



Office of the Attorney General  
State of Texas

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February 26, 1993

Honorable Kim Brimer  
Chairman  
Committee on Business & Industry  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Letter Opinion No. 93-15

Re: The construction of a recently enacted statute which regulates the keeping of "dangerous dogs" (ID# 18042)

Dear Representative Brimer:

You have requested our opinion regarding the proper construction of a recently enacted statute which regulates the keeping of "dangerous dogs." Section 822.041 of the Health and Safety Code provides:

(2) "Dangerous dog" means a dog that:

(A) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(B) *commits unprovoked acts* in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause *a person* to reasonably believe that the dog will attack and cause bodily injury to that person. [Emphasis added.]

Specifically, you inquire whether an attack on another animal would satisfy subsection (2)(B)'s requirement of an "unprovoked attack."

The terms of subsection (2)(A) can be satisfied only by an attack on a "person." Subsection (2)(B) has no such limitation, however; it may be fulfilled by any "unprovoked act" which thereby causes "a person" to fear that the dog will attack *him* and cause *him* bodily injury. If subsection (2)(B) were restricted to "unprovoked acts" on "persons," it would be essentially duplicative of subsection (2)(A). Thus, both the plain language of subsection (2)(B) *and* our natural reluctance to attribute to the legislature the enactment of a meaningless statute demand the conclusion that the "unprovoked acts" referred to in subsection (2)(B) may include attacks on nonhumans. Accordingly, it is our opinion that a dog's attack on another animal may constitute an "unprovoked act" for purposes of section 822.041.

**S U M M A R Y**

A dog's commission of an unprovoked act against another animal may be sufficient to satisfy the definition of "dangerous dog" under section 822.041 of the Health and Safety Code so long as the attack causes "a person to reasonably believe that the dog will attack and cause bodily injury to that person."

Yours very truly,



Rick Gilpin  
Deputy Chief  
Opinion Committee