

By: Ogden

S.B. No. 1693

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of poultry facilities and poultry litter.

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

SECTION 1. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.068 to read as follows:

Sec. 382.068. POULTRY FACILITY ODOR; RESPONSE TO COMPLAINTS. (a) In this section, "poultry facility" and "poultry litter" have the meanings assigned by Section 26.301, Water Code.

(b) The commission shall respond and investigate not later than 18 hours after receiving one of the following types of complaints:

(1) a second complaint concerning odor associated with a poultry facility or the application of poultry litter; or

(2) a complaint concerning odor from a poultry facility where the commission has previously substantiated nuisance odor conditions in the past 12 months.

(c) If after the investigation the commission determines that a poultry facility is violating the terms of its air quality authorization or creating a nuisance, the commission shall issue a notice of violation.

(d) If three notices of violation are issued by the commission in any 12-month period for a single poultry facility, the commission shall enter into a comprehensive compliance

1 agreement with the facility.

2 (e) All comprehensive compliance agreements between poultry  
3 facilities and the commission shall:

4 (1) include an odor control plan detailing a  
5 facility's plans to control odors; and

6 (2) establish requirements for the submission and  
7 approval of the odor control plan by the commission.

8 (f) The commission may require changes to a plan submitted  
9 under Subsection (e) if the executive director determines that the  
10 plan is insufficient to control odors.

11 (g) The owner or operator of a poultry facility which begins  
12 construction after September 1, 2009, shall complete a poultry  
13 facility training course on the prevention of odor nuisances from  
14 the poultry science unit of the Texas AgriLife Extension Service  
15 not later than 90 days after the date the facility first accepts  
16 poultry to raise.

17 (h) The owner or operator of a poultry facility subject to  
18 Subsection (g) shall maintain records of the training and make the  
19 records available to the commission for inspection.

20 (i) The poultry science unit of the Texas AgriLife Extension  
21 Service may collect a fee from an owner or operator of a poultry  
22 facility subject to Subsection (g) to offset the direct cost of  
23 providing the training.

24 SECTION 2. Section 26.302, Water Code, is amended to read as  
25 follows:

26 Sec. 26.302. REGULATION OF POULTRY FACILITIES. (a) A  
27 person who owns or operates a poultry facility shall ensure that the

1 facility has adequate means or is adequately equipped to handle and  
2 dispose of poultry carcasses, poultry litter, and other poultry  
3 waste regardless of whether the person owns the poultry.

4 (b) A person who owns or operates a poultry facility shall  
5 implement and maintain a water quality management plan for the  
6 facility that is certified by the State Soil and Water Conservation  
7 Board under Section 201.026, Agriculture Code.

8 (b-1) The State Soil and Water Conservation Board may  
9 certify a water quality management plan for a poultry facility  
10 that:

11 (1) does not use a liquid waste handling system; and

12 (2) is required to obtain a permit or other  
13 authorization from the commission.

14 (c) The State Soil and Water Conservation Board shall not  
15 certify a water quality management plan for a poultry facility  
16 located within one-half mile of surrounding businesses,  
17 permanently inhabited residences, or places of worship if the  
18 presence of the facility is likely to create a persistent odor  
19 nuisance for such neighbors, unless the poultry facility provides a  
20 suitable odor control plan.

21 (d) The State Soil and Water Conservation Board shall by  
22 rule establish criteria for the siting and construction of new  
23 poultry facilities, in consultation with the Texas Commission on  
24 Environmental Quality, to determine what geographic, seasonal, and  
25 agronomic factors should be considered when determining whether a  
26 persistent nuisance odor condition is likely to occur.

27 (e) Subsection (c) does not apply to a revision of a

1 previously certified and existing water quality management plan or  
2 to any poultry facility which is located more than one-half mile  
3 from surrounding businesses, permanently inhabited residences, or  
4 places of worship established before the date of construction of  
5 the poultry facility.

6 (f) The commission may bring a cause of action to remedy or  
7 prevent a violation of this section.

8 (g) [~~(d)~~] This section does not affect the authority of the  
9 commission to investigate or take enforcement action against an  
10 unauthorized discharge under Section 26.121.

11 SECTION 3. Subchapter H, Chapter 26, Water Code, is amended  
12 by adding Sections 26.304 and 26.305 to read as follows:

13 Sec. 26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR  
14 APPLICATION OF POULTRY LITTER. (a) A poultry facility that sells  
15 or transfers poultry litter for remote application must maintain,  
16 until the second anniversary of the date of sale or transfer, a  
17 record regarding:

- 18 (1) the identity of the purchaser or applicator;  
19 (2) the physical destination of the poultry litter;  
20 (3) the date the poultry litter was removed from the  
21 poultry facility; and  
22 (4) the number of tons of poultry litter removed.

23 (b) A person that purchases or obtains poultry litter for  
24 application must maintain, until the second anniversary of the date  
25 of application, a signed and dated proof of delivery document for  
26 every load of poultry litter land applied. The landowner shall note  
27 on the document the date on which the poultry litter was land

1 applied.

2 Sec. 26.305. INSPECTION OF RECORDS. The commission may  
3 inspect any record required to be maintained under this subchapter.

4 SECTION 4. This Act takes effect September 1, 2009.