

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**FAMILY CODE  
TITLE 3. JUVENILE JUSTICE CODE  
CHAPTER 54. JUDICIAL PROCEEDINGS**

**Section 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.

Added by Acts 2001, 77th Leg., ch. 450, Sec. 2, eff. Sept. 1, 2001. Amended by Acts 2007, 80th Leg., R.S., Ch. 886, Sec. 3, eff. September 1, 2007.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**OCCUPATIONS CODE**

**TITLE 4. PROFESSIONS RELATED TO ANIMAL HEALTH**

**CHAPTER 801. VETERINARIANS**

**Section 801.3585. Liability for Reporting Animal Cruelty; Immunity.**

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

Added by Acts 2005, 79th Leg., ch. 971, Sec. 4, eff. Sept. 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 886, Sec. 5, eff. September 1, 2007.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**OCCUPATIONS CODE**

**TITLE 10. OCCUPATIONS RELATED TO LAW ENFORCEMENT AND SECURITY  
CHAPTER 1702. PRIVATE SECURITY**

**Section 1702.283. Cruelty to Animals.**

A person who has been convicted of cruelty to animals under Section 42.09 or 42.092, Penal Code:

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

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

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Acts 2007, 80th Leg., R.S., Ch. 886, Sec. 6, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 1146, Sec. 4.76, eff. September 1, 2009.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**CODE OF CRIMINAL PROCEDURE  
TITLE 1. CODE OF CRIMINAL PROCEDURE  
CHAPTER 42. JUDGMENT AND SENTENCE**

**Article 42A.511. Community Supervision for Certain Offenses Involving Animals.**

If a judge grants community supervision to a defendant convicted of an offense under Section 42.09, 42.091, 42.092, or 42.10, Penal Code, the judge may require the defendant to attend a responsible pet owner course sponsored by a municipal animal shelter, as defined by Section 823.001, Health and Safety Code, that:

- (1) receives federal, state, county, or municipal funds; and
- (2) serves the county in which the court is located.

Legislative update 2015 (HB 2299) inserted by Department of State Health Services Zoonosis Control: added Chapter 42A, Article 42A.511 and repealed Article 42.12 (bill effective 1-1-17).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**FAMILY CODE**

**TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE**

**SUBTITLE B. PROTECTIVE ORDERS**

**CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER**

**Section 85.021. Requirements of Order Applying to any Party.**

In a protective order, the court may:

(1) prohibit a party from:

(A) removing a child who is a member of the family or household from:

(i) the possession of a person named in the order; or

(ii) the jurisdiction of the court;

(B) transferring, encumbering, or otherwise disposing of property, other than in the ordinary course of business, that is mutually owned or leased by the parties; or

(C) removing a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, from the possession or actual or constructive care of a person named in the order;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence:

(A) is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;

(B) is owned or leased by the party retaining possession; or

(C) is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

(3) provide for the possession of and access to a child of a party if the person receiving possession of or access to the child is a parent of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child; or

(5) award to a party the use and possession of specified property that is community property or jointly owned or leased property.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 136 (S.B. 279), Sec. 1, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 543 (S.B. 555), Sec. 1, eff. September 1, 2013.

**Section 85.022. Requirements of Order Applying to Person Who Committed Family Violence.**

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code, that is possessed by or is in the actual or constructive care of a person protected by an order or by a member of the family or household of a person protected by an order.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997. Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 14, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1412, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 91, Sec. 8, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 23, Sec. 3, eff. Sept. 1, 2001. Amended by: Acts 2007, 80th Leg., R.S., Ch. 113 (S.B. 44), Sec. 4, eff. September 1, 2007. Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 11.21, eff. September 1, 2009. Acts 2011, 82nd Leg., R.S., Ch. 136 (S.B. 279), Sec. 2, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 543 (S.B. 555), Sec. 2, eff. September 1, 2013.

## MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL

### PENAL CODE

#### TITLE 6. OFFENSES AGAINST THE FAMILY CHAPTER 25. OFFENSES AGAINST THE FAMILY

##### **Section 25.07. Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Sexual Assault or Abuse, or Stalking Case.**

(a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, or stalking case and related to the safety of a victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order; or

(a-1) For purposes of Subsection (a)(5), possession of a pet, companion animal, or assistance animal by a person means:

(1) actual care, custody, control, or management of a pet, companion animal, or assistance animal by the person; or

(2) constructive possession of a pet, companion animal, or assistance animal owned by the person or for which the person has been the primary caregiver.

(b) For the purposes of this section:

(3) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

Acts 2011, 82nd Leg., R.S., Ch. 136 (S.B. 279), Sec. 3, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 136 (S.B. 279), Sec. 4, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 543 (S.B. 555), Sec. 3, eff. September 1, 2013.

Legislative update 2015 (HB 2645) inserted by Department of State Health Services Zoonosis Control: amended Section 25.07 (bill effective 9-1-15).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**GOVERNMENT CODE  
TITLE 2. JUDICIAL BRANCH  
SUBTITLE A. COURTS  
CHAPTER 29. MUNICIPAL COURTS**

**Section 29.003. Jurisdiction.**

(i) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

(1) all cases in which either municipality has jurisdiction under Subsection (a);  
and

(2) cases that arise under Section 821.022, Health and Safety Code, or Section 25.094, Education Code.

Acts 2011, 82nd Leg., R.S., Ch. 76, Sec. 1, eff. May 19, 2011.

**CODE OF CRIMINAL PROCEDURE  
TITLE 1. CODE OF CRIMINAL PROCEDURE  
CHAPTER 4. COURTS AND CRIMINAL JURISDICTION**

**Article 4.14. Jurisdiction of Municipal Court.**

(g) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

(1) all cases in which either municipality has jurisdiction under Subsection (a);  
and

(2) cases that arise under Section 821.022, Health and Safety Code.

Acts 2011, 82nd Leg., R.S., Ch. 76, Sec. 2, eff. May 19, 2011.

Legislative update 2015 (HB 2398) inserted by Department of State Health Services Zoonosis Control: amended Article 4.14 (bill effective 9-1-15).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**TRANSPORTATION CODE**

**CHAPTER 285. COUNTY REGULATION OF ROADSIDE VENDOR AND SOLICITOR  
IN CERTAIN COUNTIES**

**Section 285.001. Regulation of Roadside Vendor and Solicitor.**

(a) To promote the public safety, the commissioners court of a county with a population of more than 1.3 million by order may regulate the following in the unincorporated area of the county if they occur on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot:

- (1) the sale of items by a vendor of food or merchandise, including live animals;
- (2) the erection, maintenance, or placement of a structure by a vendor of food or merchandise, including live animals; and
- (3) the solicitation of money.

(b) The commissioners court of a county with a population of more than 700,000 and less than 800,000 that borders the United Mexican States by order may regulate the activities described by Subsection (a) in the manner described by that subsection, except that:

- (1) the regulation of activities on or in the right-of-way of a public highway or road is limited to public highways and roads with a speed limit of 40 miles per hour or faster; and
- (2) the county may not prohibit the sale of livestock.

(c) A county regulating vendors under Subsection (b) may require that a vendor be located not closer to the edge of the public highway or road than a distance that is equal to one-half the width of the right-of-way adjacent to the highway or road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 132, eff. Sept. 1, 2001. Amended by: Acts 2007, 80th Leg., R.S., Ch. 493 (S.B. 254), Sec. 1, eff. September 1, 2007. Acts 2013, 83rd Leg., R.S., Ch. 340 (H.B. 2094), Sec. 1, eff. June 14, 2013.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**  
**CIVIL PRACTICE AND REMEDIES CODE**  
**CHAPTER 92. LIMITATION OF LIABILITY FOR PERSON ASSISTING CERTAIN**  
**ANIMALS**

**Section 92.001. Definitions.**

In this chapter:

(1) "Animal control agency" means a municipal or county animal control office, or a state, county, or municipal law enforcement agency, that collects, impounds, or keeps stray, homeless, abandoned, or unwanted animals.

(2) "Livestock animal" means an equine animal or an animal raised primarily for use as food for human consumption or to produce fiber for human use and includes horses, cattle, sheep, swine, goats, and poultry.

(3) "Nonlivestock animal" means a service animal or an animal maintained as a pet in the home or on the property of the animal's owner and includes captured wildlife or an exotic animal maintained as a pet. The term does not include a livestock animal.

