

AN ACT

relating to certain powers, duties, and programs of the Department of Agriculture and to other entities engaged in agricultural activities.

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

SECTION 1. The following provisions of the Agriculture Code are repealed:

(1) Sections 12.004, 12.008, 12.009, 12.030, 13.005, 13.006, 13.103, 13.105, 13.106, and 13.107, Subsections (b) and (c), Section 13.108, Sections 15.004, 77.004, and 77.005; and

(2) Chapters 53, 96, 104, 145, and 252.

SECTION 2. Chapter 12, Agriculture Code, is amended by adding Section 12.0012 to read as follows:

Sec. 12.0012. NOTICE OF QUARANTINE. The department, on submission for publication, shall notify the Department of Public Safety's division of emergency management of each quarantine the department adopts. The department shall 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. Section 13.109, Agriculture Code, is amended to read as follows:

Sec. 13.109. RULES GOVERNING SEALERS. The department shall

1 issue instructions and adopt rules governing state~~[, county, and~~  
2 ~~local]~~ sealers as necessary to carry out the purposes of this  
3 chapter.

4 SECTION 4. Subsection (a), Section 13.110, Agriculture  
5 Code, is amended to read as follows:

6 (a) In accordance with this subchapter, each sealer may  
7 inspect and test all weights and measures used in the locality to  
8 which the sealer is assigned ~~[or in the city or county in which the~~  
9 ~~sealer is appointed]~~.

10 SECTION 5. Section 13.122, Agriculture Code, is amended to  
11 read as follows:

12 Sec. 13.122. PENALTIES. An offense under Section ~~[13.103,~~  
13 ~~13.106,~~] 13.114~~[7]~~ or each of Sections 13.116 through 13.121 ~~[of~~  
14 ~~this code]~~ is a Class C misdemeanor.

15 SECTION 6. Subsection (c), Section 60.063, Agriculture  
16 Code, is amended to read as follows:

17 (c) A ~~[If notice is given at closing, a]~~ purchaser or the  
18 purchaser's heirs, successors, or assigns may not maintain any  
19 action for damages or maintain any action against the seller, title  
20 insurance company, real estate brokers, or lienholder, or any  
21 agent, representative, or person acting in their behalf, by reason  
22 of the imposition of fees or assessments by the district authorized  
23 by this chapter. Notice is not required to be given pursuant to  
24 this section ~~[paragraph]~~ unless a certified copy of the order  
25 creating the district has been recorded in the real property  
26 records in the county in which the land is located and such order  
27 contains the legal description of the district. A purchaser,

1 seller, lender, real estate broker, title insurance company, and  
2 title insurance agent may conclusively rely on the recorded  
3 certified copy of the order.

4 SECTION 7. Section 71.008, Agriculture Code, is amended by  
5 adding Subsection (f) to read as follows:

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

10 SECTION 8. Subchapter A, Chapter 71, Agriculture Code, is  
11 amended by adding Section 71.0092 to read as follows:

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

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

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

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

25 (1) prevent dissemination of a dangerous insect pest  
26 or plant disease outside the quarantined area or into a pest-free  
27 area in the state;

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

4           (3) decrease the occurrence in this state or a  
5 quarantined area of this state of a dangerous insect pest or plant  
6 disease that is subject to a quarantine established by the  
7 department under this subchapter; or

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

11           (c) A person in possession or control of a quarantined  
12 article located in a quarantined area shall comply with department  
13 rules and orders regarding treatment and handling of the  
14 quarantined article.

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

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

21           (A) isolate the article in a manner designed to  
22 prevent the dissemination of the dangerous insect pest or plant  
23 disease until the article no longer represents a danger of  
24 dissemination or until the person agrees to comply with the rule or  
25 order;

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

1                   (C) destroy the article; or

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

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

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

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

1 of the quarantined article or continue to isolate or treat the  
2 quarantined article at the owner's expense, subject to Section  
3 71.010.

4 (f) In enforcing this section, the department may seek the  
5 assistance of the Department of Public Safety under Section  
6 71.0101, or any law enforcement officer of the county in which the  
7 quarantined article is located. The Department of Public Safety or  
8 local law enforcement officer shall cooperate with the department  
9 and provide any assistance necessary to implement this section.

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

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

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

21 SECTION 9. Section 146.021, Agriculture Code, is amended to  
22 read as follows:

23 Sec. 146.021. DEPARTMENT FACILITIES. The department may  
24 receive and hold for processing animals and animal products  
25 transported in international trade and may establish and collect  
26 reasonable fees for yardage, maintenance, feed, medical care,  
27 facility use, and other necessary expenses incurred in the course

1 of processing those animals.

2 SECTION 10. The farm and ranch loan security fund created  
3 under Section 252.081, Agriculture Code, is abolished.

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

10 SECTION 12. Except as provided by Section 11 of this Act,  
11 this Act takes effect September 1, 2003.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1413 passed the Senate on May 6, 2003, by the following vote: Yeas 31, Nays 0; May 30, 2003, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 30, 2003, House granted request of the Senate; June 1, 2003, Senate adopted Conference Committee Report by a viva-voce vote.

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Secretary of the Senate

I hereby certify that S.B. No. 1413 passed the House, with amendments, on May 25, 2003, by the following vote: Yeas 59, Nays 50, one present not voting; May 30, 2003, House granted request of the Senate for appointment of Conference Committee; June 1, 2003, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor