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## **States' Animal Cruelty Statutes**

**State of Texas**

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UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Animal Cruelty Statutes

### STATE OF TEXAS

*Current through the end of the 2009 Regular and First Called Sessions of the 81st Legislature*

#### **V.T.C.A., Family Code § 54.0407 Cruelty to Animals: Counseling Required**

If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09 or 42.092, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

#### **§ 42.09. Cruelty to Livestock Animals**

(a) A person commits an offense if the person intentionally or knowingly:

- (1) tortures a livestock animal;
- (2) fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;
- (3) abandons unreasonably a livestock animal in the person's custody;
- (4) transports or confines a livestock animal in a cruel and unusual manner;
- (5) administers poison to a livestock 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;
- (7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;
- (8) trips a horse; or
- (9) seriously overworks a livestock animal.

(b) In this section:

- (1) "Abandon" includes abandoning a livestock animal in the person's custody without making reasonable arrangements for assumption of custody by another person.
- (2) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(3) "Custody" includes responsibility for the health, safety, and welfare of a livestock animal subject to the person's care and control, regardless of ownership of the livestock animal.

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

(5) "Livestock animal" means:

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

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

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

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

(6) "Necessary food, water, or care" includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

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

(8) "Trip" means to use an object to cause a horse to fall or lose its balance.

(c) An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

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

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

(A) fishing, hunting, or trapping; or

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

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

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

## § 821.001. Definition

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

#### **§ 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.

#### **§ 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.

#### **§ 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.

#### **§ 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.

#### **§ 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 masters of statutory probate courts, or judges or masters of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

#### **§ 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.

#### **§ 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.

### **§ 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.

### **§ 821.025. Appeal**

(a) An owner of an animal ordered sold at public auction as provided in this subchapter 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, the owner must file an appeal bond in an amount determined by the justice or municipal court to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. The decision of the county court or county court at law may not be further appealed. An owner may not appeal an order:

- (1) to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals; or
- (2) to humanely destroy the animal.

(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.

### **§ 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.

### **§ 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.

#### **§ 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.

#### **§ 821.054. Requirements for Use of Commercially 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.

#### **§ 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.

#### **§ 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.

### **§ 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.

### **§ 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.

### **§ 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.

### **§ 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.

### **§ 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.

### **§ 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.

### **§ 821.081. Hand-held Leashes**

This subchapter does not prohibit a person from walking a dog with a hand-held leash.

### **§ 42.10. Dog Fighting**

- (a) A person commits an offense if he intentionally or knowingly:
  - (1) causes a dog to fight with another dog;
  - (2) participates in the earnings of or operates a facility used for dog fighting;

- (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;
- (4) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or
- (5) attends as a spectator an exhibition of dog fighting.

(b) In this section, "dog fighting" means any situation in which one dog attacks or fights with another dog.

(c) A conviction under Subsection (a)(2) or (3) may be had upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) An offense under Subsection (a)(4) or (5) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.