

By: Staples

S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to homeland security; providing a penalty.

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

SECTION 1. Chapter 2, Agriculture Code, is amended by adding Section 2.006 to read as follows:

Sec. 2.006. POLICY: INSPECTION STATIONS. (a) Protecting this state from the intentional or unintentional introduction of damaging plant and animal pests and diseases is paramount to the interests of the agriculture industry and this state.

(b) The department, with the assistance of the Texas Animal Health Commission, shall protect this state by ensuring that the borders of this state are secure from shipments of potentially dangerous plant and animal pests and diseases.

(c) In recognition of the key role that plant and animal inspections play in proactively protecting this state's borders, the department and the Texas Animal Health Commission, under the direction of the department, shall carry out joint road station and interstate shipment inspections when feasible at strategic points throughout this state as determined by the department and the Texas Animal Health Commission.

SECTION 2. Section 71.0081, Agriculture Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department may execute agreements with corporations or other private concerns to provide goods or services

1 to establish checkpoints or conduct inspections under this section.

2 SECTION 3. Section 161.048, Agriculture Code, is amended by
3 adding Subsection (d-1) to read as follows:

4 (d-1) The commission may execute agreements with
5 corporations or other private concerns to provide goods or services
6 to establish checkpoints or conduct inspections under this section.

7 SECTION 4. Section 418.004, Government Code, is amended by
8 adding Subdivision (9) to read as follows:

9 (9) "Regional planning commission" means a regional
10 planning commission, council of governments, or other regional
11 planning agency created under Chapter 391, Local Government Code.

12 SECTION 5. Subsection (c), Section 418.107, Government
13 Code, is amended to read as follows:

14 (c) A political subdivision or regional planning commission
15 may render aid to other political subdivisions or regional planning
16 commissions under mutual aid agreements.

17 SECTION 6. Subsection (d), Section 418.109, Government
18 Code, is amended to read as follows:

19 (d) A municipality, county, emergency services district,
20 fire protection agency, regional planning commission, organized
21 volunteer group, or other emergency services entity may provide
22 mutual aid assistance on request from another municipality, county,
23 emergency services district, fire protection agency, regional
24 planning commission, organized volunteer group, or other emergency
25 services entity. The chief or highest ranking officer of the entity
26 from which assistance is requested, with the approval and consent
27 of the presiding officer of the governing body of that entity, may

1 provide that assistance while acting in accordance with the
2 policies, ordinances, and procedures established by the governing
3 body of that entity and consistent with any mutual aid plans
4 developed by the emergency management council.

5 SECTION 7. The heading to Subchapter B, Chapter 421,
6 Government Code, is amended to read as follows:

7 SUBCHAPTER B. HOMELAND SECURITY [~~CRITICAL INFRASTRUCTURE~~
8 ~~PROTECTION~~] COUNCIL

9 SECTION 8. Subsection (a), Section 421.021, Government
10 Code, is amended to read as follows:

11 (a) The Homeland Security [~~Critical Infrastructure~~
12 ~~Protection~~] Council is composed of the governor or the governor's
13 designee and one representative of each of the following entities,
14 appointed by the single statewide elected or appointed governing
15 officer or administrative head of the entity:

- 16 (1) Department of Agriculture;
- 17 (2) office of the attorney general;
- 18 (3) General Land Office;
- 19 (4) Public Utility Commission of Texas;
- 20 (5) [~~Texas~~] Department of State Health Services;
- 21 (6) Department of Information Resources;
- 22 (7) Department of Public Safety of the State of Texas;
- 23 (8) division of emergency management of the office of
24 the governor;
- 25 (9) adjutant general's department [~~Texas National~~
26 ~~Guard~~];
- 27 (10) Texas Commission on Environmental Quality;

- 1 (11) Railroad Commission of Texas;
- 2 (12) Texas Strategic Military Planning Commission;
- 3 [and]
- 4 (13) Texas Department of Transportation;
- 5 (14) Commission on State Emergency Communications;
- 6 (15) Office of State-Federal Relations;
- 7 (16) Secretary of State;
- 8 (17) Senate Committee on Transportation and Homeland
- 9 Security;
- 10 (18) House Committee on Defense Affairs and
- 11 State-Federal Relations;
- 12 (19) Texas Animal Health Commission;
- 13 (20) Texas Association of Regional Councils;
- 14 (21) Texas Commission on Law Enforcement Officer
- 15 Standards and Education;
- 16 (22) Texas Department of Insurance (arson
- 17 investigators);
- 18 (23) Texas Education Agency;
- 19 (24) Texas Commission on Fire Protection;
- 20 (25) Parks and Wildlife Department;
- 21 (26) Texas Forest Service; and
- 22 (27) Texas Water Development Board.

23 SECTION 9. Section 421.071, Government Code, is amended to

24 read as follows:

25 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local

26 agency that performs a homeland security activity or a

27 nongovernmental entity that contracts with a state or local agency

1 to perform a homeland security activity shall cooperate with and
2 assist the office of the governor, the Homeland Security [~~Critical~~
3 ~~Infrastructure Protection~~] Council, the Texas Infrastructure
4 Protection Communications Center, and the National Infrastructure
5 Protection Center in the performance of their duties under this
6 chapter and other state or federal law.

7 SECTION 10. Chapter 421, Government Code, is amended by
8 adding Subchapter F to read as follows:

9 SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO AND COMPUTER

10 COMMUNICATIONS PROGRAM

11 Sec. 421.095. DEFINITIONS. In this subchapter:

12 (1) "First responder" means a public safety employee
13 or volunteer whose duties include responding rapidly to an
14 emergency. The term includes:

15 (A) a peace officer whose duties include
16 responding rapidly to an emergency;

17 (B) fire protection personnel under Section
18 419.021;

19 (C) a volunteer firefighter who is:
20 (i) certified by the Texas Commission on
21 Fire Protection; or

22 (ii) a member of an organized volunteer
23 fire-fighting unit as described by Section 615.003; and

24 (D) an individual certified as emergency medical
25 services personnel by the Department of State Health Services.

26 (2) "Infrastructure equipment" means the underlying
27 permanent equipment required to establish interoperable

1 communication between radio systems used by local, state, and
2 federal agencies and first responders.

3 Sec. 421.096. INTEROPERABILITY OF RADIO AND COMPUTER
4 SYSTEMS. The office of the governor shall:

5 (1) develop and administer a strategic plan to design
6 and implement a statewide integrated public safety radio and
7 computer communications system that promotes interoperability
8 within and between local, state, and federal agencies and first
9 responders;

10 (2) develop and administer a plan in accordance with
11 Subdivision (1) to purchase infrastructure equipment and computer
12 systems for state and local agencies and first responders;

13 (3) advise representatives of entities involved in
14 homeland security activities, as defined by Section 421.001, in
15 this state; and

16 (4) use appropriated money, including money from
17 relevant federal homeland security grants, for the purposes of
18 designing, implementing, and maintaining a statewide integrated
19 public safety radio and computer communications system.

20 Sec. 421.097. ASSISTANCE. The office of the governor may
21 consult with a representative of an entity described in Section
22 421.096(3) to obtain assistance or information necessary for the
23 performance of any duty under this subchapter.

24 Sec. 421.098. REPORT. Not later than September 1 of each
25 year, the office of the governor shall provide to the legislature a
26 report on the status of its duties under this subchapter.

27 SECTION 11. The heading to Section 791.006, Government

1 Code, is amended to read as follows:

2 Sec. 791.006. LIABILITY UNDER CONTRACT OR IN ABSENCE OF
3 ~~[FIRE PROTECTION]~~ CONTRACT FOR ~~[OR]~~ PROVISION OF FIRE, EMERGENCY,
4 OR LAW ENFORCEMENT SERVICES.

5 SECTION 12. Section 791.006, Government Code, is amended by
6 amending Subsection (a) and adding Subsections (d) and (e) to read
7 as follows:

8 (a) In the absence of a [If governmental units] contract, if
9 a municipality, county, rural fire prevention district, emergency
10 services district, fire protection agency, organized volunteer
11 group, joint board, or other emergency services entity furnishes
12 fire or emergency [under this chapter to furnish or obtain the]
13 services to another municipality, county, rural [of a] fire
14 prevention district, emergency services district, fire protection
15 agency, organized volunteer group, joint board, or other emergency
16 services entity, each [department, the] governmental unit is [that
17 would have been] responsible for its own actions [furnishing the
18 services in the absence of the contract is responsible] for any
19 civil liability that arises from the furnishing or obtaining of
20 those services.

21 (d) Nothing in this section affects the employer-employee
22 relationship or the terms or conditions of employment between a
23 governmental unit and its employees, such as the payment of wages or
24 provision of benefits, including workers' compensation.

25 (e) Nothing in this section affects a school district.

26 SECTION 13. Subchapter B, Chapter 12, Health and Safety
27 Code, is amended by adding Section 12.0128 to read as follows:

1 Sec. 12.0128. HEALTH ALERT NETWORK. The department shall
2 include the Texas Association of Local Health Officials, the Texas
3 Association of Community Health Centers, and the Texas Organization
4 of Rural and Community Hospitals in the department's Texas Health
5 Alert Network to the extent federal funds for bioterrorism
6 preparedness are available for that purpose.