(4) "Running at large" means not under the control of the owner or handler while:

(A) on the premises of another without the consent of the owner of the premises or any other person authorized to give consent; or

(B) on a highway, a public road or street, or any other place open to the public generally.

(5) "Service animal" has the meaning assigned by the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

Added by Acts 2011, 82nd Leg., R.S., Ch. 530, Sec. 1, eff. September 1, 2011.

**Section 92.002. Limitation of Liability.**

(a) In this section, "emergency" includes:

(1) a natural disaster, including an earthquake, fire, flood, or storm;

(2) a hazardous chemical or substance incident; and

(3) a vehicular collision with an animal or other transportation accident in which an animal is injured or is otherwise in need of assistance to protect the animal's health or life.

(b) A person who in good faith and without compensation renders or obtains medical care or treatment for a nonlivestock animal that is injured or in distress because of an emergency, abandoned, running at large, or stray is not liable for civil damages for an injury to the animal resulting from an act or omission in rendering or obtaining the medical care or treatment, unless the person commits gross negligence, if:

(1) the person first takes reasonable steps to locate the animal's owner by:

(A) attempting to contact the animal's owner using the contact information located on the animal's identification tag, collar, or chip, if any, or taking other reasonable action to contact the owner; or

(B) notifying an animal control agency with authority over the area where the person resides, or an animal control agency with authority over the area where the person took custody of the animal if that area lies outside of the municipality or county where the person resides, that the animal is in the person's custody and providing the animal control agency with the person's contact information; or

(2) a veterinarian determines that the animal:

(A) needs immediate medical treatment to alleviate pain or save the animal's life; or

(B) exhibits visible signs of recent abuse as described by Section 42.092(b), Penal Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 530, Sec. 1, eff. September 1, 2011.

### **Section 92.003. Limitation of Liability for Animal Control Agencies and Certain Employees.**

An animal control agency or an employee of an animal control agency acting within the scope of the person's employment that in good faith takes into custody and cares for a nonlivestock animal that is abandoned, running at large, or stray is not liable for civil damages for an injury to the animal arising from an act or omission in caring for the animal, except in a case of gross negligence, if the animal control agency obtains custody of the animal from a person not affiliated with the animal control agency and that person certifies in writing that the person has taken reasonable steps to locate the owner as provided by Section 92.002.

Added by Acts 2011, 82nd Leg., R.S., Ch. 530, Sec. 1, eff. September 1, 2011.

### **Section 92.004. Effect on Other Law.**

(a) This chapter does not limit the application of or supersede Section 822.013, Health and Safety Code, or Section 801.358, Occupations Code.

(b) This chapter does not create any civil liability or waive any defense, immunity, or jurisdictional bar available under state law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 530, Sec. 1, eff. September 1, 2011.

## MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL

### GOVERNMENT CODE CHAPTER 418. EMERGENCY MANAGEMENT

#### SUBCHAPTER A. GENERAL PROVISIONS

##### Section 418.043. Other Powers and Duties.

The division shall:

- (1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of a disaster;
- (2) procure and position supplies, medicines, materials, and equipment;
- (3) adopt standards and requirements for local and interjurisdictional emergency management plans;
- (4) periodically review local and interjurisdictional emergency management plans;
- (5) coordinate deployment of mobile support units;
- (6) establish and operate training programs and programs of public information or assist political subdivisions and emergency management agencies to establish and operate the programs;
- (7) make surveys of public and private industries, resources, and facilities in the state that are necessary to carry out the purposes of this chapter;
- (8) plan and make arrangements for the availability and use of any private facilities, services, and property and provide for payment for use under terms and conditions agreed on if the facilities are used and payment is necessary;
- (9) establish a register of persons with types of training and skills important in disaster mitigation, preparedness, response, and recovery;
- (10) establish a register of mobile and construction equipment and temporary housing available for use in a disaster;
- (11) assist political subdivisions in developing plans for the humane evacuation, transport, and temporary sheltering of service animals and household pets in a disaster;

(12) prepare, for issuance by the governor, executive orders and regulations necessary or appropriate in coping with disasters;

(13) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster mitigation, preparation, response, and recovery;

(14) develop a plan to raise public awareness and expand the capability of the information and referral network under Section 531.0312;

(15) improve the integration of volunteer groups, including faith-based organizations, into emergency management plans;

(16) cooperate with the Federal Emergency Management Agency to create uniform guidelines for acceptable home repairs following disasters and promote public awareness of the guidelines;

(17) cooperate with state agencies to:

(A) encourage the public to participate in volunteer emergency response teams and organizations that respond to disasters; and

(B) provide information on those programs in state disaster preparedness and educational materials and on Internet websites:

(18) establish a liability awareness program for volunteers, including medical professionals;

(19) define "individuals with special needs" in the context of a disaster;

(20) establish and operate, subject to the availability of funds, a search and rescue task force in each field response region established by the division to assist in search, rescue, and recovery efforts before, during, and after a natural or man-made disaster; and

(21) do other things necessary, incidental, or appropriate for the implementation of this chapter.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 91, Sec. 11.010, eff. September 1, 2011.

#### **Section 418.004. Definitions.**

In this chapter:

(2) "Division" means the Texas Division of Emergency Management.

Legislative update 2015 (SB 1465) inserted by Department of State Health Services Zoonosis Control: amended Section 418.043 (bill effective 6-18-15).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**PENAL CODE**

**TITLE 8. OFFENSES AGAINST PUBLIC ADMINISTRATION  
CHAPTER 38. OBSTRUCTING GOVERNMENTAL OPERATION**

**Section 38.15. Interference With Public Duties.**

(a) A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with:

(1) a peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law;

(2) a person who is employed to provide emergency medical services including the transportation of ill or injured persons while the person is performing that duty;

(3) a fire fighter, while the fire fighter is fighting a fire or investigating the cause of a fire;

(4) an animal under the supervision of a peace officer, corrections officer, or jailer, if the person knows the animal is being used for law enforcement, corrections, prison or jail security, or investigative purposes;

(5) the transmission of a communication over a citizen's band radio channel, the purpose of which communication is to inform or inquire about an emergency; or

(6) an officer with responsibility for animal control in a county or municipality, while the officer is performing a duty or exercising authority imposed or granted under Chapter 821 or 822, Health and Safety Code; or

(7) a person who:

(A) has responsibility for assessing, enacting, or enforcing public health, environmental, radiation, or safety measures for the state or a county or municipality;

(B) is investigating a particular site as part of the person's responsibilities under Paragraph (A);

(C) is acting in accordance with policies and procedures related to the safety and security of the site described by Paragraph (B); and

(D) is performing a duty or exercising authority imposed or granted under the Agriculture Code, Health and Safety Code, Occupations Code, or Water Code.

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

(c) It is a defense to prosecution under Subsection (a)(1) that the conduct engaged in by the defendant was intended to warn a person operating a motor vehicle of the presence of a peace officer who was enforcing Subtitle C, Title 7, Transportation Code.

(d) It is a defense to prosecution under this section that the interruption, disruption, impediment, or interference alleged consisted of speech only.

(d-1) Except as provided by Subsection (d-2), in a prosecution for an offense under Subsection (a)(1), there is a rebuttable presumption that the actor interferes with a peace officer if it is shown on the trial of the offense that the actor intentionally disseminated the home address, home telephone number, emergency contact information, or social security number of the officer or a family member of the officer or any other information that is specifically described by Section 552.117(a), Government Code.

(d-2) The presumption in Subsection (d-1) does not apply to information disseminated by:

(1) a radio or television station that holds a license issued by the Federal Communications Commission; or

(2) a newspaper that is:

(A) a free newspaper of general circulation or qualified to publish legal notices;

(B) published at least once a week; and

(C) available and of interest to the general public.

(e) In this section, "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person transmitting the communication to be in imminent danger of serious bodily injury or in which property is or is reasonably believed by the person transmitting the communication to be in imminent danger of damage or destruction.

Added by Acts 1989, 71st Leg., ch. 1162, Sec. 1, eff. Sept. 1, 1989. Renumbered from Penal Code Sec. 38.16 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(26), eff. Sept. 6, 1990. Renumbered from Penal Code Sec. 38.18 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.241, eff. Sept. 1, 1997. Amended by: Acts 2005, 79th Leg., ch. 1212, Sec. 1, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 1251, Sec. 1, eff. September 1, 2007.

