

# Animal Law

An update from the 84th legislative session.

BY **SHELBY BOBOSKY**

Excluding those related to hunting and agriculture, there were approximately 60 animal-related bills filed during the 2015 legislative session. The successful bills amended a variety of Texas codes and statutes, including the Occupations Code, the Health and Safety Code, and the Parks and Wildlife Code. This discussion should not be considered exclusive of other bills that may affect animal law. These summaries should not be relied upon for legal advice to clients, and interested parties should review the actual bills.

## **Mandatory Canine Encounter Training for Texas Peace Officers**

Law enforcement officers in the line of duty routinely encounter dogs, and roughly one in three calls involves an interaction with a dog.<sup>1</sup> Texas peace officers had no required training on canine encounters before entering the field, which created a void in the safety of the officer, the dog, and the public. In 2011, the Department of Justice conducted a study on this issue and found that this lack of training was the primary reason so many dogs were being shot by law enforcement.<sup>2</sup> (There were more than 200 reported fatal canine shootings in 2014 in Texas cities.)<sup>3</sup> As a result of the growing concern, there were three House bills filed this session to deal with the issue of canines being shot by Texas peace officers.<sup>4</sup>

HB 593 creates mandatory uniform training for many Texas peace officers while preparing them for a safe, non-confrontational outcome. As a result of the bill's passage, the Texas Commission on Law Enforcement will adopt an accredited curriculum and will have oversight to measure its success. The one-time, four-hour course will occur during basic training or within two years of being licensed.

Existing licensed officers are grandfathered, except those seeking promotions to intermediate and/or advanced levels. The law does not prohibit officers from using deadly force against dogs to protect themselves or others; it only requires training so that shooting a dog would be the last resort.

## **Appeals From Dangerous Dog Determinations Are Clearly Established**

After several attempts to address the issue during previous sessions, HB 1436 corrected an inconsistency in state law involving appeals from municipal courts to county courts and county courts at law on dangerous dog determinations as brought to light in the *Loban* case.<sup>5</sup> Previously, a loophole did not provide for an appeal for cases in some municipal courts, and while some courts would provide a jury, some would not and argued that these were hearings. As corrected by HB 1436, the owner of a dog declared "dangerous" by a municipal or justice court may now clearly appeal that ruling to a county court or county court at law as applicable and be entitled to a trial de novo before a jury if requested.

## **Rabies Vaccinations Made Easier**

The goal behind HB 1740 was to improve access to rabies vaccinations. Previously, a licensed veterinarian was required to complete a full examination of an animal before it could be vaccinated for rabies, based on an administrative rule requiring the establishment of a veterinarian client-patient relationship. HB 1740 exempts a veterinarian employed by a county or city with a rabies control program from the requirement that a full examination be given before a rabies vaccination. The new law removes the cost burden on a governmental public health entity by allowing shelters to more efficiently provide rabies vacci-

nation services, particularly in areas underserved by veterinarians. It also improves community access to rabies vaccination services.

## **Shark Finning Outlawed**

Shark finning is a practice where a harvester severs a shark's fin while the shark is still alive and then releases the shark back to the ocean, where it is unable to properly swim and likely dies from suffocation, drowning, or predation by other animals. The federal government has already ruled that shark finning is illegal, but the states are in charge of its regulation. Before the passage of HB 1579, there were no laws in Texas that prohibited shark fins that are products of shark finning from being sold in the United States. Since 2010, the shark fin trade in Texas has grown by 240 percent, partly due to bans passed in other states that likely redirected fins to Texas.<sup>6</sup> The bill bans the sale, trade, possession, and distribution of shark fins in Texas. The law makes it a Class B Parks and Wildlife Code misdemeanor to violate the new prohibitions and enhances the penalty to a Class A Parks and Wildlife Code misdemeanor for a subsequent conviction within five years of the violation.

## **Animal Bills That Didn't Make It**

Some bills did not pass due to last minute "chubbing," and it is likely they will be back next session. For example, HB 2562 attempted to fix the current state tethering statute in order for animal control officers and law enforcement to effectively ticket those who do not properly tether their dogs. HB 234 would have allowed a court to award court fees to counties and municipalities who seize cruelly treated animals. Also, two failed bills would have benefited the captive exotic animal industry: SB 987 (exempting Zoological Association of America members from the Texas Dangerous Wild Animal Registration Act) and HB 2139 (granting a tax deduction to special interest exotic animal exhibitors for the cost of trapping, transporting, and maintaining

exotic animals).

Additionally, HB 859 and HB 1274 were introduced to deal with requirements for veterinary medical treatment in animal shelters. Neither bill passed. An interim study was recommended by the chairman of the committee in which these bills were heard, and the issue will most likely be addressed next session.

### Recent News Involving Texas Animals

Although not affected by the Legislature, many other key animal issues have been in the news recently. By way of example, in a victory for racetracks and a snub to Texas legislators, the Texas Racing Commission recently declined to outlaw historical racing; however, Texas will no longer see live greyhound racing. Gulf Greyhound Park, the third and final dog track in Texas that has live Greyhound racing, will close its doors to live racing by January 1, 2016.

With respect to animal-related lawsuits, the Beagle Freedom Project recently filed a petition for writ of mandamus against Texas A&M University. BFP originally filed open record requests to seek information on individual lab animals, specifically dogs and cats. According to the suit, Texas A&M refused to produce records and documents by citing “veterinarian/client privilege” protection. The Texas attorney general sided with the university, prompting the lawsuit, which alleges that Texas A&M chose to violate the Texas Public Information Act by not turning over the documents and that the school obstructed these lawful requests “likely in order to shield itself from public scrutiny over the types of taxpayer funded testing it is conducting on these animals.”

Additionally, the Texas Supreme Court will be ruling on the issue of stray dog or cat ownership and tackling whether a shelter has to hold a stray dog or cat indefinitely. In an appeal from *Lira v. Greater Houston German Shepherd Dog Rescue, Inc.*,<sup>7</sup> the court will more than likely decide at what point ownership ceases once a dog or cat is surrendered to a shelter. **TBJ**

### Notes

1. Cynthia Bathurst et al., DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES, *The Problem of Dog-Related Incidents and Encounters 10* (2011).
2. *Id.* at 11.
3. Protecting Texas Animals Through Advocacy, Education and Legislation, TEXAS HUMANE LEGISLATION NETWORK, <http://www.thln.org/index.cfm?pageID=7D039B13-3048-C277-112BA16535925823>.
4. HB 579 (Rep. Giddings), HB 593 (Rep. Collier), and HB 1310 (Rep. Geren) were all placed in the Texas House Homeland Security & Public Safety Committee. The three representatives moved forward with HB 593, Collier's Bill, with Geren and Giddings acting as co-authors.


5. *Loban v. City of Grapevine*, 2009 WL 5183802 (Tex. App.—Fort Worth, 2009).

6. Texas Lawmaker Introduces Bill to Ban Trade of Shark Fins, HUMANE SOCIETY OF THE UNITED STATES (Feb. 18, 2015), [http://www.humanesociety.org/news/press\\_releases/2015/02/texas-shark-fin-bill-introduced-021815.html](http://www.humanesociety.org/news/press_releases/2015/02/texas-shark-fin-bill-introduced-021815.html).

7. 447 S.W.3d 365 (Tex. App.—Houston [14th Dist.] 2014), *reh'g overruled* (Oct. 16, 2014).

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