

HCS HB 1937 -- LANDOWNER LIABILITY (McGaugh)

COMMITTEE OF ORIGIN: Committee on Agri-Business

Currently, the sponsoring individuals and organizations have limited liability for injuries or death from accidents associated with equine activities. This bill expands the limited liability to a livestock sponsor, a livestock owner, a livestock facility and a livestock auction market for injuries or death from accidents associated with livestock activities.

Livestock activities include grazing, herding, feeding, branding, milking, or other activities that involve the care and maintenance of livestock; a livestock show, fair, competition, or auction; a livestock training or teaching activity; boarding livestock; and inspecting or evaluating livestock.

This bill includes trapping, paddle sports, aviation activities for personal or private use and not for a commercial event or gathering, and swimming to the activities included under the definition of "recreational use" as it applies to the provisions regarding landowners' liability for recreational use of land and specifies liability is not limited for a landowner who intentionally injures a participant, knowingly provides unsafe equipment or devices, or fails to use a degree of care that an ordinary person would use.

The bill also changes the laws regarding the confiscation of animals. In its main provisions, the bill:

- (1) Removes a public health official from the individuals authorized to seek a warrant to enter property to inspect, care for, or confiscate neglected or abused animals;
- (2) Requires a person acting under the authority of a warrant to appear at a disposition hearing before the court through which the warrant was issued within 30 days of the filing of the request, for the purpose of granting immediate disposition of the animals. An animal cannot be sterilized before the completion of the disposition hearing unless it is necessary to save life or relieve suffering;
- (3) Allows a third party approved by the court to care for confiscated animals;
- (4) Specifies that the owner of any animal that has been confiscated cannot be responsible for the animal's care and keeping prior to a disposition hearing if the owner is acquitted or there is a final discharge without conviction;

(5) Requires a reasonable bond or security to be posted within 72 hours of the disposition hearing in an amount sufficient to provide for the care of the animal and consistent with the fair market cost of boarding the animal in an appropriate retail boarding facility if the owner, custodian, or any person claiming an interest in an animal that has been confiscated because of neglect or abuse would like to prevent disposition of the animal while the case proceeds. Currently, the owner, custodian, or any person claiming an interest in an animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care for at least 30 days, inclusive of the date on which the animal was taken into custody;

(6) Specifies that all animals confiscated must receive proper care as determined by state law and regulations. Any facility or organization must be liable to the owner for damages for any negligent acts or abuse of the animal which occurs while the animal is in its care, custody, and control;

(7) Allows an owner to demand the return of the animal held in custody if he or she posted a sufficient bond and is acquitted or there is a final discharge without a conviction unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence. Any entity with care, custody, and control of the animal must immediately return it to the owner upon demand and proof of the acquittal or final discharge without conviction. The animal owner is not liable for any costs incurred relating to the placement and care of the animals while the charges were pending unless there is a settlement agreement, consent judgment, or a suspended imposition of sentence;

(8) Specifies that any person or entity that intentionally euthanizes, other than as permissible under the provisions of the bill, or intentionally sterilizes an animal prior to a disposition hearing or during any period for which a reasonable bond was secured for the animal's care will be guilty of a class B misdemeanor and is liable to the owner for damages including the actual value of the animal. Each individual animal for which a violation occurs is a separate offense. Any second or subsequent violation is a class A misdemeanor, and any entity licensed under state law will be subject to licensure sanction by its governing body; and

(9) Includes dogs confiscated by any member of the State Highway Patrol or other law enforcement officer that were involved in dog fighting to those animals covered under these provisions.