Legislative update 2015 (HB 1061) inserted by Department of State Health Services Zoonosis Control: added Sections d-1 and d-2 (bill effective 9-1-15).

## **Section 38.151. Interference With Police Service Animals.**

(a) In this section:

(1) "Area of control" includes a vehicle, trailer, kennel, pen, or yard.

(2) "Handler or rider" means a peace officer, corrections officer, or jailer who is specially trained to use a police service animal for law enforcement, corrections, prison or jail security, or investigative purposes.

(3) "Police service animal" means a dog, horse, or other domesticated animal that is specially trained for use by a handler or rider.

(b) A person commits an offense if the person recklessly:

(1) taunts, torments, or strikes a police service animal;

(2) throws an object or substance at a police service animal;

(3) interferes with or obstructs a police service animal or interferes with or obstructs the handler or rider of a police service animal in a manner that:

(A) inhibits or restricts the handler's or rider's control of the animal; or

(B) deprives the handler or rider of control of the animal;

(4) releases a police service animal from its area of control;

(5) enters the area of control of a police service animal without the effective consent of the handler or rider, including placing food or any other object or substance into that area;

(6) injures or kills a police service animal; or

(7) engages in conduct likely to injure or kill a police service animal, including administering or setting a poison, trap, or any other object or substance.

(c) An offense under this section is:

(1) a Class C misdemeanor if the person commits an offense under Subsection (b)(1);

(2) a Class B misdemeanor if the person commits an offense under Subsection (b)(2);

(3) a Class A misdemeanor if the person commits an offense under Subsection (b)(3), (4), or (5);

(4) except as provided by Subdivision (5), a state jail felony if the person commits an offense under Subsection (b)(6) or (7) by injuring a police service animal or by engaging in conduct likely to injure the animal; or

(5) a felony of the second degree if the person commits an offense under Subsection (b)(6) or (7) by:

(A) killing a police service animal or engaging in conduct likely to kill the animal;

(B) injuring a police service animal in a manner that materially and permanently affects the ability of the animal to perform as a police service animal; or

(C) engaging in conduct likely to injure a police service animal in a manner that would materially and permanently affect the ability of the animal to perform as a police service animal.

Added by Acts 2001, 77th Leg., ch. 979, Sec. 1, eff. Sept. 1, 2001. Amended by: Acts 2007, 80th Leg., R.S., Ch. 1331, Sec. 5, eff. September 1, 2007.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**HUMAN RESOURCES CODE  
TITLE 8. RIGHTS AND RESPONSIBILITIES OF  
PERSONS WITH DISABILITIES  
CHAPTER 121. PARTICIPATION IN SOCIAL AND ECONOMIC ACTIVITIES**

**Section 121.002. Definitions.**

In this chapter:

(1) "Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability.

(2) "Harass" means any conduct that:

(A) is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal's performance of its duties; or

(B) places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

(3) "Housing accommodations" means all or part of real property that is used or occupied or is intended, arranged, or designed to be used or occupied as the home, residence, or sleeping place of one or more human beings, except a single-family residence whose occupants rent, lease, or furnish for compensation only one room.

(4) "Person with a disability" means a person who has:

(A) a mental or physical disability;

(B) an intellectual or developmental disability;

(C) a hearing impairment;

(D) deafness;

(E) a speech impairment;

(F) a visual impairment;

(G) post-traumatic stress disorder; or

(H) any health impairment that requires special ambulatory devices or services.

(5) "Public facility" includes a street, highway, sidewalk, walkway, common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or any other public conveyance or mode of transportation; a hotel, motel, or other place of lodging; a public building maintained by any unit or subdivision of government; a retail business, commercial establishment, or office building to which the general public is invited; a college dormitory or other educational facility; a restaurant or other place where food is offered for sale to the public; and any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(6) "White cane" means a cane or walking stick that is metallic or white in color, or white tipped with a contrasting color, and that is carried by a blind person to assist the blind person in traveling from place to place.

Acts 1979, 66th Leg., p. 2425, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 1, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 1, eff. June 5, 1985; Acts 1995, 74th Leg., ch. 890, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 3, eff. Sept. 1, 1997. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 2, eff. January 1, 2014.

### **Section 121.003. Discrimination Prohibited.**

(a) Persons with disabilities have the same right as persons without disabilities to the full use and enjoyment of any public facility in the state.

(b) No common carrier, airplane, railroad train, motor bus, streetcar, boat, or other public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability because of the person's disability, nor may a person with a disability be required to pay an additional fare because of his or her use of a service animal, wheelchair, crutches, or other device used to assist a person with a disability in travel.

(c) No person with a disability may be denied admittance to any public facility in the state because of the person's disability. No person with a disability may be denied the use of a white cane, assistance animal, wheelchair, crutches, or other device of assistance.

(d) The discrimination prohibited by this section includes a refusal to allow a person with a disability to use or be admitted to any public facility, a ruse or subterfuge calculated to prevent or discourage a person with a disability from using or being admitted to a public facility, and a failure to:

(1) comply with Chapter 469, Government Code;

(2) make reasonable accommodations in policies, practices, and procedures; or

(3) provide auxiliary aids and services necessary to allow the full use and enjoyment of the public facility.

(e) Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their disabilities or use of assistance animals or other devices for assistance in travel, would fall within the designated class.

(f) It is the policy of the state that persons with disabilities be employed by the state, by political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as persons without disabilities, unless it is shown that there is no reasonable accommodation that would enable a person with a disability to perform the essential elements of a job.

(g) Persons with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law and applicable alike to all persons.

(h) A person with a total or partial disability who has or obtains a service animal is entitled to full and equal access to all housing accommodations provided for in this section, and may not be required to pay extra compensation or make a deposit for the animal but is liable for damages done to the premises by the animal except for reasonable wear and tear.

(i) A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

(j) A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

(k) Except as provided by Subsection (l), a person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability.

(l) If a person's disability is not readily apparent, for purposes of admittance to a public facility with a service animal, a staff member or manager of the facility may inquire about:

(1) whether the service animal is required because the person has a disability; and

(2) what type of work or task the service animal is trained to perform.

Acts 1979, 66th Leg., p. 2426, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., 1st C.S., p. 57, ch. 7, Sec. 10.03(c), eff. Sept. 23, 1983; Acts 1985, 69th Leg., ch. 278, Sec. 2, eff. June 5, 1985; Acts 1989, 71st Leg., ch. 249, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 890, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 4, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 261, Sec. 1, eff. May 22, 2001; Acts 2003, 78th Leg., ch. 710, Sec. 1, eff. Sept. 1, 2003. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 3, eff. January 1, 2014.

### **Section 121.004. Penalties for and Damages Resulting From Discrimination.**

(a) A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates a provision of Section 121.003 commits an offense. An offense under this subsection is a misdemeanor punishable by:

(1) a fine of not more than \$300; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

(b) In addition to the penalty provided in Subsection (a), a person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Section 121.003 is deemed to have deprived a person with a disability of his or her civil liberties. The person with a disability deprived of his or her civil liberties may maintain a cause of action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1995, 74th Leg., ch. 890, Sec. 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 649, Sec. 5, eff. Sept. 1, 1997. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 4, eff. January 1, 2014.

### **Section 121.005. Responsibilities of Persons With Disabilities.**

(a) A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

(b) A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3310, ch. 865, Sec. 3, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 3, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 6, eff. Sept. 1, 1997.

### **Section 121.006. Penalties for Improper Use of Assistance Animals.**

(a) A person who uses a service animal with a harness or leash of the type commonly used by persons with disabilities who use trained animals, in order to represent that his or her animal is a specially trained service animal when training has not in fact been provided, is guilty of a misdemeanor and on conviction shall be punished by:

(1) a fine of not more than \$300; and

(2) 30 hours of community service to be performed for a governmental entity or nonprofit organization that primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year.

(b) A person who habitually abuses or neglects to feed or otherwise neglects to properly care for his or her assistance animal is subject to seizure of the animal under Subchapter B, Chapter 821, Health and Safety Code.

Acts 1979, 66th Leg., p. 2427, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1981, 67th Leg., p. 3311, ch. 865, Sec. 4, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 278, Sec. 4, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 7, eff. Sept. 1, 1997. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 5, eff. January 1, 2014.

To view Chapter 121 in its entirety, access it at:  
<http://www.statutes.legis.state.tx.us/>

Legislative update 2015 (SB 219) inserted by Department of State Health Services Zoonosis Control: amended Section 121.003 (bill effective 4-2-15).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**HEALTH AND SAFETY CODE**

**TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES**

**SUBTITLE A. FOOD AND DRUG HEALTH REGULATIONS**

**CHAPTER 437. REGULATION OF FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS**

**Section 437.023. Service Animals.**

(a) A food service establishment, retail food store, or other entity regulated under this chapter may not deny a service animal admittance into an area of the establishment or store or of the physical space occupied by the entity that is open to customers and is not used to prepare food if:

(1) the service animal is accompanied and controlled by a person with a disability; or

(2) the service animal is in training and is accompanied and controlled by an approved trainer.

(b) If a service animal is accompanied by a person whose disability is not readily apparent, for purposes of admittance to a food service establishment, retail food store, or physical space occupied by another entity regulated under this chapter, a staff member of the establishment, store, or entity may only inquire about:

(1) whether the service animal is required because the person has a disability; and

(2) what type of work the service animal is trained to perform.

(c) In this section, "service animal" means a canine that is specially trained or equipped to help a person with a disability. An animal that provides only comfort or emotional support to a person is not a service animal under this section. The tasks that a service animal may perform in order to help a person with a disability must be directly related to the person's disability and may include:

(1) guiding a person who has a visual impairment;

(2) alerting a person who has a hearing impairment or who is deaf;

(3) pulling a wheelchair;

(4) alerting and protecting a person who has a seizure disorder;

and (5) reminding a person who has a mental illness to take prescribed medication;

(6) calming a person who has post-traumatic stress disorder.

Added by Acts 2013, 83rd Leg., R.S., Ch. 838 (H.B. 489), Sec. 1, eff. January 1, 2014.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**TEXAS ADMINISTRATIVE CODE  
TITLE 25 HEALTH SERVICES  
PART 1 DEPARTMENT OF STATE HEALTH SERVICES  
CHAPTER 229 FOOD AND DRUG**

**SUBCHAPTER K. TEXAS FOOD ESTABLISHMENTS**

**Section 229.167. Physical Facilities.**

(15) Prohibiting animals.

(A) Except as specified in subparagraphs (B) and (C) of this paragraph, live animals may not be allowed on the premises of a food establishment.

(B) Live animals may be allowed in the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result:

(i) edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;

(ii) patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;

(iii) in areas that are not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, or service animals in training when accompanied by an approved trainer, if a health or safety hazard will not result from the presence or activities of the service animal;

(iv) pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:

(I) effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;

(II) condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and

(III) dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and

(v) in areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles cannot result.

The provisions of this §229.167 adopted to be effective March 15, 2006, 31 TexReg 1654

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**PENAL CODE**

**TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS**

**CHAPTER 46. WEAPONS**

**Section 46.15. Nonapplicability.**

(g) The provisions of Sections 46.02 and 46.03 prohibiting the possession or carrying of a club do not apply to an animal control officer who holds a certificate issued under Section 829.006, Health and Safety Code, and who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties under the Health and Safety Code or is traveling to or from a place of duty.

Acts 2009, 81st Leg., R.S., Ch. 299, Sec. 1, eff. June 19, 2009.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**HEALTH AND SAFETY CODE**

**TITLE 6. FOOD, DRUGS, ALCOHOL, AND HAZARDOUS SUBSTANCES**

**SUBTITLE C. SUBSTANCE ABUSE REGULATION AND CRIMES**

**CHAPTER 481. TEXAS CONTROLLED SUBSTANCES ACT**

**SUBCHAPTER D. OFFENSES AND PENALTIES**

**Section 481.111. Exemptions.**

(b) The provisions of this chapter relating to the possession of denatured sodium pentobarbital do not apply to possession by personnel of a humane society or an animal control agency for the purpose of destroying injured, sick, homeless, or unwanted animals if the humane society or animal control agency is registered with the Federal Drug Enforcement Administration. The provisions of this chapter relating to the distribution of denatured sodium pentobarbital do not apply to a person registered as required by Subchapter C, who is distributing the substance for that purpose to a humane society or an animal control agency registered with the Federal Drug Enforcement Administration.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 5.03(d), eff. Sept. 1, 1989. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 170, Sec. 2, eff. September 1, 2011.

To view Chapter 481 in its entirety, access it at:  
<http://www.statutes.legis.state.tx.us/>

## MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL

### PARKS AND WILDLIFE CODE TITLE 1. GENERAL PROVISIONS CHAPTER 1. GENERAL PROVISIONS

#### Section 1.101. Definitions.

In this code:

(1) "Hunt" means capture, trap, take, or kill, or an attempt to capture, trap, take, or kill.

(2) "Catch" means take or kill and includes an attempt to take or kill.

(3) "Sell" means to transfer the ownership or the right of possession of an item to a person for consideration and includes a barter and an even exchange.

(4) "Wild," when used in reference to an animal, means a species, including each individual of a species, that normally lives in a state of nature and is not ordinarily domesticated. This definition does not include exotic livestock defined by Section 161.001(a)(4), Agriculture Code.

(5) "Take," except as otherwise provided by this code, means collect, hook, hunt, net, shoot, or snare, by any means or device, and includes an attempt to take or to pursue in order to take.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 378, ch. 153, Sec. 11, eff. Sept. 1, 1981; Acts 1991, 72nd Leg., ch. 424, Sec. 3, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1256, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 604, Sec. 4, eff. Sept. 1, 2003. Amended by: Acts 2005, 79th Leg., ch. 992, Sec. 1, eff. June 18, 2005.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**PARKS AND WILDLIFE CODE  
TITLE 5. WILDLIFE AND PLANT CONSERVATION  
CHAPTER 63. GAME AND NONGAME ANIMALS**

**SUBCHAPTER A. GAME ANIMALS**

**Section 63.001. Game Animals.**

(a) The following animals are game animals: mule deer, white-tailed deer, pronghorn antelope, desert bighorn sheep, gray or cat squirrels, fox squirrels or red squirrels, and collared peccary or javelina.

(b) No species of any animal set out in Subsection (a) of this section or any other animal is a game animal if it is not indigenous to this state.

(c), (d) Repealed by Acts 1997, 75th Leg., ch. 863, Sec. 8, eff. Sept. 1, 1997.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 1860, ch. 439, Sec. 6, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 35, Sec. 1, eff. Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1256, Sec. 8, eff. Sept. 1, 1997.

**Section 63.002. Possession of Live Game Animals.**

No person may possess a live game animal in this state for any purpose not authorized by this code.

Added by Acts 1997, 75th Leg., ch. 1256, Sec. 91, eff. Sept. 1, 1997.

**SUBCHAPTER B. NONGAME ANIMALS**

**Section 63.101. Protection of Bats.**

(a) Except as provided by Subsections (b) and (c), no person may:

(1) hunt a bat; or

(2) sell, offer for sale, purchase, offer to purchase, or possess after purchase a bat or any part of a bat, dead or alive.

(b) A bat may be removed or hunted if the bat is inside or on a building occupied by people.

(c) This section does not apply to:

(1) an animal control officer, a peace officer, or a health official who captures a bat that the officer or official considers injured or diseased;

(2) a person who transports a bat for the purpose of laboratory testing if the bat has exposed or potentially exposed humans or domestic animals to rabies; or

(3) a person who is licensed to provide pest control services.

Added by Acts 2001, 77th Leg., ch. 363, Sec. 1, eff. Sept. 1, 2001.

### **Section 63.102. Wolves.**

(a) No person may possess, transport, receive, or release a live wolf in this state.

(b) Subsection (a) does not apply to the transportation of a wolf by a state or county official while performing an official duty or to the possession or transportation of a wolf by the owner or agent of a licensed circus, zoo, or menagerie for exhibition or scientific purposes.

(c) Repealed by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 110, eff. Sept. 1, 1985.

Acts 1975, 64th Leg., p. 1405, ch. 545, Sec. 1, eff. Sept. 1, 1975. Amended by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 110, eff. Sept. 1, 1985.

