

1-1 By: Hinojosa S.B. No. 1132
1-2 (In the Senate - Filed February 25, 2009; March 13, 2009,
1-3 read first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 20, 2009, reported favorably by the following vote:
1-5 Yeas 5, Nays 0; April 20, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the issuance and execution of agriculture warrants;
1-9 creating an offense.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subchapter A, Chapter 71, Agriculture Code, is
1-12 amended by adding Section 71.0083 to read as follows:

1-13 Sec. 71.0083. AGRICULTURE WARRANTS. (a) In addition to
1-14 vehicle inspections authorized under Section 71.0081, the
1-15 department may seek an agriculture warrant with respect to a plant
1-16 pest or plant disease identified in the application for the warrant
1-17 to:

1-18 (1) conduct an inspection of:
1-19 (A) physical areas;
1-20 (B) containers;
1-21 (C) buildings; or
1-22 (D) items that are reasonably likely to contain:
1-23 (i) a plant pest;
1-24 (ii) a plant disease; or
1-25 (iii) an infected or potentially infected
1-26 plant;

1-27 (2) set a trap for certain plant pests;
1-28 (3) examine records pertaining to the detection,
1-29 treatment, purchase, or sale of plants; or
1-30 (4) test, treat, identify, quarantine, take samples
1-31 of, seize, or destroy infected or potentially infected plants.

1-32 (b) An agriculture warrant may be issued only by a
1-33 magistrate authorized to issue a search warrant under Chapter 18,
1-34 Code of Criminal Procedure, only after the department has exercised
1-35 reasonable efforts to obtain consent to conduct a search, and on
1-36 application by the department accompanied by a supporting affidavit
1-37 that establishes probable cause for the issuance of the warrant.
1-38 The warrant must describe:

1-39 (1) the street address and municipality or the parcel
1-40 number and county of each place or premises subject to the warrant;
1-41 and

1-42 (2) each type of plant pest or disease that is the
1-43 subject of the warrant.

1-44 (c) In determining the existence of probable cause for the
1-45 issuance of an agriculture warrant, it shall be sufficient to show
1-46 only that:

1-47 (1) the place or premises described in the application
1-48 for the warrant are located in an area subject to a quarantine
1-49 established by the department with respect to the plant pest or
1-50 disease that is the subject of the warrant; or

1-51 (2) there is a reasonable probability the place or
1-52 premises contain a plant pest or disease or are located in an area
1-53 that is reasonably suspected of being infected with a plant pest or
1-54 disease because of its proximity to a known infestation.

1-55 (d) A single application and affidavit is sufficient for the
1-56 issuance of multiple agriculture warrants if the application for
1-57 the warrant describes the location of each place or premises
1-58 subject to the warrant and all those places or premises are located
1-59 in the same county.

1-60 (e) The department is entitled to an ex parte hearing on an
1-61 application for an agriculture warrant. The warrant may be served
1-62 and executed by a department employee and shall authorize
1-63 department employees to undertake any action authorized by the
1-64 warrant. On request by the department, a sheriff or constable shall

2-1 accompany and assist the department employee in serving or
2-2 executing the warrant.

2-3 (f) At the time the warrant is executed, a copy of the
2-4 warrant shall be:

2-5 (1) delivered to a person 18 years of age or older who
2-6 is occupying or living in the place or premises subject to the
2-7 warrant; or

2-8 (2) attached to the place or premises in a conspicuous
2-9 location.

2-10 (g) An agriculture warrant is valid until the 61st day after
2-11 the date the warrant is issued and authorizes multiple executions
2-12 of the warrant before the date the warrant expires. A warrant may
2-13 be renewed or extended by the magistrate who issued the original
2-14 warrant if the magistrate determines there is probable cause for
2-15 the warrant to be reissued or extended. The agriculture warrant
2-16 must be returned to the issuing magistrate before the warrant
2-17 expires.

2-18 (h) An agriculture warrant may not:

2-19 (1) be executed between 7 p.m. and 7 a.m. of the
2-20 following day or on a state holiday;

2-21 (2) authorize the entry into or inspection of the
2-22 interior of any occupied residential dwelling; or

2-23 (3) be issued in blank.

2-24 (i) A person commits an offense if the person intentionally
2-25 interferes with the execution of an agriculture warrant. An
2-26 offense under this subsection is a Class B misdemeanor.

2-27 (j) This section does not restrict the authority of this
2-28 state or a political subdivision of this state to otherwise conduct
2-29 an inspection with or without a warrant as authorized by other law.

2-30 SECTION 2. This Act takes effect September 1, 2009.

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