

1 AN ACT

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

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

5 SECTION 1. Chapter 12, Agriculture Code, is amended by
6 adding Section 12.0012 to read as follows:

7 Sec. 12.0012. NOTIFICATION. The department shall, upon
8 submission for publication, notify the division of emergency
9 management in the office of the governor of each quarantine it
10 adopts. The department shall thereafter cooperate with the
11 division of emergency management in implementing any necessary
12 safeguards to protect the state's agricultural resources from
13 potential economic, health, or ecological disaster that may result
14 from the quarantined pest or disease.

15 SECTION 2. Section 71.008, Agriculture Code, is amended by
16 adding Subsection (f) to read as follows:

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

21 SECTION 3. Subchapter A, Chapter 71, Agriculture Code, is
22 amended by adding Section 71.0092 to read as follows:

23 Sec. 71.0092. SEIZURE, TREATMENT, HANDLING, AND
24 DESTRUCTION OF CERTAIN MATERIALS WITHIN QUARANTINED AREA. (a) In

1 this section, "quarantined article" means:

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

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

9 (b) The department by rule may establish treatment and
10 handling requirements for a quarantined article found within a
11 quarantined area. The requirements must be designed to:

12 (1) prevent dissemination of a dangerous insect pest
13 or plant disease outside the quarantined area or into a pest-free
14 area in the state;

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

18 (3) decrease the occurrence in this state or a
19 quarantined area of this state of a dangerous insect pest or plant
20 disease that is subject to a quarantine established by the
21 department under this subchapter; or

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

25 (c) A person in possession or control of a quarantined
26 article located in a quarantined area shall comply with department
27 rules and orders regarding treatment and handling of the

1 quarantined article.

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

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

8 (A) isolate the article in a manner designed to
9 prevent the dissemination of the dangerous insect pest or plant
10 disease until the article no longer represents a danger of
11 dissemination or until the person agrees to comply with the rule or
12 order;

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

15 (C) destroy the article; or

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

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

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

22 (e) If the owner of a quarantined article seized under this
23 section is unknown to the department, the department shall publish
24 notice that not earlier than the fifth day after the date on which
25 the notice is published or posted the department may destroy,
26 treat, or isolate the quarantined article at the owner's expense.
27 The department must publish the notice for three consecutive days

1 in a newspaper of general circulation in the county in which the
2 quarantined article was seized. The notice must include a
3 description of the quarantined article. If an owner claims the
4 quarantined article before the date described by the notice and
5 agrees in writing to treat or handle the article in a manner
6 provided by department rule or order, the department shall deliver
7 the quarantined article to the owner at the owner's expense. If an
8 owner does not claim the quarantined article before the date
9 described by the notice, the department may destroy or arrange for
10 the destruction of the quarantined article or continue to isolate
11 or treat the quarantined article at the owner's expense. If an
12 owner refuses to agree in writing to comply with the department's
13 rule or order regarding treatment or handling of a quarantined
14 article, the department may destroy or arrange for the destruction
15 of the quarantined article or continue to isolate or treat the
16 quarantined article at the owner's expense, subject to Section
17 71.010.

18 (f) In enforcing this section, the department may seek the
19 assistance of the Department of Public Safety under Section
20 71.0101, or any law enforcement officer of the county in which the
21 quarantined article is located. The Department of Public Safety or
22 local law enforcement officer shall cooperate with the department
23 and provide any assistance necessary to implement this section.

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

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

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

8 SECTION 4. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 2320 was passed by the House on April 25, 2003, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2320 on May 28, 2003, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2320 was passed by the Senate, with amendments, on May 26, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor