

1-1 By: Flores (Senate Sponsor - Lucio) H.B. No. 2320  
1-2 (In the Senate - Received from the House April 28, 2003;  
1-3 May 1, 2003, read first time and referred to Committee on Natural  
1-4 Resources; May 21, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 10, Nays 0;  
1-6 May 21, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2320 By: Lucio

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to administration by the Texas Department of Agriculture  
1-11 of quarantined articles.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 12, Agriculture Code, is amended by  
1-14 adding Section 12.0012 to read as follows:

1-15 Sec. 12.0012. The department shall, upon submission for  
1-16 publication, notify the division of emergency management in the  
1-17 office of the governor of each quarantine it adopts. The department  
1-18 shall thereafter cooperate with the division of emergency  
1-19 management in implementing any necessary safeguards to protect the  
1-20 state's agricultural resources from potential economic, health, or  
1-21 ecological disaster that may result from the quarantined pest or  
1-22 disease.

1-23 SECTION 2. Section 71.008, Agriculture Code, is amended by  
1-24 adding Subsection (f) to read as follows:

1-25 (f) This section does not restrict the department's  
1-26 authority to establish on its own initiative an eradication program  
1-27 within a quarantined area to protect the state's agricultural  
1-28 resources.

1-29 SECTION 3. Subchapter A, Chapter 71, Agriculture Code, is  
1-30 amended by adding Section 71.0092 to read as follows:

1-31 Sec. 71.0092. SEIZURE, TREATMENT, HANDLING, AND  
1-32 DESTRUCTION OF CERTAIN MATERIALS WITHIN QUARANTINED AREA. (a) In  
1-33 this section, "quarantined article" means:

1-34 (1) a plant, plant product, substance, or other item  
1-35 capable of hosting or facilitating the dissemination of an insect  
1-36 pest or plant disease that is the subject of a quarantine  
1-37 established by the department under this subchapter; or

1-38 (2) a motor vehicle, railcar, other conveyance, or  
1-39 equipment used for, or intended for use in, the transportation or  
1-40 production of an item described by Subdivision (1).

1-41 (b) The department by rule may establish treatment and  
1-42 handling requirements for a quarantined article found within a  
1-43 quarantined area. The requirements must be designed to:

1-44 (1) prevent dissemination of a dangerous insect pest  
1-45 or plant disease outside the quarantined area or into a pest-free  
1-46 area in the state;

1-47 (2) prevent infestation of a quarantined article by a  
1-48 dangerous insect pest or plant disease that is subject to a  
1-49 quarantine established by the department under this subchapter;

1-50 (3) decrease the occurrence in this state or a  
1-51 quarantined area of this state of a dangerous insect pest or plant  
1-52 disease that is subject to a quarantine established by the  
1-53 department under this subchapter; or

1-54 (4) facilitate the eradication of a dangerous insect  
1-55 pest or plant disease that is subject to a quarantine established by  
1-56 the department under this subchapter.

1-57 (c) A person in possession or control of a quarantined  
1-58 article located in a quarantined area shall comply with department  
1-59 rules and orders regarding treatment and handling of the  
1-60 quarantined article.

1-61 (d) If a person in possession or control of a quarantined  
1-62 article located in a quarantined area fails to comply with a  
1-63 department rule or order under this section, the department may at

2-1 the expense of the person or of the owner of the article:

2-2 (1) seize the quarantined article and, subject to  
2-3 available department resources and Section 71.010:

2-4 (A) isolate the article in a manner designed to  
2-5 prevent the dissemination of the dangerous insect pest or plant  
2-6 disease until the article no longer represents a danger of  
2-7 dissemination or until the person agrees to comply with the rule or  
2-8 order;

2-9 (B) treat the article to eliminate the danger of  
2-10 dissemination of the dangerous insect pest or plant disease; or

2-11 (C) destroy the article; or

2-12 (2) seek an injunction from a district court in Travis  
2-13 County ordering the person to:

2-14 (A) comply with the department's rule or order;  
2-15 or

2-16 (B) surrender possession of the quarantined  
2-17 article to the department for disposition under Subdivision (1).

2-18 (e) If the owner of a quarantined article seized under this  
2-19 section is unknown to the department, the department shall publish  
2-20 notice that not earlier than the fifth day after the date on which  
2-21 the notice is published or posted the department may destroy,  
2-22 treat, or isolate the quarantined article at the owner's expense.  
2-23 The department must publish the notice for three consecutive days  
2-24 in a newspaper of general circulation in the county in which the  
2-25 quarantined article was seized. The notice must include a  
2-26 description of the quarantined article. If an owner claims the  
2-27 quarantined article before the date described by the notice and  
2-28 agrees in writing to treat or handle the article in a manner  
2-29 provided by department rule or order, the department shall deliver  
2-30 the quarantined article to the owner at the owner's expense. If an  
2-31 owner does not claim the quarantined article before the date  
2-32 described by the notice, the department may destroy or arrange for  
2-33 the destruction of the quarantined article or continue to isolate  
2-34 or treat the quarantined article at the owner's expense. If an  
2-35 owner refuses to agree in writing to comply with the department's  
2-36 rule or order regarding treatment or handling of a quarantined  
2-37 article, the department may destroy or arrange for the destruction  
2-38 of the quarantined article or continue to isolate or treat the  
2-39 quarantined article at the owner's expense, subject to Section  
2-40 71.010.

2-41 (f) In enforcing this section, the department may seek the  
2-42 assistance of the Department of Public Safety under Section  
2-43 71.0101, or any law enforcement officer of the county in which the  
2-44 quarantined article is located. The Department of Public Safety or  
2-45 local law enforcement officer shall cooperate with the department  
2-46 and provide any assistance necessary to implement this section.

2-47 (g) The owner of a quarantined article treated, isolated, or  
2-48 destroyed by the department under this section is liable to the  
2-49 department for the costs of treatment, isolation, and destruction,  
2-50 and the department may bring suit to collect the costs.

2-51 (h) The attorney general is entitled to court costs and  
2-52 reasonable attorney's fees in any suit brought on behalf of the  
2-53 department under this section, including any suit for an  
2-54 injunction.

2-55 (i) The department may enter into an agreement with a public  
2-56 or private entity to obtain assistance in defraying the cost of  
2-57 implementing this section.

2-58 SECTION 4. This Act takes effect immediately if it receives  
2-59 a vote of two-thirds of all the members elected to each house, as  
2-60 provided by Section 39, Article III, Texas Constitution. If this  
2-61 Act does not receive the vote necessary for immediate effect, this  
2-62 Act takes effect September 1, 2003.

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