

By: Kacal

H.B. No. 4538

Substitute the following for H.B. No. 4538:

By: Cain

C.S.H.B. No. 4538

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of beekeeping; imposing fees and
3 authorizing other fees; expanding the applicability of an
4 occupational permit.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 131.001, Agriculture Code, is amended by
7 amending Subdivisions (2), (3), (5), (6), and (8) and adding
8 Subdivisions (8-a) and (12-a) to read as follows:

9 (2) "Apiary" means a place where [~~six or more~~]
10 colonies of bees or nuclei of bees are kept.

11 (3) "Beekeeper" means a person who owns, leases,
12 possesses, controls, or manages one or more colonies of bees for any
13 [~~pollination or the production of honey, beeswax, or other~~
14 ~~by-products, either for~~] personal or commercial purpose [~~use~~].

15 (5) "Colony" means a distinguishable localized
16 population of bees in which one or more life stages may be present
17 [~~the hive and its equipment and appurtenances including bees, comb,~~
18 ~~honey, pollen, and brood~~].

19 (6) "Director" means the director of [~~the~~] Texas A&M
20 AgriLife Research [~~Agricultural Experiment Station~~].

21 (8) "Equipment" means hives, supers, frames, veils,
22 gloves, tools, machines, vacuums, or other devices for the handling
23 and manipulation of bees, honey, pollen, wax, or hives,
24 including[~~r~~] storage or transportation [~~transporting~~] containers

1 for pollen, honey, or wax, or other apiary supplies used in the
2 operation of an apiary or honey house.

3 (8-a) "Hive" means a box or other shelter containing a
4 colony of bees.

5 (12-a) "Package bees" means live bees in cages without
6 combs or honey used in forming a new colony.

7 SECTION 2. Section 131.003, Agriculture Code, is amended to
8 read as follows:

9 Sec. 131.003. CONFLICTS OF INTEREST. (a) A person may not
10 serve as chief apiary inspector or be an assistant of the chief
11 apiary inspector if the person is an officer, employee, or paid
12 consultant of a trade association in the beekeeping industry.

13 (b) A person may not serve as chief apiary inspector or be an
14 assistant of the chief apiary inspector of the grade 17 or over,
15 including exempt employees, according to the position
16 classification schedule under the General Appropriations Act, if
17 the person cohabits with or is the spouse of an officer, managerial
18 employee, or paid consultant of a trade association in the
19 beekeeping industry.

20 SECTION 3. Section 131.004(b), Agriculture Code, is amended
21 to read as follows:

22 (b) The chief apiary inspector shall provide to the chief
23 apiary inspector's ~~his~~ assistants and inspectors, as often as is
24 necessary, information regarding their qualifications under this
25 chapter and their responsibilities under applicable laws relating
26 to standards of conduct for state officers or employees.

27 SECTION 4. Sections 131.007(b) and (c), Agriculture Code,

1 are amended to read as follows:

2 (b) The inspector shall prepare information of public
3 interest describing the functions of the agency and describing the
4 procedure by which complaints are filed with and resolved by the
5 agency [~~inspector~~]. The inspector shall make the information
6 available to the general public and appropriate state agencies.

7 (c) The inspector shall adopt rules establishing methods by
8 which consumers and service recipients can be notified of the name,
9 mailing address, and telephone number of the agency [~~inspector's~~
10 ~~office~~] for the purpose of directing complaints to the inspector.
11 The inspector may provide for the notification by including the
12 information:

13 (1) on each registration or application form submitted
14 by a person regulated under this chapter;

15 (2) on a sign which is prominently displayed in the
16 place of business of each person regulated under this chapter; or

17 (3) in a bill for services or goods provided by a
18 person regulated under this chapter.

19 SECTION 5. Section 131.008(b), Agriculture Code, is amended
20 to read as follows:

21 (b) If a written complaint is filed with the inspector
22 regarding [~~relating to~~] a beekeeper who is not in compliance with
23 this chapter or rules adopted [~~regulated~~] under this chapter, the
24 inspector shall notify the parties to the complaint, at least
25 quarterly and until final disposition of the complaint, of the
26 status of the complaint, unless notice would jeopardize an
27 undercover investigation.

