

SUNSET ADVISORY COMMISSION

Riding Stables Chapter



Staff Report
August 2002

RIDING STABLES CHAPTER

SUNSET STAFF REPORT

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SUMMARY



Summary

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Sunset Staff Report

Riding Stables Chapter

In 1989, the Legislature passed the Riding Stables Chapter, charging the Texas Department of Health (TDH) with overseeing the treatment of recreational horses to ensure the health of the animals and thus, the safety of riders. In 2001, the Legislature transferred stable regulation from TDH to the Texas Animal Health Commission (TAHC). At the same time, the Legislature directed the Sunset Commission to evaluate the ongoing public need for the Chapter, and report to the Governor and the 78th Legislature on whether the statute should be continued, modified, or repealed.

Sunset staff evaluated the impact of stable regulation on animal and public health, and the effectiveness of the oversight in resolving problems, to determine the need for continuing the regulation. In conducting the review, staff examined state and federal legislation; and interviewed representatives of state and federal agencies, associations, stable owners, veterinarians, and interest groups.

Sunset staff concluded that riding stable regulation serves no clear public need that would justify the cost and burden of this regulation. On average, the State receives only one to two complaints against riding stables a year. Neither TDH nor TAHC have uncovered any serious problems in stables, or taken any enforcement action against a riding stable in 13 years of regulation. Therefore, Sunset staff recommend repealing the Riding Stables Chapter, ending this regulation effective September 1, 2003. As the Chapter does not have a Sunset expiration date, legislation would be required to repeal this law.

***Riding stable
regulation serves no
clear public need.***

ISSUE / RECOMMENDATION

Issue 1

The State Has No Clear Public Need to Regulate Riding Stables.

Summary

Key Recommendation

- Repeal the Riding Stables Chapter, effective September 1, 2003.

Key Findings

- The Texas Animal Health Commission administers the Riding Stables Chapter, overseeing the maintenance of horses used for recreational purposes in Texas.
- No clear public need could be found for continuing the regulation of riding stables.
- Limitations of the current regulatory framework further contribute to the lack of need for this oversight.
- Only two other states regulate riding stables.

Conclusion

The intent of the Riding Stables Chapter is to help prevent situations that expose horses hired out for recreational purposes to unnecessary health and safety risks. Sunset staff evaluated the public necessity for regulating the operation of riding stables and found that no significant problems have been uncovered or addressed through 13 years of inspections and investigations of complaints. In addition, problems with the Chapter's scope, enforcement authority, and funding further contribute to the limited need for continuing this oversight. Sunset staff concluded that the ability to respond to the one to two complaints a year, none of which have resulted in any type of enforcement action, fails to justify the ongoing cost and burden of this program.

Support

The Texas Animal Health Commission administers the Riding Stables Chapter, overseeing the maintenance of horses used for recreational purposes in Texas.

- TAHC acquired the Riding Stables Chapter (the Chapter) from the Texas Department of Health (TDH) in September 2001. To retain consistency during the transfer of the program, the agency has not, to date, changed any of TDH's rules or registration requirements.
- The Chapter requires TAHC to establish maintenance standards for stables hiring out horses to the public, excepting youth camps and stables operating in national parks. The standards are discussed in the textbox, *Standards of Care for Stables*. The Chapter also requires the owners of stables to register with TAHC and undergo inspections of stable and animal conditions once every two years.

TAHC sets standards for stables hiring out horses to the public.

Stable owners with three or less horses currently pay fees of \$100, and owners with four or more horses pay \$200, every two years. In addition to these registration fees, stable owners also incur the cost of hiring a veterinarian to conduct the biennial inspections the law requires.

- Should complaints arise, TAHC may sanction facilities by denying or revoking an authorization to operate a stable. The agency works with local sheriffs and police when a case warrants removal of animals.¹ Law enforcement officials prosecute violations of the Chapter as misdemeanors.

No clear public need could be found for continuing the regulation of riding stables.

