

BILL ANALYSIS

Senate Research Center

S.B. 1413
By: Deuell
Subcommittee on Agriculture
7/25/2003
Enrolled

DIGEST AND PURPOSE

Currently, several portions of the Agriculture Code require the Texas Department of Agriculture to regulate or otherwise be involved in areas for which other local, state, and federal agencies have assumed authority or contain requirements are not needed for current conditions. S.B. 1413 repeals outdated and duplicative portions of the Agriculture Code regarding the Texas Department of Agriculture.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 8 (Section 71.0092, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Repealer: Section 12.004, Agriculture Code (Farmers' Institutes).

Repealer: Section 12.008, Agriculture Code (Grasses and Trees).

Repealer: Section 12.009, Agriculture Code (Animals and Animal Products).

Repealer: Section 12.030, Agriculture Code (Shared Foreign Sales Corporations).

Repealer: Section 13.005, Agriculture Code (Annual Report).

Repealer: Section 13.006, Agriculture Code (Records).

Repealer: Section 13.103, Agriculture Code (Inspection of Water, Gas, and Electric Meters).

Repealer: Section 13.106, Agriculture Code (Local Sealers).

Repealer: Sections 13.108(b) and (c), Agriculture Code (regarding powers and duties of sealers).

Repealer: Section 15.004, Agriculture Code (Areas of Implementation).

Repealer: Section 77.004, Agriculture Code (Approval of Program By Department).

Repealer: Section 77.005, Agriculture Code (Federally Funded and Approved Programs).

Repealer: Chapter 53, Agriculture Code (Agriculture and Livestock Pools).

Repealer: Chapter 96, Agriculture Code (Sampling of Grain For Grading Purposes).

Repealer: Chapter 145, Agriculture Code (Grading of Livestock).

Repealer: Chapter 252, Agriculture Code (Family Farm and Ranch Security Program).

SECTION 2. Amends Chapter 12, Agriculture Code, by adding Section 12.0012, as follows:

Sec. 12.0012. NOTICE OF QUARANTINE. Requires the Texas Department of Agriculture (TDA), on submission for publication, to notify the Department of Public Safety's (DPS) division of emergency management of each quarantine TDA adopts. Requires TDA to then cooperate with the division of emergency management in implementing any necessary safeguards to protect the state's agricultural resources from potential economic, health, or ecological disaster that may result from the quarantined pest or disease.

SECTION 3. Amends Section 13.109, Agriculture Code, to delete text requiring TDA to issue instructions and adopt governing county and local sealers.

SECTION 4. Amends Subsection (a), Section 13.110, Agriculture Code, to delete text authorizing sealers to inspect and test all weights and measured used in the city or county in which the sealer is appointed.

SECTION 5. Amends Section 13.122, Agriculture Code, to make a conforming change.

SECTION 6. Amends Section 60.063(c), Agriculture Code, to delete text providing the notice of given notice at the closing of certain purchaser. Provides that notice is not required to be given pursuant to this section, rather than paragraph, unless a certified copy of the order creating the district has been recorded in the real property records in the county in which the land is located and such order contains the legal description of the district.

SECTION 7. Amends Section 71.008, Agriculture Code, by adding Subsection (f) to provide that this section does not restrict TDA's authority to establish on its own initiative an eradication program within a quarantined area to protect the state's agricultural resources.

SECTION 8. Amends Subchapter A, Chapter 71, Agriculture Code, by adding Section 71.0092, as follows:

Sec. 71.0092. SEIZURE, TREATMENT, HANDLING, AND DESTRUCTION OF CERTAIN MATERIAL WITHIN QUARANTINED AREA. (a) Defines "quarantined article."

(b) Authorizes TDA by rule to establish treatment and handling requirements for a quarantined article found within a quarantined area. Requires the requirements to meet certain standards.

(c) Requires that a person in possession or control of a quarantined article located in a quarantined area comply with TDA rules and orders regarding treatment and handling of the quarantined article.

(d) Authorizes TDA at the expense of the person or of the owner of this article to take certain actions, if a person in possession or control of a quarantined article located in a quarantined area fails to comply with a TDA rule or order under this section.

(e) Requires TDA, if the owner of a quarantined article seized under this section is unknown to TDA, to publish the notice not earlier than the fifth day after the date on which the notice is published or posted, in which the TDA may destroy, treat, or isolate the quarantined article at the owner's expense. Requires TDA to publish the notice for

three consecutive days in a newspaper of general circulation in the county in which the quarantined article was seized. Requires the notice to include a description of the quarantined article. Requires TDA, if an owner claims the quarantined article before the date described by the notice and agrees in writing to treat or handle the article in a manner provided by TDA rule or order, to deliver the quarantined article to the owner at the owner's expense. Authorizes TDA, if an owner does not claim the quarantined article before the date described by the notice, to destroy or arrange for the destruction of the quarantined article or continue to isolate or treat the quarantined article at the owner's expenses. Authorizes TDA, if an owner refuses to agree in writing to comply with TDA's rule or order regarding the treatment or handling of a quarantined article, to destroy or arrange for the destruction of the quarantined article or continue to isolate or treat the quarantined article at the owner's expense, subject to Section 71.010.

(f) Authorizes TDA, in enforcing this section, to seek the assistance of DPS under Section 71.0101, or any law enforcement officer of the county in which the quarantined article is located. Requires TDA to cooperate with TDA and provide any assistance to implement this section.

(g) Provides that the owner of a quarantined article treated, isolated, or destroyed by TDA under this section is liable to TDA for the costs of treatment, isolation, and destruction, and authorizes TDA to bring suit to collect the costs.

(h) Specifies that the attorney general is entitled to court costs and reasonable attorney's fees in any suit brought on behalf of TDA under this section, including any suit for an injunction.

(i) Authorizes TDA to enter into an agreement with a public or private entity to obtain assistance in defraying the cost of implementing this section.

SECTION 9. Amends Section 146.021, Agriculture Code, to authorize TDA to receive and hold for processing animals and animal products transported in international trade and to establish and collect reasonable fees for yardage, maintenance, feed, medical care, facility use and other necessary expenses incurred in the course of processing those animals.

SECTION 10. Provides that the farm and ranch loan security fund created under Section 252.081, Agriculture Code, is abolished.

SECTION 11. Provides that Section 6 of this Act, amending Section 60.063(c), Agriculture Code, takes effect only if House Bill No. 3383, proposed by the 78th Legislature, Regular Session, 2003, relating to agricultural development districts, is passed and becomes law. Provides that if that bill does not become law, Section 6, of this Act has no effect.

SECTION 12. Effective date: September 1, 2003, except as provided by Section 11 of this Act.