1 SECTION 6. The heading to Subchapter B, Chapter 131,
2 Agriculture Code, is amended to read as follows:

3 SUBCHAPTER B. DISEASE AND PEST CONTROL

4 SECTION 7. Section 131.021, Agriculture Code, is amended to
5 read as follows:

6 Sec. 131.021. POWERS AND DUTIES OF CHIEF APIARY INSPECTOR.

7 (a) For the purpose of enforcing this chapter, the chief apiary
8 inspector may:

9 (1) adopt rules and act as necessary to control,
10 eradicate, or prevent the introduction, spread, or dissemination of
11 contagious or infectious diseases or pests of bees;

12 (2) prohibit the shipment or entry into this state of
13 bees, honey, combs, pollen, or other items capable of transmitting
14 diseases or pests of bees from another state, territory, or foreign
15 country except in accordance with rules adopted by the inspector;
16 and

17 (3) seize and order the destruction, treatment, or
18 sale of a colony of bees, equipment, pollen, or honey that is
19 determined to contain pests, be diseased, infectious, or abandoned,
20 or be in violation of this chapter or a rule or quarantine adopted
21 under this chapter.

22 (b) For purposes of this section, apiaries, equipment, or
23 bees are considered infectious if:

24 (1) the bees are not hived with movable frames or are
25 not stored so as to prevent the possible spread of disease or pests;
26 or

27 (2) the bees, equipment, or apiary generally comprise

1 a hazard or threat to disease control in the beekeeping industry.

2 SECTION 8. Section 131.022(a), Agriculture Code, is amended
3 to read as follows:

4 (a) If the chief apiary inspector determines that the public
5 welfare or protection of the beekeeping industry requires the
6 establishment of a quarantine, the inspector may:

7 (1) declare a protective quarantine of a district,
8 county, precinct, or other defined area in which a disease or pest
9 of bees [~~or a deleterious exotic species of bees~~] is not known to
10 exist or in which the disease or pest [~~exotic species~~] is being
11 eradicated in accordance with this subchapter; or

12 (2) declare a restrictive quarantine of a district,
13 county, precinct, or other defined area in which a disease or pest
14 of bees [~~or a deleterious exotic species of bees~~] is located.

15 SECTION 9. Section 131.023, Agriculture Code, is amended to
16 read as follows:

17 Sec. 131.023. SALE OF QUEEN BEE AND ATTENDANTS, PACKAGE
18 BEES, COLONIES, AND NUCLEI. A person may not sell or offer for sale
19 a queen bee and attendant bees, package bees, colonies, nuclei, or
20 queen cells in this state unless the bees are accompanied by:

21 (1) a copy of a certificate from the chief apiary
22 inspector certifying that the apiary from which the bees were
23 [~~queen bee was~~] shipped has been inspected not more than 12 months
24 before the date of shipment and found apparently free from disease;
25 or

26 (2) a copy of an affidavit made by the beekeeper
27 stating that[+]

1 [~~(A)~~] to the beekeeper's [~~his~~] knowledge, the
2 bees are not diseased[~~, and~~

3 [~~(B) the honey used in making the candy contained~~
4 ~~in the queen cage has been diluted and boiled for at least 30~~
5 ~~minutes in a closed vessel~~].

6 SECTION 10. Section 131.024(c), Agriculture Code, is
7 amended to read as follows:

8 (c) If the inspector sells bees, equipment, pollen, or honey
9 at a public auction under this section, the inspector shall return
10 the proceeds of the sale to the former owner, if known, after
11 deducting the costs of the sale.

12 SECTION 11. Section 131.025, Agriculture Code, is amended
13 to read as follows:

14 Sec. 131.025. REPORTABLE DISEASES AND PESTS [~~DUTY TO REPORT~~
15 ~~DISEASED BEES~~]. (a) The chief apiary inspector shall maintain and
16 publish a list of reportable diseases and pests.

17 (b) If a beekeeper knows that a colony of bees has a
18 reportable disease or contains a reportable pest [~~is diseased~~], the
19 beekeeper shall immediately report to the chief apiary inspector
20 all facts known about the affected [~~diseased~~] bees.