- Sunset staff evaluated the public necessity for regulating the operation of riding stables in Texas. TAHC regulates these facilities

Standards of Care for Stables

- **Housing** – Facilities must provide adequate space, sufficient shelter from heat and cold, be dry and structurally sound, and be free from elements that may cause injury.
- **Sanitation** – Facilities must be clean and disinfected.
- **Health and Disease Control** – Animals must be inspected by a veterinarian at regular intervals, given treatment, care and attention for any injuries or diseases, and not be overworked.
- **Humane Care** – Animals must be provided free-choice protection from weather, and may not be ridden by intoxicated individuals or individuals who exceed 20 percent of the animal's weight.

by registering stable owners, setting standards for the facilities and the care of animals housed within them, ensuring biennial stable inspections, and investigating complaints. Overall, Sunset found this regulatory oversight had not uncovered significant problems that would warrant the ongoing cost and burden of regulating riding stables. In almost 13 years of regulation, under two different state agencies, the State addressed no significant problems either through periodic stable inspections or the investigation of complaints.

- TAHC, since taking over these duties in September 2001, has made a thorough effort to register all facilities covered by the law, increasing the number of registered facilities from 45 to 97. This, in turn, more than doubled the number of inspections done in the last year. However, even with this increased effort, TAHC uncovered little to no evidence of significant problems among riding stables.

The number of complaints remained extremely low – with only two complaints this year under TAHC. In the 12 years that TDH ran the program, complaints averaged one per year. A Sunset staff survey of registration applications, including the results of the required stable inspection, revealed very few violations of the standards.² In the last 13 years of regulation, neither TDH nor TAHC has taken enforcement action under this Chapter – either to deny an application, suspend or revoke a certificate of registration, or seize animals.

- Sunset staff evaluated the potential threats to public health that regulation of riding stables could prevent. While recreational riders face a number of potential dangers, such as being thrown from a horse, regulation of the stables cannot be expected to prevent such problems from occurring. According to TAHC, such problems relate more to the temperament of the horse or treatment of the horse by the rider, which no amount of regulation could control.

Sunset staff also heard concerns, as part of this review, that humans may be at risk for contracting diseases from horses, such as the current threat of West Nile Virus (WNV).³ However, according to TAHC, while horses may contract WNV, the agency has no evidence that horses can transmit the disease to humans.⁴

- Sunset staff examined other laws in place for the protection of animals, including horses. Texas animal cruelty laws prohibit many of the same types of animal abuse and neglect that the Chapter addresses such as, prohibiting failure to provide necessary food, care, or shelter to an animal; confining an animal in a cruel manner; or seriously overworking an animal.⁵ These laws include cruelty to horses, exempting only horses used as livestock when engaged in farming activities. Animal cruelty laws vest local law enforcement

TAHC doubled the number of stables registered, but found no significant problems among them.

Neither TDH nor TAHC has taken any enforcement action against riding stables in 13 years of regulation.

Texas animal cruelty laws prohibit many of the same abuses that the Chapter addresses.

with the authority to address cruelty complaints and prosecute all animal abuse offenses, including those involving recreational horses. Sunset staff found little evidence that stable regulation offered any significant protection beyond these laws.

- Sunset staff acknowledge that setting clear standards of care and ensuring periodic inspections very likely helps ensure improved stable conditions. However, such benefits could not be documented. Given the limited evidence of any serious problems or violations, Sunset found little benefit to justify the cost and burden this regulation places on stable owners.

Limitations of the current regulatory framework further contribute to the lack of need for this oversight.