7 SECTION 14. Section 341.033, Health and Safety Code, is
8 amended by adding Subsection (i) to read as follows:

9 (i) An owner, agent, manager, operator, or other person in
10 charge of a public water supply system that furnishes water for
11 public or private use shall maintain internal procedures to notify
12 the commission immediately of the following events, if the event
13 may negatively impact the production or delivery of safe and
14 adequate drinking water:

15 (1) an unusual or unexplained unauthorized entry at
16 property of the public water supply system;

17 (2) an act of terrorism against the public water
18 supply system;

19 (3) an unauthorized attempt to probe for or gain
20 access to proprietary information that supports the key activities
21 of the public water supply system;

22 (4) a theft of property that supports the key
23 activities of the public water supply system; or

24 (5) a natural disaster, accident, or act that results
25 in damage to the public water supply system.

26 SECTION 15. Subsection (b), Section 30.05, Penal Code, is
27 amended by adding Subdivision (7) to read as follows:

1 (7) "Critical infrastructure facility" means one of
2 the following, if completely enclosed by a fence or other physical
3 barrier that is obviously designed to exclude intruders:

4 (A) a chemical manufacturing facility;

5 (B) a refinery;

6 (C) an electrical power generating facility,
7 substation, switching station, electrical control center, or
8 electrical transmission or distribution facility;

9 (D) a water intake structure or water treatment
10 facility;

11 (E) a natural gas transmission compressor
12 station;

13 (F) a liquid natural gas terminal or storage
14 facility;

15 (G) a telecommunications central switching
16 office; or

17 (H) a port, railroad switching yard, trucking
18 terminal, or other freight transportation facility.

19 SECTION 16. Section 30.05, Penal Code, is amended by
20 amending Subsection (d) and by adding Subsections (g) and (h) to
21 read as follows:

22 (d) An offense under Subsection (e) is a Class C misdemeanor
23 unless it is committed in a habitation or unless the actor carries a
24 deadly weapon on or about the actor's person during the commission
25 of the offense, in which event it is a Class A misdemeanor. An
26 offense under Subsection (a) is a Class B misdemeanor, except that
27 the offense is a Class A misdemeanor if:

1 (1) the offense is committed:

2 (A) in a habitation or a shelter center; ~~[or]~~

3 (B) on a Superfund site; or

4 (C) on or in a critical infrastructure facility;

5 or

6 (2) the actor carries a deadly weapon on or about his
7 person during the commission of the offense.

8 (g) It is a defense to prosecution under this section that
9 the actor entered a railroad switching yard or any part of a
10 railroad switching yard and was at that time an employee or a
11 representative of employees exercising a right under the Railway
12 Labor Act (45 U.S.C. Section 151 et seq.).

13 (h) At the punishment stage of a trial in which the attorney
14 representing the state seeks the increase in punishment provided by
15 Subsection (d)(1)(C), the defendant may raise the issue as to
16 whether the defendant entered or remained on or in a critical
17 infrastructure facility as part of a peaceful or lawful assembly,
18 including an attempt to exercise rights guaranteed by state or
19 federal labor laws. If the defendant proves the issue in the
20 affirmative by a preponderance of the evidence, the increase in
21 punishment provided by Subsection (d)(1)(C) does not apply.

22 SECTION 17. Section 411.0105, Government Code, is repealed.

23 SECTION 18. On the effective date of this Act:

24 (1) the Public Safety Radio Communications Council is
25 abolished;

26 (2) the office of the governor replaces the Public
27 Safety Radio Communications Council as the entity responsible for

1 oversight of the development of a program related to the
2 interoperability of radio communications;

3 (3) all property, including records, in the custody of
4 the Department of Public Safety of the State of Texas that relates
5 to the Public Safety Radio Communications Council or a program to
6 promote the interoperability of radio communications becomes the
7 property of the office of the governor and shall be made available
8 to the office of the governor no later than December 1, 2005; and

9 (4) all funds appropriated by the legislature to the
10 Department of Public Safety for the purpose of providing
11 administrative support to the Public Safety Radio Communications
12 Council are transferred to the office of the governor.

13 SECTION 19. The change in law made by this Act to Section
14 30.05, Penal Code, applies only to an offense committed on or after
15 September 1, 2005. An offense committed before September 1, 2005,
16 is covered by the law in effect when the offense was committed, and
17 the former law is continued in effect for that purpose. For
18 purposes of this section, an offense was committed before September
19 1, 2005, if any element of the offense was committed before that
20 date.

21 SECTION 20. (a) The change in law made by this Act to
22 Section 791.006, Government Code, does not affect any civil
23 liability for services furnished under an interlocal cooperation
24 contract to furnish or obtain the services of a fire department
25 entered into before the effective date of this Act.

26 (b) The former law is continued in effect for the purpose of
27 determining liability, if any, for services furnished under an

1 interlocal cooperation contract to furnish or obtain the services
2 of a fire department entered into before the effective date of this
3 Act.

4 SECTION 21. This Act takes effect immediately if it
5 receives a vote of two-thirds of all the members elected to each
6 house, as provided by Section 39, Article III, Texas Constitution.
7 If this Act does not receive the vote necessary for immediate
8 effect, this Act takes effect September 1, 2005.