

By: Flores

H.B. No. 2320

A BILL TO BE ENTITLED

AN ACT

relating to administration by the Texas Department of Agriculture of quarantined articles.

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

SECTION 1. Section 71.008, Agriculture Code, is amended by adding Subsection (f) to read as follows:

(f) This section does not restrict the department's authority to establish on its own initiative an eradication program within a quarantined area to protect the state's agricultural resources.

SECTION 2. Subchapter A, Chapter 71, Agriculture Code, is amended by adding Section 71.0092 to read as follows:

Sec. 71.0092. SEIZURE, TREATMENT, HANDLING, AND DESTRUCTION OF CERTAIN MATERIALS WITHIN QUARANTINED AREA. (a) In this section, "quarantined article" means:

(1) a plant, plant product, substance, or other item capable of hosting or facilitating the dissemination of an insect pest or plant disease that is the subject of a quarantine established by the department under this subchapter; or

(2) a motor vehicle, railcar, other conveyance, or equipment used for, or intended for use in, the transportation or production of an item described by Subdivision (1).

(b) The department by rule may establish treatment and handling requirements for a quarantined article found within a

1 quarantined area. The requirements must be designed to:

2 (1) prevent dissemination of a dangerous insect pest
3 or plant disease outside the quarantined area or into a pest-free
4 area in the state;

5 (2) prevent infestation of a quarantined article by a
6 dangerous insect pest or plant disease that is subject to a
7 quarantine established by the department under this subchapter;

8 (3) decrease the occurrence in this state or a
9 quarantined area of this state of a dangerous insect pest or plant
10 disease that is subject to a quarantine established by the
11 department under this subchapter; or

12 (4) facilitate the eradication of a dangerous insect
13 pest or plant disease that is subject to a quarantine established by
14 the department under this subchapter.

15 (c) A person in possession or control of a quarantined
16 article located in a quarantined area shall comply with department
17 rules and orders regarding treatment and handling of the
18 quarantined article.

19 (d) If a person in possession or control of a quarantined
20 article located in a quarantined area fails to comply with a
21 department rule or order under this section, the department may at
22 the expense of the person or of the owner of the article:

23 (1) seize the quarantined article and, subject to
24 available department resources and Section 71.010:

25 (A) isolate the article in a manner designed to
26 prevent the dissemination of the dangerous insect pest or plant
27 disease until the article no longer represents a danger of

1 dissemination or until the person agrees to comply with the rule or
2 order;

3 (B) treat the article to eliminate the danger of
4 dissemination of the dangerous insect pest or plant disease; or

5 (C) destroy the article; or

6 (2) seek an injunction from a district court in Travis
7 County ordering the person to:

8 (A) comply with the department's rule or order;

9 or

10 (B) surrender possession of the quarantined
11 article to the department for disposition under Subdivision (1).

12 (e) If the owner of a quarantined article seized under this
13 section is unknown to the department, the department shall publish
14 notice that not earlier than the fifth day after the date on which
15 the notice is published or posted the department may destroy,
16 treat, or isolate the quarantined article at the owner's expense.
17 The department must publish the notice for three consecutive days
18 in a newspaper of general circulation in the county in which the
19 quarantined article was seized. The notice must include a
20 description of the quarantined article. If an owner claims the
21 quarantined article before the date described by the notice and
22 agrees in writing to treat or handle the article in a manner
23 provided by department rule or order, the department shall deliver
24 the quarantined article to the owner at the owner's expense. If an
25 owner does not claim the quarantined article before the date
26 described by the notice, the department may destroy or arrange for
27 the destruction of the quarantined article or continue to isolate

1 or treat the quarantined article at the owner's expense. If an
2 owner refuses to agree in writing to comply with the department's
3 rule or order regarding treatment or handling of a quarantined
4 article, the department may destroy or arrange for the destruction
5 of the quarantined article or continue to isolate or treat the
6 quarantined article at the owner's expense, subject to Section
7 71.010.

8 (f) In enforcing this section, the department may seek the
9 assistance of the Department of Public Safety under Section
10 71.0101, or any law enforcement officer of the county in which the
11 quarantined article is located. The Department of Public Safety or
12 local law enforcement officer shall cooperate with the department
13 and provide any assistance necessary to implement this section.

14 (g) The owner of a quarantined article treated, isolated, or
15 destroyed by the department under this section is liable to the
16 department for the costs of treatment, isolation, and destruction,
17 and the department may bring suit to collect the costs.

18 (h) The attorney general is entitled to court costs and
19 reasonable attorney's fees in any suit brought on behalf of the
20 department under this section, including any suit for an
21 injunction.

22 (i) The department may enter into an agreement with a public
23 or private entity to obtain assistance in defraying the cost of
24 implementing this section.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

H.B. No. 2320

- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2003.