### **Section 63.103. Sale of Certain Live Animals.**

(a) No person may sell or possess for the purpose of sale in this state a living armadillo.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo;

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code; or

(3) the sale to a commercial dealer who in turn resells for purposes authorized in Subdivisions (1) and (2) of this subsection.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if

the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) A person who violates Subsection (a) of this section, in addition to the penalties under Section 63.104 of this code, on conviction shall pay all costs and expenses incurred under Subsection (d) of this section.

Added by Acts 1979, 66th Leg., p. 386, ch. 177, Sec. 1, eff. Aug. 27, 1979. Amended by Acts 1981, 67th Leg., p. 2741, ch. 748, Sec. 5, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 51, eff. Sept. 1, 1985.

### **Section 63.104. Penalties.**

(a) A person who violates Section 63.102 of this code commits an offense that is a Parks and Wildlife Code felony.

(b) A person who violates Section 63.103 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) A person who violates Section 63.002 or 63.101 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Added by Acts 1985, 69th Leg., ch. 267, art. 3, Sec. 52, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 354, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 363, Sec. 2, eff. Sept. 1, 2001.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**TEXAS ADMINISTRATIVE CODE  
TITLE 31. NATURAL RESOURCES AND CONSERVATION  
PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT  
CHAPTER 65. WILDLIFE**

**SUBCHAPTER Q. STATEWIDE FUR-BEARING ANIMAL PROCLAMATION**

**§65.371 Application.**

This subchapter applies to fur-bearing animals statewide, except as otherwise specifically provided for in Parks and Wildlife Code.

The provisions of this §65.371 adopted to be effective September 16, 1996, 21 TexReg 8520

**§65.372 Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. All other words and terms shall have the meanings assigned in Subchapter A of this chapter (relating to Statewide Hunting and Fishing Proclamation) or Parks and Wildlife Code, Chapter 71.

(1) Consumer--A person who purchases non-living fur-bearing animals or products made from fur-bearing animals for personal use or consumption and who does not sell, resell, trade, or barter the non-living fur-bearing animals or products made from fur-bearing animals in exchange for anything of value.

(2) Export--The transport of a fur-bearing animal across the boundaries of this state.

(3) Nuisance fur-bearing animal--A fur-bearing animal that is depredating or a threat to human health or safety.

The provisions of this §65.372 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective October 21, 2003, 28 TexReg 9084; amended to be effective September 19, 2004, 29 TexReg 8830

**§65.374 General Rules.**

(a) No person may take fur-bearing animals on public roads and highways or their rights-of-way.

(b) Except for otters taken under the provisions of §65.381 of this title (relating to Nuisance Fur-bearing Animals), all otters taken in this state shall be permanently tagged with a department-issued federal CITES (Convention on the International Trade in Endangered Species) tag, valid for the year in which the otter was taken, within 90 days of take.

(c) All otter pelts imported into this state must be accompanied by evidence of lawful take or possession.

(d) CITES tags shall be issued only to:

(1) licensed wholesale fur dealers; and

(2) individuals who present an otter for tagging at a department office.

The provisions of this §65.374 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective June 30, 2002, 27 TexReg 5523; amended to be effective October 21, 2003, 28 TexReg 9084

### **§65.375 Open Seasons; Means and Methods.**

(a) Recreational harvest.

(1) The open season for the recreational harvest of fur-bearing animals is September 1 of one year to August 31 of the following year.

(2) There are no bag or possession limits for fur-bearing animals taken during the open season for recreational harvest.

(b) Commercial harvest.

(1) Except as provided in this subsection, the open season for the commercial harvest of fur-bearing animals is November 1 of one year through March 31 of the following year.

(2) The commercial season for nutria is September 1 through August 31 of the following year.

(3) The commercial season for beaver is October 1 of one year through May 31 of the following year.

(4) There are no bag or possession limits during the commercial season.

(c) Means and methods.

(1) Only the following means and methods are legal for taking fur-bearing animals:

(A) firearms;

(B) steel foothold and body-gripping traps;

(C) falconry;

- (D) live or box trap;
- (E) dogs;
- (F) snare;
- (G) lawful archery equipment;
- (H) electronic or hand-held calls; and
- (I) artificial light.

(2) Exceptions. No person may:

(A) take fur-bearing animals with foothold or body-gripping traps, except during the open season for commercial harvest or as provided in §65.381 of this title (relating to Nuisance Fur-bearing Animals);

(B) set foothold or body-gripping traps within 400 yards of any school;

(C) use smoke, explosives or chemical irritants of any kind to harry or flush fur-bearing animals;

(D) use a body-gripping trap with a diagonal opening dimension greater than ten inches set on land or in less than six inches of water;

(E) use snares, steel foothold traps, body-gripping traps, and live or box traps unless each trap is examined at least every 36 hours; or

(F) fail to remove animals from taking devices upon discovery.

The provisions of this §65.375 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective September 19, 2004, 29 TexReg 8830; amended to be effective April 22, 2008, 33 TexReg 3299; amended to be effective June 12, 2013, 38 TexReg 3651

### **§65.376 Possession of Live Fur-bearing Animals.**

(a) No person other than the holder of a fur-bearing animal propagation license may possess a live fur-bearing animal at any time, except as otherwise provided in this chapter.

(b) A propagation license may be issued following an initial facility inspection by the department. Additional inspections may be made at department discretion.

(c) The holder of a fur-bearing animal propagation license shall provide the following for each animal in possession:

- (1) a sufficient supply of fresh water at all times;

(2) shelter from heat and inclement weather; and

(3) an enclosure of at least 20 inches in height and eight square feet in area.

Enclosures shall be cleaned daily. A fur-bearing animal may be confined in an enclosure of no less than 20 inches in height and four square feet in area on a temporary basis for transportation purposes. For the purposes of this subsection, temporary basis means no more than 12 hours in any 24-hour period.

(d) Offspring of fur-bearing animals held under a propagation permit may be kept with their parents or siblings for up to 120 days from birth in an enclosure meeting the height and area requirements for a single animal.

(e) Live fur-bearing animals may be taken and possessed for three days or less for instructional or demonstration purposes pursuant to a letter of authorization from the wildlife division.

(f) No person shall take a fur-bearing animal from the wild under a propagation permit except during the season provided for commercial harvest in §65.375(b) of this title (relating to Open Seasons; Means and Methods).

The provisions of this §65.376 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective October 21, 2003, 28 TexReg 9084

### **§65.377 Sale or Purchase of Fur-bearing Animals.**

(a) Sale of fur-bearing animals, their carcasses and pelts, and finished products.

(1) No person other than a licensed fur-bearing animal propagator may sell a live fur-bearing animal.

(2) No person other than a licensed trapper or wholesale fur dealer may sell the carcass or pelt of a fur-bearing animal.

(3) Finished products may be sold by anyone.

(4) A trapper may possess and sell the carcass or pelt of a fur-bearing animal lawfully taken during an open commercial trapping season at any time.

(5) A trapper may sell the carcass or pelt of a fur-bearing animal only to a wholesale fur dealer or purchaser outside of Texas.

(b) Purchase of fur-bearing animals, their carcasses and pelts, and finished products.

(1) Except as provided in §65.378 (c) of this title (relating to Importation, Exportation, and Release of Fur-bearing Animals), no person other than a licensed fur-bearing animal propagator or a person holding a permit issued under Parks and Wildlife Code, Chapter 43, Subchapter C, may purchase a live fur-bearing animal.

(2) No person other than a licensed wholesale fur dealer or a consumer may purchase the carcass or pelt of a fur-bearing animal. A consumer must maintain proof of purchase until the pelt becomes a finished product or the carcass is cleaned for cooking or storage at the consumer's permanent residence.

(3) A wholesale fur dealer may purchase the carcass or pelt of a fur-bearing animal lawfully taken during an open commercial trapping season at any time.

(4) Finished products may be purchased by anyone.

(c) A person who sells fur-bearing animals prepared for immediate consumption may purchase the carcass of a fur-bearing animal only from a wholesale dealer.

The provisions of this §65.377 adopted to be effective December 21, 2003, 28 TexReg 11338; amended to be effective September 19, 2004, 29 TexReg 8830

### **§65.378 Importation, Exportation, and Release of Fur-bearing Animals.**

(a) No person may import live fur-bearing animals into this state from another state or country unless:

(1) a permit has been issued by the department for such importation and a copy of the completed permit accompanies any live fur-bearing animal being imported or is attached to any container used to import live fur-bearing animals;

(2) the imported animals are accompanied by a health certificate signed by a veterinarian accredited in the state of origin; and

(3) if the imported animals are foxes, raccoons, or skunks, a signed letter of authorization issued by the Texas Department of Health.