- The Chapter does not clearly cover all riding stables. For example, the law specifically exempts youth camps, where the potential for harm to children would appear more critical than riding stables serving a general population. In addition, while the law defines a stable as an establishment open to the public maintaining animals for hire for recreational riding or driving, several stable owners disagree over which facilities must register. For example, carriage stables, facilities that the Legislature intended to cover, have refused to register on the grounds that they are not a riding stable.
- Stable owners select and pay a private veterinarian to conduct the required biennial inspections. The Chapter authorizes TAHC staff to inspect a facility only if staff have reasonable grounds to believe that the standards have been violated. Given the limited number of complaints, the agency must base its firsthand knowledge of stable conditions largely on the inspections conducted by the stable owner's veterinarian. The veterinarians conducting the inspections, while knowledgeable of horse care, are not specifically trained in TAHC rules or how to evaluate riding stable facilities.
- The Chapter gives TAHC limited enforcement authority should a violation occur. The law authorizes TAHC to revoke or suspend a certificate of registration for gross violations of the standards, but does not provide many options for lesser offenses. The law also makes knowingly operating a stable without registering a Class B misdemeanor. As stated previously, none of the stronger enforcement actions have ever been used. For more serious violations, local law enforcement, not TAHC staff, intervene if a stable owner mistreats or endangers animals. In those instances, TAHC could then take the further step of revoking the stable owner's registration, but to date this authority has not been needed or used.
- Current registration fees do not appear sufficient to cover costs. According to TAHC, the agency has collected \$17,700 in fees in

Sunset found problems with the Chapter's scope, and its inspection and enforcement authority.

FY 2002, but anticipates costs of \$28,000. If the agency cannot register additional stables, the agency will have to increase fees to generate additional revenue. Sunset staff concluded that these increasing costs do not appear to be warranted given the lack of any clear impact of regulation to address any public need or harm.

Increasing regulatory costs only worsen the situation, given the lack of any clear impact.

Only two other states regulate riding stables.

- Sunset staff research found only two other states that regulate riding stables. Maryland and Michigan both have a riding stable registration and inspection program, employing full-time staff to conduct the inspections and investigations of complaints involving riding stables. Some local governments also regulate riding stables. For example, Salt Lake City ordinances require stables to register with the city's Office of Animal Services, which sets standards of operation and inspects stables. Again, Sunset staff found no clear justification to warrant the expense of establishing either of these approaches to regulation.

Recommendation

Change in Statute

1.1 Repeal the Riding Stables Chapter, effective September 1, 2003.

This recommendation would end the state regulation of riding stables in Texas. If repealed by the 78th Legislature, the regulation would end September 1, 2003. TAHC would continue to protect and promote health among Texas' animal populations but would no longer specifically oversee the care and treatment of recreational horses housed in riding stables.

Impact

No longer regulating riding stables should have little or no impact on the health and safety of horses or riders. During almost 13 years of riding stable regulation under two different state agencies, the State has not uncovered significant problems through regular inspections or the investigation of complaints. The receipt of one to two complaints a year, none of which resulted in any type of enforcement action, fails to justify the ongoing cost and burden of this program. This recommendation would eliminate a regulatory program that places a financial burden on riding stable owners, with no clear benefit to the public.

Fiscal Implication

This recommendation would result in no net fiscal impact to the State.

¹ The Health & Safety Code authorizes county law enforcement entities to seize and dispose of cruelly treated animals, as well as to control stray animals and livestock. Health and Safety Code, Ch. 821.

² Sunset staff reviewed approximately 80 applications for registration that stables submitted to TAHC as of May 2002.

³ Centers for Disease Control, *Morbidity and Mortality Weekly Report, July 3-9, 2002*, www.cdc.gov/. Accessed July 15, 2002.

⁴ WNV spreads to humans through mosquitos that contract the virus from birds. Interviews with Texas Animal Health Commission staff (Austin, Texas, August 2002).

⁵ Texas Penal Code § 42.09. Cruelty to Animals.

PROGRAM INFORMATION

Program Information

Program At a Glance

The Legislature created the Riding Stables Chapter (the Chapter) in 1989 to promote humane treatment and conditions for horses used by the public in stables. Initially, the Texas Department of Health (TDH) administered the Chapter. Due to concerns that the protection of animals was not within the public health mission of TDH, the Legislature transferred the program to the Texas Animal Health Commission (TAHC) in 2001.

TAHC acquired regulatory responsibility on September 1, 2001 and adopted rules governing the Riding Stable Registration Program. The program's major functions include:

- registration of all stables renting one or more equines, defined as horses, donkeys, and mules, for riding or carriage purposes;
- biennial inspections of the condition of facilities and the health of equines; and
- denial, revocation, or suspension of certificates of registration if TAHC finds violations of care and treatment standards.

The Legislature transferred stable regulation from TDH to TAHC in 2001.

Key Facts

The information in the text below reflects the resources and operation of the riding stable program only, not TAHC as a whole. As the program only transferred to TAHC in September 2001, this data reflects less than a full year of information.

- **Funding and Fees.** State law authorizes TAHC to collect fees from registered stables to cover the costs of this program. In FY 2001, the Legislature appropriated \$30,000 to TAHC to regulate stables. As of June 2002, TAHC estimates that the agency will collect \$18,000 in fees during FY 2002.
- **Staffing.** TAHC uses the equivalent of about two FTEs, including staff in both the Austin and the eight field operations offices, to administer the program.
- **Registrations and Inspections.** As of June 2002, TAHC had registered 97 riding stables. During the years that TDH administered the Chapter, the Department registered 45 stables.

- **Complaints and Enforcement.** As of June 2002, TAHC had received two complaints against a riding stable. Thus far, TAHC has not denied, suspended, or revoked any certificates of registration. Previously TDH received approximately one complaint a year.¹

Stable complaints have averaged one to two per year since 1989.

Major Events in Program History _____

- 1989** The Legislature passed the Riding Stables Act and established the riding stables program at the Texas Department of Health.
- 1999** The Legislature moved the Riding Stables Act from the Health and Safety Code to the Occupations Code.
- 2001** The Legislature transferred the stable regulation program from TDH to the Texas Animal Health Commission.

Organization _____

Policy Body

TAHC oversees the program in addition to the agency's broader duties of protecting and promoting the health of Texas animal populations by preventing, controlling, and eliminating animal diseases. The Texas Animal Health Commission is composed of 10 Commissioners representing livestock industries and two members of the general public, appointed by the Governor with the advice and consent of the Senate.

Staff

TAHC's Animal Health Program Records Division administers the program. The agency uses the equivalent of two FTEs, including staff in the Austin office that perform data entry and financial collection functions, and stable registration outreach activities performed by the agency's field office staff.

Funding _____

Revenues

The Legislature appropriated \$30,000 annually to TAHC to operate the Riding Stable registration program. The Riding Stables Chapter authorizes TAHC to raise revenue through registration fees to cover administrative costs.

When the program transferred in September 2001, the Legislature estimated that TAHC would collect approximately \$30,000 a year in

fees. The agency is in the process of identifying and registering the number of facilities that will be subject to regulation, but may not reach the anticipated fee level before the fiscal year ends. As of June FY 2002, TAHC collected \$17,700 in registration fees from 97 stables. A rider to TAHC's budget allows the Commission to retain all registration fees to operate the program.

Expenditures

As of June 2002, TAHC expended \$22,440 on the riding stable inspection program. The agency estimates total expenditures will be \$28,000 by the end of FY 2002. This figure is comprised of all expenditures used to fund staff activities in both the Austin and area offices including: administration contact and consultation meetings; and research and disease investigations.

Estimated figures are not available to illustrate the amount of revenue TDH expended to operate the program.²

TAHC oversees 97 riding stables in Texas.

Program Operation

TAHC administers the Riding Stable Registration program by registering all stables housing recreational horses, including stables housing horses used for carriage rides, setting the registration and renewal fees, and ensuring that stables provide proof of veterinary inspection. While under TDH, the program operated on a voluntary registration basis in which stables contacted and informed the Department that the facility was subject to regulation. In contrast, TAHC proactively locates and contacts facilities, and determines if the stable is subject to the law. The textbox, *TAHC Stable Registration Process*, illustrates the steps TAHC takes to administer the program.

