

By: Ogden

S.B. No. 1693

Substitute the following for S.B. No. 1693:

By: Legler

C.S.S.B. No. 1693

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of poultry facilities and poultry
3 litter.

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

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

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

10 (b) The commission shall respond and investigate not later
11 than 18 hours after receiving:

12 (1) a second complaint against a poultry facility
13 concerning odor associated with:

14 (A) the facility; or

15 (B) the application of poultry litter to land by
16 the poultry facility; or

17 (2) a complaint concerning odor from a poultry
18 facility at which the commission has substantiated odor nuisance
19 conditions in the previous 12 months.

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

24 (d) The commission by rule or order shall require the owner

1 or operator of a poultry facility for which the commission has
2 issued three notices of violation under this section during a
3 12-month period to enter into a comprehensive compliance agreement
4 with the commission. The compliance agreement must include an odor
5 control plan that the executive director determines is sufficient
6 to control odors.

7 (e) The owner or operator of a new poultry facility shall
8 complete a poultry facility training course on the prevention of
9 poultry facility odor nuisances from the poultry science unit of
10 the Texas AgriLife Extension Service not later than the 90th day
11 after the date the facility first accepts poultry to raise. The
12 owner or operator of a new poultry facility shall maintain records
13 of the training and make the records available to the commission for
14 inspection.

15 (f) The poultry science unit of the Texas AgriLife Extension
16 Service may charge an owner or operator of a poultry facility a
17 training fee to offset the direct cost of providing the training.

18 SECTION 2. Section 26.302, Water Code, is amended by adding
19 Subsections (b-2) and (b-3) to read as follows:

20 (b-2) The State Soil and Water Conservation Board in
21 consultation with the Texas Commission on Environmental Quality by
22 rule shall establish criteria to determine the geographic,
23 seasonal, and agronomic factors that the board will consider to
24 determine whether a persistent nuisance odor condition is likely to
25 occur when assessing the siting and construction of new poultry
26 facilities.

27 (b-3) The State Soil and Water Conservation Board may not

1 certify a water quality management plan for a poultry facility
2 located less than one-half of one mile from a business, off-site
3 permanently inhabited residence, or place of worship if the
4 presence of the facility is likely to create a persistent odor
5 nuisance for such neighbors, unless the poultry facility provides
6 an odor control plan the executive director determines is
7 sufficient to control odors. This subsection does not apply to:

8 (1) a revision of a previously certified and existing
9 water quality management plan unless the revision is necessary
10 because of an increase in poultry production of greater than 50
11 percent than the amount included in the existing certified water
12 quality management plan for the facility; or

13 (2) any poultry facility located more than one-half of
14 one mile from a surrounding business, permanently inhabited
15 off-site residence, or place of worship established before the date
16 of construction of the poultry facility.

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

19 Sec. 26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR
20 APPLICATION OF POULTRY LITTER. (a) A poultry facility that sells
21 or transfers poultry litter for off-site application must maintain
22 until the second anniversary of the date of sale or transfer a
23 record regarding:

24 (1) the identity of the purchaser or applicator;

25 (2) the physical destination of the poultry litter
26 identified by the purchaser or transferee;

27 (3) the date the poultry litter was removed from the

1 poultry facility; and

2 (4) the number of tons of poultry litter removed.

3 (b) A person that purchases or obtains poultry litter for
4 land application must maintain until the second anniversary of the
5 date of application a signed and dated proof of delivery document
6 for every load of poultry litter applied to land. The landowner or
7 the owner's tenant or agent shall note on the document the date or
8 dates on which the poultry litter was applied to land.

9 (c) Subsection (b) does not apply to poultry litter that is:

10 (1) taken to a composting facility;

11 (2) used as a bio-fuel;

12 (3) used in a bio-gasification process; or

13 (4) otherwise beneficially used without being applied
14 to land.

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

17 SECTION 4. The change in law made by Section 382.068(e),
18 Health and Safety Code, as added by this Act, applies only to an
19 owner or operator of a poultry facility the construction of which
20 begins on or after the effective date of this Act. An owner or
21 operator of a poultry facility the construction of which began
22 before the effective date of this Act is governed by the law in
23 effect at the time the construction of the facility began, and the
24 former law is continued in effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2009.