, flooring, be waterproof, have dry bedding for temperatures below 32 degrees, and maintained in good repair.
(RPOA: Dogs enter their "shelter" to LIE DOWN and sleep; NOT stand erect or sit up! That would require a "kennel.")
SHADE FROM DIRECT SUNLIGHT: Impossible to comply with under many situations. No sun allowed ever!
POTABLE WATER: Impossible to comply with under many situations. Water at all times is required.
PLASTIC OR METAL BARRELS: Have been used for years with refinements to keep from rolling and keep off ground. No one opens the "whole" barrel; it has a hole large enough to enter and keep bedding in place to conserve dog's body heat. A barrel provides more warmth than a large dog house. Many dogs will chew up and destroy wooden doghouses.**
-  An owner may not "restrain" a dog by use of a restraint: 1) Less than 5 times length of dog (measured from tip of nose to tail) OR 10 feet; without a swivel on both ends; 2) Have anything which may cause dog to become entangled in the restraint; 3) No metal chain links wider than one-quarter of an inch, which won't contain strong large dogs.**

A BILL TO BE ENTITLED

AN ACT

relating to the care and unlawful restraint of a dog; creating an offense.

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

SECTION 1. The heading to Subchapter D, Chapter 821, Health and Safety Code, is amended to read as follows:

SUBCHAPTER D. DOG LEFT OUTSIDE AND UNATTENDED; UNLAWFUL RESTRAINT [OF DOG]

SECTION 2. Section 821.076, Health and Safety Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Harness" means any harness constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(3) "Properly fitted" means, with respect to a collar or harness used for a dog, a collar or harness that:

(A) is the appropriate size for the dog;

(B) does not choke the dog or impede the dog's normal breathing or swallowing; and

(C) is attached to the dog in a manner that does not cause injury to the dog [~~measures the circumference of a dog's neck plus at least one inch~~].

SECTION 3. Section 821.077, Health and Safety Code, is amended to read as follows:

Sec. 821.077. CARE OF DOG LEFT OUTSIDE AND UNATTENDED; UNLAWFUL

RESTRAINT [~~OF DOG~~]. (a) In this section, "adequate shelter" means a building or structure that:

(1) has a weatherproof roof, floor and sides that protect the dog from wet and subfreezing weather;

(2) has an entrance on only one side;

(3) is of a size that allows the dog to stand erect, sit, turn around, and lie down in a comfortable and normal position;

(4) is maintained in good repair;

(5) has sufficient dry bedding material or other protection that allows the dog to maintain its body heat in temperatures below 32 degrees Fahrenheit;

(6) provides the dog with easy entrance and exit access; and

(7) is not a metal or plastic barrel or similar container.

(b) An owner may not leave a dog outside and unattended unless the owner provides the dog continuous access to:

(1) adequate shelter;

(2) shade from direct sunlight; and

(3) potable water [~~by use of a restraint that unreasonably limits the dog's movement:~~

~~[(1) between the hours of 10 p.m. and 6 a.m.;~~

~~[(2) within 500 feet of the premises of a school; or~~

~~[(3) in the case of extreme weather conditions, including conditions in which:~~

~~[(A) the actual or effective outdoor temperature is below~~

~~32 degrees Fahrenheit;~~

~~[(B) a heat advisory has been issued by a local or state authority or jurisdiction; or~~

~~[(C) a hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service].~~

(c) An owner may not restrain a dog outside and unattended by use of a restraint that ~~[(b) In this section, a restraint unreasonably limits a dog's movement if the restraint]:~~

(1) is not attached to a properly fitted ~~[uses a] collar or harness~~ ~~[that is pinch type, prong type, or choke type or that is not properly fitted to the dog];~~

(2) is a length shorter than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) 10 feet;

(3) ~~[is in an unsafe condition; or]~~ does not have a swivel on both ends;

(4) ~~[causes injury to the dog]~~ may cause the dog to become entangled in the restraint; or

(5) has weights attached or contains metal chain links in a width that exceeds one-quarter of an inch.

SECTION 4. Section 821.078, Health and Safety Code, is amended to read as follows:

Sec. 821.078. EXCEPTIONS. (a) Section 821.077 does not apply to:

~~(1) [a dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line pulley, or trolley system by means of a pinch type, prong type, choke type, or improperly fitted collar;~~

~~[(2)] a dog restrained in a public camping or recreational area in compliance with the requirements of the public [a] camping or recreational area as defined by a federal, state, or local authority or jurisdiction;~~

~~(2) [(3)] a dog restrained for a reasonable period, not to exceed three hours in a 24 hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;~~

~~[(4)] a dog restrained while the owner and dog are [is] engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;~~

~~(3) [(5)] a dog restrained while the owner and dog are [is] engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or~~

~~(4) [(6)] a dog restrained while the owner and dog are [is] engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.~~

(b) Section 821.077(c)(2) does not apply to a restraint that is

attached to a trolley system and allows a dog to move along a running line for a distance that exceeds the limitations specified under that section.

SECTION 5. The heading to Section 821.079, Health and Safety Code, is amended to read as follows:

Sec. 821.079. CRIMINAL PENALTY.

SECTION 6. Sections 821.079(a), (c), and (f), Health and Safety Code, are amended to read as follows:

(a) A person commits an offense if the person [~~knowingly~~] violates this subchapter. Each dog with respect to which there is a violation and each day that a violation continues is a separate offense.

(c) Except as provided by Subsection (d), an offense under this subchapter [~~subsection~~] is a Class C misdemeanor.

(f) If conduct constituting an offense under this subchapter [~~section~~] also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 7. Section 821.080, Health and Safety Code, is amended to read as follows:

Sec. 821.080. DISPOSITION OF PENALTY. Notwithstanding any other law, the clerk of a court that collects a penalty under this subchapter shall remit the penalty collected for deposit in the general fund of the municipality or county served by the court.

SECTION 8. Subchapter D, Chapter 821, Health and Safety Code, is amended by adding Section 821.082 to read as follows:

Sec. 821.082. EFFECT OF SUBCHAPTER ON OTHER LAW. (a) This

subchapter does not affect the applicability of any other law, rule, order, ordinance, or other legal requirement of this state or a political subdivision of this state.

(b) This subchapter does not prevent a municipality or county from prohibiting or further regulating by ordinance or order the ownership, possession, restraint, confinement, or care of a dog.

SECTION 9. Sections 821.079(b) and (e), Health and Safety Code, are repealed.

SECTION 10. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law as it existed on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2015.