21 SECTION 12. Section 131.041, Agriculture Code, is amended
22 to read as follows:

23 Sec. 131.041. PERMIT FOR INTERSTATE MOVEMENT
24 [~~IMPORTATION~~]. (a) A person may not ship or cause to be shipped
25 bees or equipment into or out of this state unless the person has a
26 permit issued by the chief apiary inspector authorizing the
27 shipment.

1 (b) A permit issued under this section applies to all
2 shipments made by the beekeeper and expires on August 31 following
3 the date the permit is issued. The term of a permit may not exceed
4 one year.

5 (c) A person may apply for a permit under this section by
6 filing an application with the inspector. A person may apply for a
7 permit at any time, but a person must apply for a permit before the
8 10th day preceding the date of a ~~the~~ shipment if the person does
9 not hold a permit on the 10th day preceding the date of the
10 shipment. An application for a permit must include all information
11 required by the chief apiary inspector.

12 (d) A shipment originating outside this state requires:

13 (1) ~~[a complete description of the shipment,~~
14 ~~[(2) the destination of the shipment,~~
15 ~~[(3) the approximate date of the shipment,~~
16 ~~[(4) the names and addresses of the consignor and~~
17 ~~consignee, and~~

18 ~~[(5)]~~ a certificate of inspection signed by the
19 official apiary inspector or entomologist of the state, territory,
20 or country from which the bees are to be shipped before the shipment
21 may enter the state; or

22 (2) an inspection of the shipment by the chief apiary
23 inspector of Texas not more than 12 months before the date of the
24 shipment.

25 (e) ~~[(e)]~~ A certificate of inspection for a permit required
26 by Subsection (d)(1) ~~[(b)(5) of this section]~~ must certify that the
27 bees or equipment are apparently free from disease and reportable

1 pests based on an actual inspection conducted not more than 12
2 months before the date of the shipment. If the bees or equipment
3 are to be shipped into this state from a state, territory, or
4 country that does not have an official apiary inspector or
5 entomologist:

6 (1) [~~r~~] the person shipping the bees or equipment may
7 provide other suitable evidence that the bees and equipment are
8 free from disease and reportable pests; or

9 (2) the bees may be shipped into this state under
10 quarantine and the person receiving the shipment shall have the
11 bees inspected not later than the 30th day after the date the bees
12 enter this state.

13 (f) [~~d~~] If a person files an application in accordance
14 with Subsection (c) [~~b~~ of this section] and the inspector is
15 satisfied that the shipment or shipments to which the permit
16 applies do [~~does~~] not pose a threat to disease and pest control in
17 the beekeeping industry, the inspector shall issue a permit
18 [~~authorizing the shipment~~].

19 (g) [~~e~~] This section does not apply to a shipment of
20 package [~~live~~] bees [~~in wire cages without combs or honey~~].

21 (h) The inspector shall charge a fee for each permit issued
22 under this section. The inspector shall set the fee at an amount
23 that is reasonable in relation to the costs of administering this
24 section.

25 SECTION 13. Section 131.044, Agriculture Code, is amended
26 to read as follows:

27 Sec. 131.044. CERTIFICATE OF INSPECTION. (a) A person who

1 wants a certificate of inspection for bees, equipment, pollen, or
2 honey must [~~file a written~~] request [~~for~~] the inspection from
3 [~~with~~] the chief apiary inspector.

4 (b) On receipt of a request, the inspector shall authorize
5 the inspection of the bees, equipment, pollen, or honey for the
6 presence of disease or pests.

7 (c) If a disease or reportable pest is not found in the bees,
8 equipment, pollen, or honey, the inspector shall certify in writing
9 that the bees, equipment, pollen, or honey is apparently free from
10 disease and reportable pests.

11 (d) The inspector shall charge fees for inspections
12 requested under this section. The inspector shall set the fees in
13 amounts that are reasonable in relation to the costs of
14 administering this section[~~, but at not less than the following~~
15 ~~amounts:~~

16 [~~(1) for each inspection of an apiary or group of~~
17 ~~apiaries, except a queen apiary, located within an area of 100~~
18 ~~square miles \$ 50~~

19 [~~(2) for an inspection of a queen apiary or group of~~
20 ~~queen apiaries located within an area of 100 square miles . . . \$200~~

21 [~~(3) for each additional inspection of a queen apiary~~
22 ~~or group of queen apiaries located within an area of 100 square~~
23 ~~miles \$ 50]~~.

24 (e) The beekeeper of [~~diseased~~] bees or equipment that
25 contain a reportable disease or reportable pest shall pay an
26 additional fee, in a reasonable amount set by the inspector at not
27 less than [~~that~~] \$25, for each subsequent inspection that the

1 inspector determines is necessary to contain, treat, or eradicate
2 the disease or pest.

3 SECTION 14. Section [131.045](#), Agriculture Code, is amended
4 to read as follows:

5 Sec. 131.045. BEEKEEPER [APIARY] REGISTRATION. (a) Each
6 beekeeper in this state may register on an annual basis with the
7 [The] chief apiary inspector [may provide for the periodic
8 registration of all apiaries in this state]. A registration under
9 this section expires August 31 following the date the registration
10 is issued.

11 (b) A registration must include:

12 (1) information required by the chief apiary
13 inspector [the beekeeper's name, address, and telephone number];
14 and

15 (2) the county or counties in which the beekeeper
16 operates [apiary will be located, and

17 [~~(3) the approximate dates that the apiary will be~~
18 located in each county].

19 (c) The inspector may require a beekeeper to submit with the
20 registration information a map showing the exact location of each
21 of the beekeeper's apiaries. A map submitted under this section is
22 a trade secret under Chapter [552](#), Government Code, and may not be
23 disclosed.

24 (d) The chief apiary inspector may charge a fee for each
25 registration issued under this section. The inspector shall set
26 the fee at an amount that is reasonable in relation to the costs of
27 administering this section.

1 SECTION 15. Section 131.046(a), Agriculture Code, is
2 amended to read as follows:

3 (a) Fees collected under this subchapter shall be deposited
4 in the State Treasury [~~to the credit of a special fund to be known as~~
5 ~~the bee disease control fund to be used only to defray the costs of~~
6 ~~administering and enforcing this chapter~~].

7 SECTION 16. The heading to Subchapter D, Chapter 131,
8 Agriculture Code, is amended to read as follows:

9 SUBCHAPTER D. BRANDING AND IDENTIFICATION OF HIVES [~~APIARY~~
10 ~~EQUIPMENT~~]

11 SECTION 17. Section 131.061, Agriculture Code, is amended
12 to read as follows:

13 Sec. 131.061. IDENTIFICATION REQUIRED. (a) Except as
14 provided by Subsection (b), a [A] person may not operate an apiary
15 in this state unless the hives are [~~apiary equipment is~~]:

16 (1) clearly and permanently [~~indelibly~~] marked with
17 the name [~~and address~~] of the person as provided by Section 131.064;
18 [~~or~~]

19 (2) branded in accordance with Section 131.064 [~~of~~
20 ~~this code~~] with a brand registered to the person by the chief apiary
21 inspector; or

22 (3) identified by a weatherproof sign posted within
23 the apiary containing the name and contact information or the brand
24 number of the person managing the apiary, printed in lettering at
25 least one inch high.

26 (b) An apiary at the principal residence of a beekeeper is
27 exempt from the requirements of Subsection (a).

1 SECTION 18. Section 131.062, Agriculture Code, is amended
2 to read as follows:

3 Sec. 131.062. BRAND; REGISTRATION. (a) The chief apiary
4 inspector shall maintain a system of registration of beekeeper
5 ~~[apiary equipment]~~ brands to identify equipment used by the [a]
6 beekeeper [in an apiary]. The inspector shall assign a brand number
7 to each beekeeper, if requested, when the beekeeper registers under
8 Section 131.045.

9 (b) Each brand shall consist of seven ~~[three]~~ numbers
10 separated by hyphens, with the first number signifying that the
11 brand is a state-registered brand, the next three numbers ~~[second~~
12 ~~number]~~ identifying the registrant's county of residence, and the
13 last three numbers ~~[third number]~~ identifying the registrant.