(b) Imported live fur-bearing animals and live fur-bearing animals previously held in captivity may not be released into the wild without a letter of authorization from the wildlife division and the owner of the property where the release occurs. Animals released under provision of this subsection must be accounted for in a report filed with the department on or before the tenth day of the month following the month of release. The report shall list the species, number captured and released, date and location of capture, date and location of release, and name and address of person authorized to release.

(c) No person shall sell or export live fur-bearing animals outside this state without possessing a letter of authorization from the wildlife division. A request for authorization shall include written documentation verifying that the recipient of the live animals is in compliance with applicable regulations in the destination state. A copy of the completed authorization shall accompany the animals at all times during shipment or be attached to the shipping container used to export the animals.

The provisions of this §65.378 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective October 21, 2003, 28 TexReg 9084

### **§65.379 Reporting Requirements.**

(a) Any person licensed as a wholesale fur dealer:

(1) must complete and file an appropriate annual report with the department by May 31 of each year;

(2) return all unused CITES tags to the department by May 31 of each year; and

(3) may not be in possession of unused CITES tags between May 31 and October 1 of any year.

(b) A person licensed as a trapper must complete and submit an annual report accounting for all sales of fur-bearing animals to purchasers outside of Texas.

(c) Any person licensed as a fur-bearing animal propagator must complete and file an appropriate annual report with the department by August 31 of each year.

(d) The department reserves the right to refuse permit issuance to any person not in compliance with this section.

(e) All records required by this section shall be retained and kept available for inspection upon request of a department employee acting within the official scope of duty for a period of two years following the period of validity of the permit under which they are required to be kept.

The provisions of this §65.379 adopted to be effective September 16, 1996, 21 TexReg 8520; amended to be effective October 21, 2003, 28 TexReg 9084; amended to be effective September 19, 2004, 29 TexReg 8830

### **§65.381 Nuisance Fur-bearing Animals.**

(a) Nuisance fur-bearing animals may be taken in any number by any means at any time.

(b) The provisions of 25 TAC Chapter 169, Subchapter A (relating to Rabies Control and Eradication) apply as necessary to fur-bearing animals.

(c) The provisions of §65.378(b) also apply to persons in possession of nuisance fur-bearing animals.

(d) Nuisance fur-bearing animals may not be possessed or sold by anyone.

The provisions of this §65.381 adopted to be effective October 21, 2003, 28 TexReg 9084

### **§65.383 Taxidermy.**

Nothing in this subchapter shall prohibit a taxidermist from possessing for taxidermy purposes a fur-bearing animal lawfully taken or possessed under this subchapter, provided the animal is accompanied by a wildlife resource document as prescribed by Subchapter A of this

chapter (relating to Statewide Hunting and Fishing Proclamation), or, if the fur-bearing animal was taken outside of Texas, evidence of legal take, purchase, or possession from the state or country where the fur-bearing animal was taken.

The provisions of this §65.383 adopted to be effective October 21, 2003, 28 TexReg 9084

**§65.385 Penalty.**

The penalties for a violation of this subchapter are prescribed by Texas Parks and Wildlife Code, Chapter 71.

The provisions of this §65.385 adopted to be effective October 21, 2003, 28 TexReg 9084

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**PARKS AND WILDLIFE CODE  
TITLE 5. WILDLIFE AND PLANT CONSERVATION  
CHAPTER 43. SPECIAL LICENSES AND PERMITS**

**SUBCHAPTER V. NONINDIGENOUS SNAKE PERMIT**

**Section 43.851. Permit.**

(a) The commission by rule shall establish permits that allow permit holders to possess or transport in this state a live nonindigenous:

- (1) venomous snake; or
- (2) constrictor that is one of the following:
  - (A) African rock python, *Python sebae*;
  - (B) Asiatic rock python, *Python molurus*;
  - (C) green anaconda, *Eunectes murinus*;
  - (D) reticulated python, *Python reticulatus*; or
  - (E) southern African python, *Python natalensis*.

(b) The commission shall establish separate permits for recreational and commercial purposes.

(c) A permit under this subchapter is not required for:

- (1) a state or county official performing an official duty;
- (2) a licensed zoo that possesses or transports a snake for exhibition or scientific purposes;
- (3) a research facility, including a university, licensed under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) that possesses or transports a snake for scientific purposes; or
- (4) a person who assists a department employee in the handling or transport of a snake under this subchapter.

(d) Except as provided by Subsection (c), a person may not possess or transport in this state a snake described by Subsection (a) without a permit issued by the department under this subchapter.

(e) A person convicted of a violation of this subchapter or a rule adopted under this subchapter may not obtain a permit before the fifth anniversary of the date of the conviction.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. September 1, 2007.

### **Section 43.852. Inspection of Permit and Records.**

An authorized department employee may inspect at any time and without a warrant a permit or any records required by this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. September 1, 2007.

### **Section 43.853. Release from Captivity.**

A person may not intentionally, knowingly, recklessly, or with criminal negligence release or allow the release from captivity of a snake covered by this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. September 1, 2007.

### **Section 43.854. Seizure of Contraband; Financial Responsibility.**

(a) The department may arrange for the seizure and removal of a snake covered by this subchapter from a person who possesses the snake without the required permit. The person is responsible for any costs incurred by the department in the seizure, removal, and disposition of the snake.

(b) A department employee is not required to handle, remove, or dispose of the snake.

(c) The department may contract with a person who has knowledge of or expertise in the handling of a snake covered by this subchapter to assist the department in the handling, removal, and disposition of the snake.

(d) The department, including an enforcement officer of the department, who acts under this section is not liable in a civil action for the seizure, sale, donation, or other disposition of the snake.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. September 1, 2007.

### **Section 43.855. Rules.**

The commission may adopt rules to implement this subchapter, including rules to govern:

(1) the possession or transport of a snake covered by this subchapter;

- (2) permit application forms, fees, and procedures;
- (3) the release of the snake;
- (4) reports that the department may require a permit holder to submit to the department; and
- (5) other matters the commission considers necessary.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. September 1, 2007.

**Section 43.856. Offense.**

(a) Except as provided by Subsection (c), a person who violates this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 43.853 or a rule adopted to implement Section 43.853 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1159, Sec. 41, eff. April 1, 2008.

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**  
**HEALTH AND SAFETY CODE**  
**SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES**  
**CHAPTER 81. COMMUNICABLE DISEASES**

**SUBCHAPTER I. ANIMAL-BORNE DISEASES**

**Section 81.351. Definition.**

In this subchapter, "pet store" means a retail store that sells animals as pets.

Added by Acts 2001, 77th Leg., ch. 1228, Sec. 1, eff. Sept. 1, 2001.

**Section 81.352. Warning Sign Required; Rules.**

(a) The owner or operator of a pet store that sells reptiles shall:

(1) post a sign warning of reptile-associated salmonellosis in accordance with department rules; and

(2) ensure that a written warning related to reptile-associated salmonellosis is provided to each purchaser of a reptile.

(b) The executive commissioner shall adopt rules to govern:

(1) the form and content of the sign required by Subsection (a) and the manner and place of posting of the sign; and

(2) the form and content of the written warning required by Subsection (a).

Added by Acts 2001, 77th Leg., ch. 1228, Sec. 1, eff. Sept. 1, 2001.

**Section 81.353. Administrative Penalty.**

(a) The department may assess an administrative penalty if a person violates this subchapter or a rule adopted under this subchapter.

(b) In determining the amount of the penalty, the department shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation;

(3) any hazard to the health and safety of the public;

(4) the person's demonstrated good faith; and

(5) such other matters as justice may require.

(c) The penalty may not exceed \$500 for each month a violation continues.

(d) The enforcement of the penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the department to contest the affidavit as provided by those rules.

(e) The attorney general may sue to collect the penalty.

(f) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1228, Sec. 1, eff. Sept. 1, 2001.

Legislative update 2015 (SB 219) inserted by Department of State Health Services Zoonosis Control: amended Sections 81.352-353 (bill effective 4-2-15).

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**TEXAS ADMINISTRATIVE CODE  
TITLE 25. HEALTH SERVICES  
PART 1. DEPARTMENT OF STATE HEALTH SERVICES  
CHAPTER 169. ZONOSIS CONTROL**

**SUBCHAPTER F. REPTILE-ASSOCIATED SALMONELLOSIS**

**§169.121. Reptile-Associated Salmonellosis.**

(a) The Texas Health and Safety Code, §81.352, requires retail stores that sell reptiles to post warning signs and distribute written warnings regarding reptile-associated salmonellosis to purchasers in accordance with the form and content designated by the Department of State Health Services.

(b) The warning signs must meet the following guidelines.

(1) The sign must be a minimum of 8.5 x 11 inches with fonts that are clearly visible and readily draw attention to the notice.

(2) The signs must be prominently displayed at each location where reptiles are displayed, housed, or held.

(3) At a minimum, the contents of the sign must include the following recommendations for preventing transmission of *Salmonella* from reptiles to humans.

(A) Persons should always wash their hands thoroughly with soap and running water after handling reptiles or reptile cages or after contact with reptile feces or the water from reptile containers or aquariums. Wash your hands before you touch your mouth.

(B) Persons at increased risk for infection or serious complications of salmonellosis, such as children younger than 5 years of age, the elderly, and persons whose immune systems have been weakened by pregnancy, disease (for example, cancer), or certain medical treatments (for example, chemotherapy), should avoid contact with reptiles and any items that have been in contact with reptiles.

(C) Reptiles should be kept out of households or facilities that include children younger than 5 years of age, the elderly, or persons whose immune systems have been weakened by pregnancy, disease (for example, cancer), or certain medical treatments (for example, chemotherapy). Families expecting a new child should remove any reptile from the home before the infant arrives.

(D) Reptiles should not be allowed to roam freely throughout the home or living area. Wash and disinfect surfaces that the reptile or its cage has contacted.

(E) Reptiles should be kept out of kitchens and other areas where food or drink is prepared or consumed. Kitchen sinks should not be used to bathe reptiles or to wash their dishes, cages, or aquariums. If bathtubs are used for these purposes, they should be cleaned thoroughly and disinfected with bleach. Wear disposable gloves when washing the dishes, cages, or aquariums.

(4) The sign must also contain a statement that reptiles carry *Salmonella* bacteria, which can make people sick, but reptiles may not appear to be sick.

(c) The written warnings, such as fliers or pamphlets, must contain the same information and statements as required for the signs. The written warnings must also contain a statement that purchasers of reptiles can contact their local health department for questions pertaining to *Salmonella*.

The provisions of this §169.121 adopted to be effective March 14, 2002, 27 TexReg 1797; amended to be effective September 14, 2006, 31 TexReg 7352; amended to be effective February 10, 2011, 36 TexReg 549

**MISCELLANEOUS LAWS RELATING TO ANIMAL CONTROL**

**AGRICULTURE CODE**

**TITLE 6. PRODUCTION, PROCESSING, AND SALE OF ANIMAL PRODUCTS  
CHAPTER 142. ESTRAYS**

**Section 142.001. Definitions.**

In this chapter:

(1) "Estray" means stray livestock, stray exotic livestock, stray bison, or stray exotic fowl.

(2) "Perilous condition" means a circumstance or condition in which capture and impoundment of an estray presents an immediate threat to law enforcement personnel or to the health of the estray.

(3) "Person" does not include the government or a governmental agency or subdivision.

(4) "Exotic livestock" means grass-eating or plant-eating, single-hooved or cloven-hooved mammals that are not indigenous to this state and are known as ungulates, including animals from the swine, horse, tapir, rhinoceros, elephant, deer, and antelope families but not including a mammal defined by Section 63.001, Parks and Wildlife Code, as a game animal, or by Section 71.001, Parks and Wildlife Code, as a fur-bearing animal, or any other indigenous mammal regulated by the Parks and Wildlife Department as an endangered or threatened species. The term does not include a nonindigenous mammal located on publicly owned land.

(5) "Exotic fowl" means any avian species that is not indigenous to this state. The term includes ratites but does not include a bird defined by Section 64.001, Parks and Wildlife Code, as a game bird or any other indigenous bird regulated by the Parks and Wildlife Department as an endangered or threatened species. The term does not include nonindigenous birds located on publicly owned land.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 203, Sec. 1, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 604, Sec. 5, eff. Sept. 1, 2003. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 15 (S.B. 174), Sec. 1, eff. May 10, 2013.

**Section 142.002. Rights of Occupant Other Than Owner.**

A person has the rights of an owner of property under this chapter if he is a part owner, a lessee, an occupant, or a caretaker of land or premises, but an owner and an occupant of the same property may not recover for the same damage.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987.

### **Section 142.0021. Ownership of Exotic Wildlife and Fowl.**

A person may claim to be the owner of exotic livestock or exotic fowl under this chapter only if the animal is tagged, branded, banded, or marked in another conspicuous manner that can be read or identified from a long distance and that identifies the animal as being the property of the claimant.

Added by Acts 1993, 73rd Leg., ch. 203, Sec. 2, eff. Sept. 1, 1993.

### **Section 142.003. Discovery of Estray; Notice.**

(a) If an estray, without being herded with other livestock, roams about the property of a person without that person's permission or roams about public property, the owner of the private property or the custodian of the public property, as applicable, shall, as soon as reasonably possible, report the presence of the estray to the sheriff of the county in which the estray is discovered.

(b) After receiving a report under Subsection (a) of this section that an estray has been discovered on private property, the sheriff or the sheriff's designee shall notify the owner, if known, that the estray's location has been reported.

(c) After receiving a report under Subsection (a) that an estray has been discovered on public property, the sheriff or the sheriff's designee shall notify the owner, if known, that the estray's location has been reported, except that if the sheriff or the sheriff's designee determines that the estray is dangerous to the public, the sheriff or the sheriff's designee may immediately impound the estray without notifying the owner.

(d) If the owner does not immediately remove the estray:

(1) the sheriff or the sheriff's designee may proceed with the impoundment process prescribed by Section 142.009; or

(2) if a perilous condition exists, the sheriff or the sheriff's designee may proceed with disposition of the estray under Section 142.015.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2013, 83rd Leg., R.S., Ch. 15 (S.B. 174), Sec. 2, eff. May 10, 2013.

### **Section 142.004. Redemption.**

(a) The owner of the estray may redeem the estray from the owner or occupant of public or private property if:

(1) the owner of the estray and the owner or occupant of the property agree to a redemption payment amount and the owner or occupant of the property receives the redemption payment from the owner of the estray; or

(2) a justice court having jurisdiction determines the redemption payment amount and gives the owner of the estray written authority to redeem the estray under Section 142.006.

(b) If the owner of the estray does not redeem the estray not later than the fifth day after the date of notification, the sheriff or the sheriff's designee shall proceed immediately with the impoundment process prescribed by Section 142.009 unless the sheriff or the sheriff's designee determines that the owner of the estray is making a good faith effort to comply with Subsection (a). During the impoundment process period, the estray may not be used for any purpose by the owner or occupant of the property.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 1, eff. September 1, 2011.

### **Section 142.005. Collection Fee.**

(a) If the sheriff or the sheriff's designee is present at the time of the collection of the estray, the sheriff or the sheriff's designee may require the owner of the estray to pay before the estray is removed a collection fee in an amount set by the sheriff not to exceed \$25.

(b) A person who disagrees with the amount of the fee set by the sheriff under Subsection (a) of this section may petition the justice court in the manner provided by Section 142.007 of this code and may appeal the justice court decision as provided by Section 142.008 of this code.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987.

### **Section 142.006. Amount of Redemption Payment.**

(a) The owner or occupant of property on which an estray is found, held, or impounded is entitled to receive from the owner of the estray the payment of a reasonable amount for maintenance and damages, if the original notice of the discovery of the estray was given to the sheriff not later than the fifth day after the date of discovery.

(b) The owner or occupant of the property may accept payment in an agreed amount from the owner of the estray.

(b-1) If the owner of the estray and the owner or occupant of the property are unable to agree to a redemption payment, either party may file a petition under Section 142.007 in the justice court having jurisdiction and have the amount of the payment determined by the justice of the peace. The justice of the peace shall determine the redemption payment amount and give the owner of the estray written authority to redeem the estray on payment of that amount to the owner or occupant of the property.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 7, eff. September 1, 2011.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 2, eff. September 1, 2011. Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 7, eff. September 1, 2011.

