

By: Rios Ybarra, et al.

H.B. No. 1949

A BILL TO BE ENTITLED

AN ACT

relating to the issuance and execution of agriculture warrants;
creating an offense.

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

SECTION 1. Subchapter A, Chapter 71, Agriculture Code, is amended by adding Section 71.0083 to read as follows:

Sec. 71.0083. AGRICULTURE WARRANTS. (a) In addition to vehicle inspections authorized under Section 71.0081, the department may seek an agriculture warrant with respect to a plant pest or plant disease identified in the application for the warrant to:

(1) conduct an inspection of:

(A) physical areas;

(B) containers;

(C) buildings; or

(D) items that are reasonably likely to contain:

(i) a plant pest;

(ii) a plant disease; or

(iii) an infected or potentially infected

plant;

(2) set a trap for certain plant pests;

(3) examine records pertaining to the detection, treatment, purchase, or sale of plants; or

(4) test, treat, identify, quarantine, take samples

1 of, seize, or destroy infected or potentially infected plants.

2 (b) An agriculture warrant may be issued only by a
3 magistrate authorized to issue a search warrant under Chapter 18,
4 Code of Criminal Procedure, only after the department has exercised
5 reasonable efforts to obtain consent to conduct a search, and on
6 application by the department accompanied by a supporting affidavit
7 that establishes probable cause for the issuance of the warrant.

8 The warrant must describe:

9 (1) the street address and municipality or the parcel
10 number and county of each place or premises subject to the warrant;
11 and

12 (2) each type of plant pest or disease that is the
13 subject of the warrant.

14 (c) In determining the existence of probable cause for the
15 issuance of an agriculture warrant, it shall be sufficient to show
16 only that:

17 (1) the place or premises described in the application
18 for the warrant are located in an area subject to a quarantine
19 established by the department with respect to the plant pest or
20 disease that is the subject of the warrant; or

21 (2) there is a reasonable probability the place or
22 premises contain a plant pest or disease or are located in an area
23 that is reasonably suspected of being infected with a plant pest or
24 disease because of its proximity to a known infestation.

25 (d) A single application and affidavit is sufficient for the
26 issuance of multiple agriculture warrants if the application for
27 the warrant describes the location of each place or premises

1 subject to the warrant and all those places or premises are located
2 in the same county.

3 (e) The department is entitled to an ex parte hearing on an
4 application for an agriculture warrant. The warrant may be served
5 and executed by a department employee and shall authorize
6 department employees to undertake any action authorized by the
7 warrant. On request by the department, a sheriff or constable shall
8 accompany and assist the department employee in serving or
9 executing the warrant.

10 (f) At the time the warrant is executed, a copy of the
11 warrant shall be:

12 (1) delivered to a person 18 years of age or older who
13 is occupying or living in the place or premises subject to the
14 warrant; or

15 (2) attached to the place or premises in a conspicuous
16 location.

17 (g) An agriculture warrant is valid until the 61st day after
18 the date the warrant is issued and authorizes multiple executions
19 of the warrant before the date the warrant expires. A warrant may
20 be renewed or extended by the magistrate who issued the original
21 warrant if the magistrate determines there is probable cause for
22 the warrant to be reissued or extended. The agriculture warrant
23 must be returned to the issuing magistrate before the warrant
24 expires.

25 (h) An agriculture warrant may not:

26 (1) be executed between 7 p.m. and 7 a.m. of the
27 following day or on a state holiday;

1 (2) authorize the entry into or inspection of the
2 interior of any occupied residential dwelling; or

3 (3) be issued in blank.

4 (i) A person commits an offense if the person intentionally
5 interferes with the execution of an agriculture warrant. An
6 offense under this subsection is a Class B misdemeanor.

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

10 SECTION 2. This Act takes effect September 1, 2009.