

HEALTH AND SAFETY CODE CHAPTER 821. TREATMENT AND DISPOSITION OF ANIMALS

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TITLE 10. HEALTH AND SAFETY OF ANIMALS

CHAPTER 821. TREATMENT AND DISPOSITION OF ANIMALS

SUBCHAPTER A. TREATMENT OF ANIMALS

Sec. 821.001. DEFINITION. In this subchapter, "animal" includes every living dumb creature.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.002. TREATMENT OF IMPOUNDED ANIMALS. (a) A person who impounds or causes the impoundment of an animal under state law or municipal ordinance shall supply the animal with sufficient wholesome food and water during its confinement.

(b) If an animal impounded under Subsection (a) continues to be without necessary food and water for more than 12 successive hours, any person may enter the pound or corral as often as necessary to supply the animal with necessary food and water. That person may recover the reasonable cost of the food and water from the owner of the animal. The animal is not exempt from levy and sale on execution of a judgment issued to recover those costs.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.003. TREATMENT OF LIVE BIRDS. (a) This section applies to a person who receives live birds for transportation or for confinement:

- (1) on wagons or stands;
- (2) by a person who owns a grocery store, commission house, or other market house; or
- (3) by any other person if the birds are to be closely confined.

(b) The person shall immediately place the birds in coops, crates, or cages that are made of open slats or wire on at least three sides and that are of a height so that the birds can stand upright without touching the top.

(c) The person shall keep clean water and suitable food in troughs or other receptacles in the coops, crates, or cages. The troughs or other receptacles must be easily accessible to the confined birds and must be placed so that the birds cannot defile their contents.

(d) The person shall keep the coops, crates, or cages in a clean and wholesome condition and may place in each coop, crate, or cage only the number of birds that have room to move around and to stand without crowding each other.

(e) The person may not expose the birds to undue heat or cold and shall immediately remove all injured, diseased, or dead birds from the coops, crates, or cages.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.004. KNOWLEDGE OR ACTS OF CORPORATE AGENT OR EMPLOYEE. The knowledge and acts of an agent or employee of a corporation in regard to an animal transported, owned, or used by or in the custody of the corporation are the knowledge and acts of the corporation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. DISPOSITION OF CRUELLY TREATED ANIMALS

Sec. 821.021. DEFINITION. In this subchapter, "cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or associate judges of statutory probate courts, or judges or associate judges of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

Acts 2003, 78th Leg., ch. 1043, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 334, Sec. 10, eff. September 1, 2009.

Sec. 821.022. SEIZURE OF CRUELLY TREATED ANIMAL. (a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, Sec. 1, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Sec. 821.023. HEARING; ORDER OF DISPOSITION OR RETURN OF ANIMAL. (a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092, Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal's owner has cruelly

treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

- (1) order a public sale of the animal by auction;
- (2) order the animal given to a nonprofit animal shelter, pound, or society for the protection of animals; or
- (3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) A court that finds that an animal's owner has cruelly treated the animal shall order the owner to pay all court costs, including costs of:

- (1) investigation;
 - (2) expert witnesses;
 - (3) housing and caring for the animal during its impoundment;
 - (4) conducting any public sale ordered by the court;
- and
- (5) humanely destroying the animal if destruction is ordered by the court.

(f) The court may order that an animal disposed of under Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the receiving party.

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 157, Sec. 1, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, Sec. 14.43, 14.44, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 886, Sec. 4, eff. September 1, 2007.

Sec. 821.024. SALE OR DISPOSITION OF CRUELLY TREATED ANIMAL. (a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by

the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a nonprofit animal shelter, pound, or society for the protection of animals.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 387, Sec. 2, eff. June 7, 1991; Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Sec. 821.025. APPEAL. (a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and an appeal bond in an amount determined by the court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, the court from which the appeal is taken shall deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, the court shall dispose of the appeal. The decision of the county court or county court at law under this section is final and may not be further appealed.

(b) While an appeal under this section is pending, the animal may not be:

- (1) sold or given away as provided by Sections 821.023

and 821.024; or

(2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1043, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1351, Sec. 11(a), eff. September 1, 2009.

SUBCHAPTER C. EUTHANASIA OF ANIMALS

Sec. 821.051. DEFINITIONS. In this subchapter:

(1) "Animal" has the meaning assigned by Section 821.001.

(2) "Animal shelter" means a facility that collects, impounds, or keeps stray, homeless, abandoned, or unwanted animals.

(3) "Board" means the Texas Board of Health.

(4) "Department" means the Texas Department of Health.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.052. METHODS OF EUTHANASIA. (a) A person may euthanize a dog or cat in the custody of an animal shelter only by administering sodium pentobarbital or commercially compressed carbon monoxide.

(b) A person may euthanize all other animals in the custody of an animal shelter, including birds and reptiles, only in accordance with the applicable methods, recommendations, and procedures set forth in the 2000 Report of the American Veterinary Medical Association Panel on Euthanasia as modified or superseded by a subsequent report of the American Veterinary Medical Association Panel on Euthanasia that is approved by the board.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.053. REQUIREMENTS FOR USE OF SODIUM PENTOBARBITAL. (a) The board by rule shall establish the requirements and procedures for administering sodium pentobarbital

to euthanize an animal in the custody of an animal shelter.

(b) A person may administer sodium pentobarbital to euthanize an animal in the custody of an animal shelter only in accordance with the requirements and procedures established by board rule.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.054. REQUIREMENTS FOR USE OF COMMERCIALY COMPRESSED CARBON MONOXIDE. (a) The board by rule shall establish:

(1) standards for a carbon monoxide chamber used to euthanize an animal in the custody of an animal shelter; and

(2) requirements and procedures for administering commercially compressed carbon monoxide to euthanize an animal in the custody of an animal shelter.

(b) A person administering commercially compressed carbon monoxide to euthanize an animal in the custody of an animal shelter:

(1) may use only a carbon monoxide chamber that meets the standards established by board rule; and

(2) may administer the commercially compressed carbon monoxide only in accordance with the requirements and procedures established by board rule.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.055. TRAINING FOR EUTHANASIA TECHNICIANS. (a) A person may not euthanize an animal in the custody of an animal shelter unless the person has successfully completed, not more than three years before the date the person euthanizes the animal, a training course in the proper methods and techniques for euthanizing animals. The training course curriculum must include:

(1) the pharmacology, proper administration, and storage of euthanasia solutions;

(2) federal and state law regulating the storage and accountability of euthanasia solutions;

(3) euthanasia technician stress management;

(4) proper restraint and handling of an animal during euthanasia;

(5) the procedures for administering commercially compressed carbon monoxide to an animal;

(6) techniques for verifying an animal's death; and

(7) the proper disposal of a euthanized animal.

(b) The department must approve the sponsors and curriculum of the training course required by this section.

(c) This section does not apply to a person licensed to practice veterinary medicine in this state.

(d) Notwithstanding Subsection (a), an employee of an animal shelter is not required to have successfully completed the training course before the 120th day following the date of initial employment.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Jan. 1, 2005.

Sec. 821.056. OFFENSE AND PENALTY. (a) A person commits an offense if the person violates this subchapter or a board rule adopted under this subchapter.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

Sec. 821.057. INJUNCTION. A court of competent jurisdiction, on the petition of any person, may prohibit by injunction the substantial violation of this subchapter or a board rule adopted under this subchapter.

Added by Acts 2003, 78th Leg., ch. 30, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER D. UNLAWFUL RESTRAINT OF DOG

Sec. 821.076. DEFINITIONS. In this subchapter:

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

(2) "Owner" means a person who owns or has custody or control of a dog.

(3) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

(4) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.077. UNLAWFUL RESTRAINT OF DOG. (a) An owner may not leave a dog outside and unattended 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.

(b) In this section, a restraint unreasonably limits a dog's movement if the restraint:

(1) uses a collar 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

(4) causes injury to the dog.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.078. EXCEPTIONS. 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 compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;

(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 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;

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

(6) a dog restrained while the owner 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.079. PENALTY. (a) A person commits an offense if the person knowingly violates this subchapter.

(b) A peace officer or animal control officer who has probable cause to believe that an owner is violating this subchapter shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.

(c) A person commits an offense if the person is provided a statement described by Subsection (b) and fails to comply with this subchapter within 24 hours of the time the owner is provided the statement. An offense under this subsection is a Class C misdemeanor.

(d) A person commits an offense if the person violates this

subchapter and previously has been convicted of an offense under this subchapter. An offense under this subsection is a Class B misdemeanor.

(e) If a person fails to comply with this subchapter with respect to more than one dog, the person's conduct with respect to each dog constitutes a separate offense.

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

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

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 county.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.

Sec. 821.081. HAND-HELD LEASHES. This subchapter does not prohibit a person from walking a dog with a hand-held leash.

Added by Acts 2007, 80th Leg., R.S., Ch. 674, Sec. 1, eff. September 1, 2007.