

BILL ANALYSIS

Senate Research Center
81R6332 TRH-F

S.B. 1132
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Agriculture & Rural Affairs
3/23/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Agriculture (TDA) currently does not have the authority to enter premises to inspect plants over the objections of the owner. In situations where TDA has reason to believe a plant pest or disease is present in an area, access to physical areas and plants is crucial in the fight to control the pest, disease, or the spread thereof. When the potential damage from a plant pest or disease is particularly high, the ability to inspect plants on premises on a timely basis is of utmost importance to assist the agricultural industry and to minimize the potential harm to the state's economy.

As proposed, S.B. 1132 authorizes TDA to seek an agriculture warrant from a magistrate with respect to a plant disease or pest identified in the application of the warrant for the purposes of conducting inspections of items likely to contain plant pests or plant diseases, to conduct testing of plants, to trap insects, and to treat plant diseases and pests.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 71, Agriculture Code, by adding Section 71.0083, as follows:

Sec. 71.0083. AGRICULTURE WARRANTS. (a) Authorizes the Department of Agriculture (TDA), in addition to vehicle inspections authorized under Section 71.0081 (Vehicle Inspections for Insect Pests or Plant Diseases), to seek an agriculture warrant with respect to a plant pest or plant disease identified in the application for the warrant to perform certain tasks.

(b) Authorizes an agriculture warrant to be issued only by a magistrate authorized to issue a search warrant under Chapter 18 (Search Warrants), Code of Criminal Procedure, only after TDA has exercised reasonable efforts to obtain consent to conduct a search, and on application by TDA accompanied by a supporting affidavit that establishes probable cause for the issuance of the warrant. Requires that the warrant describe the street address and municipality or the parcel number and county of each place or premises subject to the warrant and each type of plant pest or disease that is subject of the warrant.

(c) Requires that, in determining the existence of probable cause for the issuance of an agriculture warrant, it be sufficient to show only that the place or premises described in the application for the warrant are located in an area subject to a quarantine established by TDA with respect to the plant pest or disease that is the subject of the warrant or there is a reasonable probability the place or premises contain a plant pest or disease or are located in an area that is reasonably suspected of being infected with a plant pest or disease because of its proximity to a known infestation.

(d) Provides that a single application and affidavit is sufficient for the issuance of multiple agriculture warrants if the application for the warrant describes the

location of each place or premises subject to the warrant and all those places or premises are located in the same county.

(e) Provides that TDA is entitled to an ex parte hearing on an application for an agriculture warrant. Authorizes the warrant to be served and executed by a TDA employee and requires that it authorize TDA employees to undertake any action authorized by the warrant. Requires a sheriff or constable, on request by TDA, to accompany and assist the TDA employee in serving or executing the warrant.

(f) Requires that a copy of the warrant, at the time the warrant is executed, be delivered to a person 18 years of age or older who is occupying or living in the place or premises subject to the warrant or attached to the place or premises in a conspicuous location.

(g) Provides that an agriculture warrant is valid until the 61st day after the date the warrant is issued and authorizes multiple executions of the warrant before the date the warrant expires. Authorizes a warrant to be renewed or extended by the magistrate who issued the original warrant if the magistrate determines there is probable cause for the warrant to be reissued or extended. Requires that the agriculture warrant be returned to the issuing magistrate before the warrant expires.

(h) Prohibits an agriculture warrant from being executed between 7 p.m. and 7 a.m. of the following day or on a state holiday, authorizing the entry into or inspection of the interior of any occupied residential dwelling, or being issued in blank.

(i) Provides that a person commits an offense if the person intentionally interferes with the execution of an agriculture warrant. Provides that an offense under this subsection is a Class B misdemeanor.

(j) Provides this section does not restrict the authority of this state or a political subdivision of this state to otherwise conduct an inspection with or without a warrant as authorized by other law.

SECTION 2. Effective date: September 1, 2009.