Stable Inspections

The Chapter requires each facility to have a veterinarian inspect the stable and animal conditions once every two years. The law authorizes each stable's private veterinarian to perform the inspection services. The veterinarian accounts for the facility's compliance with the prescribed standards mentioned above. Owners may concur or disagree with a veterinarian's findings and responses are noted on the forms mailed to TAHC. The agency maintains a list of the veterinarians who have performed the inspection for a client or who have contacted TAHC for information regarding registration requirements.

TAHC Stable Registration Process

- TAHC's Austin office sends program information and registration packets, along with a list of stables found in each area, to each of the eight TAHC Area Offices.
- TAHC Area Offices assign inspectors to contact and visit a specific number of stables.
- The inspector visits each facility to determine, through discussion and observation, if the facility must register with the agency.
- If the facility must register, the inspector provides the facility with the necessary registration documents.
- The facility's private veterinarian must complete the inspection forms. The facility mails the inspection forms, along with an application form to TAHC's main office in Austin.

Stable Registrations

Stable certificates of registration are valid for two years. Fees are dependent on the number of horses for hire in each facility. The registration fee for facilities with three or less horses is \$100; four or more horses, the fee is \$200. TAHC has proposed a rule that would allow facilities that provide solely therapeutic services, to apply for a waiver of registration fees. As of June 2002, TAHC had identified approximately 650 stable facilities in Texas. Of those, TAHC had registered 97. The remainder are either pending or were found to be inactive.

Enforcement

When TAHC finds a stable which has violated the standards of care and treatment, the Chapter authorizes the agency to suspend or revoke a license, or apply to a justice of the peace to require a sheriff to seize the animals. Currently, TAHC plans to investigate riding stables complaints using the same process used for other TAHC complaint cases, such as illegally importing animals or selling animals without the proper test.

U.S. and Texas Animal Cruelty Laws

- *U.S. Animal Welfare Act* – requires that animals intended for use in research facilities or for exhibition purposes (such as zoos or circuses), or for use as pets be provided with humane care and treatment; assures the humane treatment of animals during transportation in commerce; and protects owners of animals from theft of animals by preventing the sale of animals that have been stolen.
- *U.S. Horse Protection Act* – prevents a process called soring – the infliction of pain on limbs designed to cause an exaggerated gait – by prohibiting sored horses from participating in exhibitions, sales, shows, or auctions.
- *Texas Penal Code §42.09* – makes it a crime to torture, kill or seriously injure, abandon, confine an animal in a cruel manner, or fail to provide food, care, or shelter for an animal. Exceptions to the law allow for hunting, fishing, animal husbandry, or farming practices of livestock.
- *Texas Health and Safety Code Chapter 821* – defines cruelty to animals and authorizes local courts and law enforcement officers to seize animals believed to be cruelly treated.

Complaints to TAHC generally originate in the agency's area offices, and are sent to the agency's general counsel in the Austin office. Occasionally, TAHC receives complaints directly from the public. The general counsel's office (including para-legals and an investigator), along with input from the area office staff, evaluates whether the complaint needs further investigation. If the evidence is sufficient to warrant disciplinary action, TAHC either files the case in court or takes administrative action.

Should TAHC find a stable violating the Chapter standards, the agency plans to report the case to the appropriate local law enforcement office and request that it handle the complaint under cruelty statutes. For more information on federal and Texas animal cruelty laws see the text box, *U.S. and Texas Animal Cruelty Laws*. TAHC has not yet received a complaint that necessitated sanctioning a facility.

¹ Most complaints of animal abuse are reported to local law enforcement officers. Animal welfare interest groups indicate that the lack of complaints was not due to a lack of regulatory need, but rather a lack of awareness of the riding stables program at TDH.

² Telephone interview with Texas Department of Health, Zoonosis Control Division staff (Austin, Texas, May 16, 2002).

**SUNSET REVIEW OF THE
RIDING STABLES CHAPTER**

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