

AN ACT

relating to the offenses of cruelty to livestock and nonlivestock animals.

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

SECTION 1. Section 42.09, Penal Code, is amended to read as follows:

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

(1) tortures a livestock [~~an~~] animal;

(2) fails unreasonably to provide necessary food, water, or care [~~, or shelter~~] for a livestock [~~an~~] animal in the person's custody;

(3) abandons unreasonably a livestock [~~an~~] animal in the person's custody;

(4) transports or confines a livestock [~~an~~] animal in a cruel and unusual manner;

(5) [~~kills, seriously injures, or~~] administers poison to a livestock [~~an~~] animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092 [~~causes one animal to fight with another~~];

(7) uses a live livestock animal as a lure in dog race

1 training or in dog coursing on a racetrack;

2 (8) trips a horse;

3 ~~[(9) injures an animal, other than cattle, horses,~~
4 ~~sheep, swine, or goats, belonging to another without legal~~
5 ~~authority or the owner's effective consent,] or~~

6 (9) ~~[(10)]~~ seriously overworks a livestock ~~[an]~~
7 animal.

8 (b) In ~~[It is a defense to prosecution under this section~~
9 ~~that the actor was engaged in bona fide experimentation for~~
10 ~~scientific research.~~

11 ~~[(c) For purposes of]~~ this section:

12 (1) "Abandon" includes abandoning a livestock ~~[an]~~
13 animal in the person's custody without making reasonable
14 arrangements for assumption of custody by another person.

15 (2) ~~["Animal" means a domesticated living creature and~~
16 ~~wild living creature previously captured. "Animal" does not include~~
17 ~~an uncaptured wild creature or a wild creature whose capture was~~
18 ~~accomplished by conduct at issue under this section.~~

19 ~~[(3)]~~ "Cruel manner" includes a manner that causes or
20 permits unjustified or unwarranted pain or suffering.

21 (3) ~~[(4)]~~ "Custody" includes responsibility for the
22 health, safety, and welfare of a livestock ~~[an]~~ animal subject to
23 the person's care and control, regardless of ownership of the
24 livestock animal.

25 (4) "Depredation" has the meaning assigned by Section
26 71.001, Parks and Wildlife Code.

27 (5) "Livestock animal" means:

1 (A) cattle, sheep, swine, goats, ratites, or
2 poultry commonly raised for human consumption;

3 (B) a horse, pony, mule, donkey, or hinny;

4 (C) native or nonnative hoofstock raised under
5 agriculture practices; or

6 (D) native or nonnative fowl commonly raised
7 under agricultural practices.

8 (6) [~~5~~] "Necessary food, water, or care[~~, or~~
9 shelter]" includes food, water, or care[~~, or shelter~~] provided to
10 the extent required to maintain the livestock animal in a state of
11 good health.

12 (7) "Torture" includes any act that causes
13 unjustifiable pain or suffering.

14 (8) [~~6~~] "Trip" means to use an object to cause a
15 horse to fall or lose its balance.

16 (c) [~~d~~] An offense under Subsection (a)(2), (3), (4), or
17 (9) [~~, or (10)] is a Class A misdemeanor, except that the offense is~~
18 a state jail felony if the person has previously been convicted two
19 times under this section, two times under Section 42.092, or one
20 time under this section and one time under Section 42.092. An
21 offense under Subsection (a)(1), (5), (6), (7), or (8) is a state
22 jail felony, except that the offense is a felony of the third degree
23 if the person has previously been convicted two times under this
24 section, two times under Section 42.092, or one time under this
25 section and one time under Section 42.092.

26 (d) [~~e~~] It is a defense to prosecution under Subsection
27 (a)(5) that the animal was discovered on the person's property in

1 ~~the act of or immediately after injuring or killing the person's~~
2 ~~goats, sheep, cattle, horses, swine, or poultry and that the person~~
3 ~~killed or injured the animal at the time of this discovery.~~

4 [~~f~~] It is a defense to prosecution under Subsection (a)(8)
5 that the actor tripped the horse for the purpose of identifying the
6 ownership of the horse or giving veterinary care to the horse.

7 (e) [~~g~~] It is a defense to prosecution for an offense
8 under this section that the actor was engaged in bona fide
9 experimentation for scientific research [~~the person had a~~
10 ~~reasonable fear of bodily injury to the person or to another by a~~
11 ~~dangerous wild animal as defined by Section 822.101, Health and~~
12 ~~Safety Code)].~~

13 (f) [~~h~~] It is an exception to the application of this
14 section that the conduct engaged in by the actor is a generally
15 accepted and otherwise lawful:

16 (1) form of conduct occurring [~~use of an animal if~~
17 ~~that use occurs]~~ solely for the purpose of or in support of:

18 (A) fishing, hunting, or trapping; or

19 (B) wildlife management, wildlife or depredation
20 control, or shooting preserve practices as regulated by state and
21 federal law; or

22 (2) animal husbandry or agriculture [~~farming~~]
23 practice involving livestock animals.

24 (g) This section does not create a civil cause of action for
25 damages or enforcement of this section.

26 [~~i) An offense under Subsection (a)(1), (5), (6), (7), or~~
27 ~~(8) is a state jail felony, except that the offense is a felony of~~

1 ~~the third degree if the person has previously been convicted two~~
2 ~~times under this section.]~~

3 SECTION 2. Chapter 42, Penal Code, is amended by adding
4 Section 42.092 to read as follows:

5 Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this
6 section:

7 (1) "Abandon" includes abandoning an animal in the
8 person's custody without making reasonable arrangements for
9 assumption of custody by another person.

10 (2) "Animal" means a domesticated living creature,
11 including any stray or feral cat or dog, and a wild living creature
12 previously captured. The term does not include an uncaptured wild
13 living creature or a livestock animal.

14 (3) "Cruel manner" includes a manner that causes or
15 permits unjustified or unwarranted pain or suffering.

16 (4) "Custody" includes responsibility for the health,
17 safety, and welfare of an animal subject to the person's care and
18 control, regardless of ownership of the animal.

19 (5) "Depredation" has the meaning assigned by Section
20 71.001, Parks and Wildlife Code.

21 (6) "Livestock animal" has the meaning assigned by
22 Section 42.09.

23 (7) "Necessary food, water, care, or shelter" includes
24 food, water, care, or shelter provided to the extent required to
25 maintain the animal in a state of good health.

26 (8) "Torture" includes any act that causes
27 unjustifiable pain or suffering.

1 (b) A person commits an offense if the person intentionally,
2 knowingly, or recklessly:

3 (1) tortures an animal or in a cruel manner kills or
4 causes serious bodily injury to an animal;

5 (2) without the owner's effective consent, kills,
6 administers poison to, or causes serious bodily injury to an
7 animal;

8 (3) fails unreasonably to provide necessary food,
9 water, care, or shelter for an animal in the person's custody;

10 (4) abandons unreasonably an animal in the person's
11 custody;

12 (5) transports or confines an animal in a cruel
13 manner;

14 (6) without the owner's effective consent, causes
15 bodily injury to an animal;

16 (7) causes one animal to fight with another animal, if
17 either animal is not a dog;

18 (8) uses a live animal as a lure in dog race training
19 or in dog coursing on a racetrack; or

20 (9) seriously overworks an animal.

21 (c) An offense under Subsection (b)(3), (4), (5), (6), or
22 (9) is a Class A misdemeanor, except that the offense is a state
23 jail felony if the person has previously been convicted two times
24 under this section, two times under Section 42.09, or one time under
25 this section and one time under Section 42.09. An offense under
26 Subsection (b)(1), (2), (7), or (8) is a state jail felony, except
27 that the offense is a felony of the third degree if the person has

1 previously been convicted two times under this section, two times
2 under Section 42.09, or one time under this section and one time
3 under Section 42.09.

4 (d) It is a defense to prosecution under this section that:

5 (1) the actor had a reasonable fear of bodily injury to
6 the actor or to another person by a dangerous wild animal as defined
7 by Section 822.101, Health and Safety Code; or

8 (2) the actor was engaged in bona fide experimentation
9 for scientific research.

10 (e) It is a defense to prosecution under Subsection (b)(2)
11 or (6) that:

12 (1) the animal was discovered on the person's property
13 in the act of or after injuring or killing the person's livestock
14 animals or damaging the person's crops and that the person killed or
15 injured the animal at the time of this discovery; or

16 (2) the person killed or injured the animal within the
17 scope of the person's employment as a public servant or in
18 furtherance of activities or operations associated with
19 electricity transmission or distribution, electricity generation
20 or operations associated with the generation of electricity, or
21 natural gas delivery.

22 (f) It is an exception to the application of this section
23 that the conduct engaged in by the actor is a generally accepted and
24 otherwise lawful:

25 (1) form of conduct occurring solely for the purpose
26 of or in support of:

27 (A) fishing, hunting, or trapping; or

1 (B) wildlife management, wildlife or depredation
2 control, or shooting preserve practices as regulated by state and
3 federal law; or

4 (2) animal husbandry or agriculture practice
5 involving livestock animals.

6 (g) This section does not create a civil cause of action for
7 damages or enforcement of the section.

8 SECTION 3. Section 54.0407, Family Code, is amended to read
9 as follows:

10 Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If
11 a child is found to have engaged in delinquent conduct constituting
12 an offense under Section 42.09 or 42.092, Penal Code, the juvenile
13 court shall order the child to participate in psychological
14 counseling for a period to be determined by the court.

15 SECTION 4. Sections 821.023(a) and (b), Health and Safety
16 Code, are amended to read as follows:

17 (a) A finding in a court of competent jurisdiction that the
18 owner of an animal is guilty of an offense under Section 42.09 or
19 42.092, Penal Code, involving the animal is prima facie evidence at
20 a hearing authorized by Section 821.022 that the animal has been
21 cruelly treated.

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

25 SECTION 5. Section 801.3585, Occupations Code, is amended
26 to read as follows:

27 Sec. 801.3585. LIABILITY FOR REPORTING ANIMAL CRUELTY;

1 IMMUNITY. A veterinarian who in good faith and in the normal course
2 of business reports to the appropriate governmental entity a
3 suspected incident of animal cruelty under Section 42.09 or 42.092,
4 Penal Code, is immune from liability in a civil or criminal action
5 brought against the veterinarian for reporting the incident.

6 SECTION 6. Section 1702.283, Occupations Code, is amended
7 to read as follows:

8 Sec. 1702.283. CRUELTY TO ANIMALS. A person who has been
9 convicted of cruelty to animals under Section 42.09 or 42.092,
10 Penal Code:

11 (1) is ineligible for a license as a guard dog company
12 or for registration as a dog trainer; and

13 (2) may not be employed to work with dogs as a security
14 officer by a security services contractor or security department of
15 a private business that uses dogs to protect individuals or
16 property or to conduct investigations.

17 SECTION 7. The change in law made by this Act applies only
18 to an offense committed on or after the effective date of this Act.
19 An offense committed before the effective date of this Act is
20 governed by the law in effect when the offense was committed, and
21 the former law is continued in effect for that purpose. For
22 purposes of this section, an offense was committed before the
23 effective date of this Act if any element of the offense was
24 committed before that date.

25 SECTION 8. This Act takes effect September 1, 2007.

David Newkurt

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 2328 was passed by the House on April 19, 2007, by the following vote: Yeas 142, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2328 on May 23, 2007, by the following vote: Yeas 145, Nays 0, 1 present, not voting.

Robert Nancy
Chief Clerk of the House

I certify that H.B. No. 2328 was passed by the Senate, with amendments, on May 21, 2007, by the following vote: Yeas 31, Nays 0.

Daisy Graw
Secretary of the Senate

APPROVED: 15 JUN 07

Date

Rick Peery

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6 PM O'CLOCK

JUN 15 2007

Roger Williams
Secretary of State