### **Section 142.007. Justice Court Petition.**

A petition seeking a justice court determination of the amount of a redemption payment or the amount of a collection fee must contain the following information:

- (1) the name of the owner of the estray;
- (2) a description of the estray;
- (3) the number of days the estray was trespassing;
- (4) the name of the owner or occupant of the property;
- (5) the purpose for which the land on which the trespass occurred is used; and
- (6) a statement that the estray owner and the owner or occupant of the property are unable to agree on the amount of the payment.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 3, eff. September 1, 2011.

### **Section 142.008. Appeal of Court Award.**

(a) If either the owner of the estray or the owner or occupant of the public or private property disagrees with a justice's assessment of the payment amount under Section 142.005 (b) or 142.006 (b-1), the amount in question shall be finally determined according to the procedure prescribed by this section.

(b) The complainant begins the appeal by filing a petition that gives the information listed in Section 142.007 of this code.

(c) The justice of the peace shall appoint three disinterested persons familiar with livestock and agriculture who reside in the county as special commissioners to determine the amount owed, if any, to the owner of the property or the sheriff, taking into account the time of the notice of discovery given by the property owner.

(d) At the request of the special commissioners for their proceedings, the justice of the peace may compel the attendance of witnesses and the production of testimony, administer oaths, and punish for contempt. The commissioners' decision as to the amount of any payment is final.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 4, eff. September 1, 2011.

### **Section 142.009. Impoundment of Estray.**

(a) The sheriff or the sheriff's designee shall impound an estray and hold it for disposition as provided by this chapter if:

- (1) the owner of the estray is unknown;
- (2) the sheriff or the sheriff's designee is unable to notify the owner;
- (3) the estray is dangerous to the public;
- (4) the estray is located on public property and after notification is not immediately removed by the owner; or
- (5) the estray is located on public or private property and is not redeemed not later than the fifth day after the date of notification, unless the sheriff or the sheriff's designee determines that the owner of the estray is making a good faith effort to comply with Section 142.004 (a).

(b) After impounding an estray, the sheriff or sheriff's designee shall prepare a notice of estray stating at least:

- (1) the name and address of the person who reported the estray to the sheriff;
- (2) the location of the estray when found;
- (3) the location of the estray until disposition; and
- (4) a description of the animal, including its breed, if known, color, sex, age, size, markings of any kind, including ear markings and brands, and other identifying characteristics.

(c) The sheriff or sheriff's designee shall file each notice of estray in the estray records in the office of the county clerk.

(d) If the owner of the estray is unknown, the sheriff or the sheriff's designee shall make a diligent search for the identity of the owner of the estray, including a search in the county register of recorded brands, if the animal has an identifiable brand. If the search does not reveal the owner, the sheriff shall post a notice of the impoundment of the estray on the public notice board of the courthouse and advertise the impoundment of the estray:

- (1) in a newspaper of general circulation in the county at least twice during the 15 days after the date of impoundment; or
- (2) on the county's Internet website for at least 15 days after the date of impoundment.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2009, 81st Leg., R.S., Ch. 75, Sec. 1, eff. May 20, 2009. Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 5, eff. September 1, 2011.

**Section 142.010. Recovery of Impounded Estray by Owner.**

(a) The owner of an estray may recover possession of the estray at any time before the estray is sold under this chapter if:

(1) the owner has provided the sheriff or the sheriff's designee with an affidavit of ownership under this section;

(2) the sheriff or the sheriff's designee has approved the affidavit of ownership;

(3) the approved affidavit of ownership has been filed in the estray records of the county clerk;

(4) the owner has paid all estray handling expenses under this section;

(5) the owner has executed an affidavit of receipt of estray under this section and delivered it to the sheriff; and

(6) the sheriff has filed the affidavit of receipt of estray in the estray records of the county clerk.

(b) An affidavit of ownership must contain at least the following information:

(1) the name and address of the owner;

(2) the date the owner discovered that the animal was an estray;

(3) the property from which the animal strayed;

(4) a description of the animal, including its breed, color, sex, age, size, markings of any kind, including ear markings and brands, and other identifying characteristics; and

(5) a sworn statement that the affiant is the owner or caretaker of the animal.

(c) The owner of the estray shall pay the expenses incurred by a person or by a sheriff, sheriff's designee, or the county in impounding, handling, seeking the owner of, or selling the estray. The sheriff is also entitled to a collection fee as provided by Section 142.005 of this code. The total amount of the payment is determined by the sheriff.

(d) A person who disagrees with the amount of the payment set by the sheriff in Subsection (c) of this section may petition the justice court in the manner provided by Section 142.007 of this code and may appeal the justice court decision as provided by Section 142.008 of this code.

(e) An affidavit of receipt of estray must contain at least the following information:

- (1) the name and address of the person receiving the estray;
- (2) the date of receipt of the estray;
- (3) the method of claim to the estray, either previous owner or purchaser at sale;
- (4) if purchased at sale, the amount of the gross purchase price of the estray;
- (5) the estray handling expenses paid; and
- (6) the net proceeds of any sale of the estray.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987.

**Section 142.011. Use of Estray.**

During the period an estray is held by the sheriff, the estray may not be used for any purpose.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987.

**Section 142.012. Escape or Death of Impounded Estray.**

If the animal dies or escapes while impounded, the sheriff shall make a written report of the death or escape and file the report with the county clerk for placement in the county estray records.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987.

**Section 142.013. Disposition or Sale of Impounded Estrays.**

(a) If the ownership of an estray is not determined before the third day after the date of the final advertisement under this chapter or if the estray is not redeemed before the 18th day after the date of impoundment, the county has title to the estray and the sheriff shall, except as provided by Subsection (e), cause the estray to be sold at a sheriff's sale or public auction licensed by the United States Department of Agriculture. Title to the estray is considered vested in the sheriff or the sheriff's designee for purposes of passing good title, free and clear of all claims, to the purchaser at the sale or for the purposes of Subsection (e).

(b) The sheriff shall receive the proceeds of the sale and shall allocate those proceeds in the following order of priority:

- (1) payment of the expenses of sale;
- (2) payment of the impoundment fee and other charges due the sheriff; and

(3) if applicable, payment of any amount for maintenance and damages due the owners of the private property from which the estray was impounded.

(c) The sheriff shall execute a report of sale of impounded livestock and file the report in the estray records of the county clerk.

(d) If there are sale proceeds remaining from the sale of an impounded estray after all expenses have been paid, the sheriff shall pay the balance to the owner, if known. If the owner is still unknown, the sheriff shall pay the balance to the county official charged with collecting and disbursing county funds, who shall deposit any payment received to the credit of the jury fund of the county for the uses made of that fund, subject to claim by the original owner of the estray.

(e) If a sheriff determines that the sale of an estray under this section is unlikely to generate sufficient proceeds to cover the expense of the sale, the sheriff may, instead of selling the estray:

(1) donate the estray to a nonprofit organization; or

(2) retain the estray and use it for county purposes.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 1329, Sec. 1, 2, eff. Sept. 1, 1999.

#### **Section 142.014. Recovery by Owner of Proceeds of Sale.**

Not later than the 180<sup>th</sup> day after the date of sale of an estray under this chapter, the original owner of the estray may recover the net proceeds of the sale if:

(1) the owner has provided the sheriff with an affidavit of ownership containing the information prescribed by Section 142.010 (b);

(2) the sheriff has approved the affidavit;

(3) the approved affidavit has been filed in the estray records of the county clerk;

and

(4) the sheriff has signed a county voucher directing the payment.

Amended by Acts 1987, 70th Leg., ch. 51, Sec. 1, eff. Sept. 1, 1987. Amended by: Acts 2011, 82nd Leg., R.S., Ch. 191, Sec. 6, eff. September 1, 2011.

#### **Section 142.015. Disposition of Estray Under Perilous Condition.**

(a) A sheriff or a sheriff's designee is not required to impound an estray if a perilous condition exists.

(b) If a perilous condition exists, the sheriff or the sheriff's designee may immediately dispose of the estray by any means without notifying the owner of the estray.

(c) The sheriff shall make a written report of the disposition and file the report with the county clerk for placement in the county estray records.

Added by Acts 2013, 83rd Leg., R.S., Ch. 15 (S.B. 174), Sec. 3, eff. May 10, 2013.