14 SECTION 19. Section 131.064, Agriculture Code, is amended
15 to read as follows:

16 Sec. 131.064. MANNER OF AFFIXING NAME OR BRAND TO HIVES
17 ~~[EQUIPMENT]~~. A name or brand must be affixed to a hive [registrant
18 ~~shall affix the registered brand to his or her apiary equipment]~~ by
19 burning, [or] pressing, painting, or otherwise permanently marking
20 the name or brand, in figures at least one-half [three-quarters] of
21 an inch high, into the wood or other material in a manner that shows
22 the identification of the hive ~~[equipment]~~. The ~~[registrant shall~~
23 ~~affix the]~~ name or brand must be affixed on one or both ends of the
24 hive. ~~[On other equipment, including a frame, intercover, top,~~
25 ~~bottom, or plank, the registrant may affix the brand in any place.]~~

26 SECTION 20. Section 131.101, Agriculture Code, is amended
27 to read as follows:

1 Sec. 131.101. ENFORCEMENT AUTHORITY. The chief apiary
2 inspector is the official responsible for enforcing Subchapters B,
3 C, and D [~~of this chapter~~]. The [~~Texas~~] Department of State Health
4 Services is the agency responsible for enforcing Subchapter E [~~of~~
5 ~~this chapter~~].

6 SECTION 21. Section 131.102(b), Agriculture Code, is
7 amended to read as follows:

8 (b) The [~~Texas~~] Department of State Health Services may
9 enter at a reasonable hour any public or private premises,
10 including a building, depot, express office, storeroom, vehicle, or
11 warehouse, in which bees, equipment, pollen, or honey may be
12 located to determine whether a violation of Subchapter E [~~of this~~
13 ~~chapter~~] has occurred or is occurring.

14 SECTION 22. The heading to Section 131.121, Agriculture
15 Code, is amended to read as follows:

16 Sec. 131.121. DISEASE AND PEST CONTROL.

17 SECTION 23. Section 131.121(a), Agriculture Code, is
18 amended to read as follows:

19 (a) A person commits an offense if the person:

20 (1) violates a provision of Section 131.022 or 131.023
21 [~~of this code~~];

22 (2) fails to report reportable diseases or reportable
23 pests [~~diseased bees~~] in accordance with Section 131.025 [~~of this~~
24 ~~code~~];

25 (3) ships or causes bees or equipment to be shipped
26 into this state [~~or between counties in this state~~] without the
27 permit required by Section 131.041 [~~or 131.043 of this chapter~~];

1 (4) violates a rule, order, or quarantine of the chief
2 apiary inspector adopted under this chapter;

3 (5) prevents or attempts to prevent an inspection of
4 bees, equipment, pollen, or honey under the direction of the
5 inspector under this chapter;

6 (6) prevents or attempts to prevent the discovery or
7 treatment of bees with reportable diseases or reportable pests
8 ~~[diseased bees]~~;

9 (7) interferes with or attempts to interfere with the
10 inspector in the discharge of the duties under this chapter;

11 (8) as the owner or keeper of a ~~[diseased]~~ colony of
12 bees that has a reportable disease or contains a reportable pest,
13 barters, gives away, sells, ships, or moves the ~~[diseased]~~ bees,
14 equipment, pollen, or honey or exposes other bees to the reportable
15 disease or reportable pest; or

16 (9) exposes honey, pollen, hives, frames, combs, bees,
17 or appliances from a colony of bees known to have a reportable
18 disease or contain a reportable pest ~~[be diseased]~~ in a manner that
19 provides access to other bees~~, or~~

20 ~~[(10) sells, offers for sale, barters, gives away,~~
21 ~~ships, or distributes honey or pollen taken from a colony of~~
22 ~~diseased bees].~~

23 SECTION 24. The following provisions of the Agriculture
24 Code are repealed:

25 (1) Section 131.002(c);

26 (2) Section 131.042;

27 (3) Section 131.043;

- 1 (4) Section 131.063(b);
- 2 (5) Section 131.065(c); and
- 3 (6) Section 131.104(d).

4 SECTION 25. The changes in law made by this Act apply only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 26. This Act takes effect September 1, 2023.