

1-1 By: Ogden S.B. No. 1693
1-2 (In the Senate - Filed March 10, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 20, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 20, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1693 By: Jackson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of poultry facilities and poultry
1-11 litter.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Subchapter C, Chapter 382, Health and Safety
1-14 Code, is amended by adding Section 382.068 to read as follows:

1-15 Sec. 382.068. POULTRY FACILITY ODOR; RESPONSE TO COMPLAINTS.
1-16 (a) In this section, "poultry facility" and "poultry litter" have
1-17 the meanings assigned by Section 26.301, Water Code.

1-18 (b) The commission shall respond and investigate not later
1-19 than 18 hours after receiving one of the following types of
1-20 complaints:

1-21 (1) a second complaint concerning odor associated with
1-22 a poultry facility or the application of poultry litter; or

1-23 (2) a complaint concerning odor from a poultry
1-24 facility where the commission has previously substantiated
1-25 nuisance odor conditions in the past 12 months.

1-26 (c) If after the investigation the commission determines
1-27 that a poultry facility is violating the terms of its air quality
1-28 authorization or creating a nuisance, the commission shall issue a
1-29 notice of violation.

1-30 (d) If three notices of violations are issued by the
1-31 commission in any 12-month period for a single poultry facility,
1-32 the commission shall enter into a comprehensive compliance
1-33 agreement with the facility.

1-34 (e) All comprehensive compliance agreements between poultry
1-35 facilities and the commission shall:

1-36 (1) include an odor control plan detailing a
1-37 facility's plans to control odors; and

1-38 (2) establish requirements for the submission and
1-39 approval of the odor control plan by the commission.

1-40 (f) The commission may require changes to a plan submitted
1-41 under Subsection (e) if the executive director determines that the
1-42 plan is insufficient to control odors.

1-43 (g) The owner or operator of a poultry facility which begins
1-44 construction after September 1, 2009, shall complete a poultry
1-45 facility training course on the prevention of odor nuisances from
1-46 the poultry science unit of the Texas AgriLife Extension Service
1-47 not later than 90 days after the date the facility first accepts
1-48 poultry to raise.

1-49 (h) The owner or operator of a poultry facility subject to
1-50 Subsection (g) shall maintain records of the training and make the
1-51 records available to the commission for inspection.

1-52 (i) The poultry science unit of the Texas AgriLife Extension
1-53 Service may collect a fee from an owner or operator of a poultry
1-54 facility subject to Subsection (g) to offset the direct cost of
1-55 providing the training.

1-56 SECTION 2. Section 26.302, Water Code, is amended to read as
1-57 follows:

1-58 Sec. 26.302. REGULATION OF POULTRY FACILITIES. (a) A
1-59 person who owns or operates a poultry facility shall ensure that the
1-60 facility has adequate means or is adequately equipped to handle and
1-61 dispose of poultry carcasses, poultry litter, and other poultry
1-62 waste regardless of whether the person owns the poultry.

1-63 (b) A person who owns or operates a poultry facility shall

2-1 implement and maintain a water quality management plan for the
2-2 facility that is certified by the State Soil and Water Conservation
2-3 Board under Section 201.026, Agriculture Code.

2-4 (b-1) The State Soil and Water Conservation Board may
2-5 certify a water quality management plan for a poultry facility
2-6 that:

- 2-7 (1) does not use a liquid waste handling system; and
- 2-8 (2) is required to obtain a permit or other
2-9 authorization from the commission.

2-10 (c) The State Soil and Water Conservation Board shall not
2-11 certify a water quality management plan for a poultry facility
2-12 located within one-half mile of surrounding businesses,
2-13 permanently inhabited residences, or places of worship if the
2-14 presence of the facility is likely to create a persistent odor
2-15 nuisance for such neighbors, unless the poultry facility provides a
2-16 suitable odor control plan.

2-17 (d) The State Soil and Water Conservation Board shall by
2-18 rule establish criteria for the siting and construction of new
2-19 poultry facilities, in consultation with the Texas Commission on
2-20 Environmental Quality, to determine what geographic, seasonal, and
2-21 agronomic factors should be considered when determining whether a
2-22 persistent nuisance odor condition is likely to occur.

2-23 (e) Subsection (c) does not apply to a revision of a
2-24 previously certified and existing water quality management plan or
2-25 to any poultry facility which is located more than one-half mile
2-26 from surrounding businesses, permanently inhabited residences, or
2-27 places of worship established before the date of construction of
2-28 the poultry facility.

2-29 (f) The commission may bring a cause of action to remedy or
2-30 prevent a violation of this section.

2-31 (g) This section does not affect the authority of the
2-32 commission to investigate or take enforcement action against an
2-33 unauthorized discharge under Section 26.121.

2-34 SUBSECTION 3. Subchapter H, Chapter 26, Water Code, is
2-35 amended by adding Sections 26.304 and 26.305 to read as follows:

2-36 Sec. 26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR
2-37 APPLICATION OF POULTRY LITTER. (a) A poultry facility that sells
2-38 or transfers poultry litter for remote application must maintain,
2-39 until the second anniversary of the date of sale or transfer, a
2-40 record regarding:

- 2-41 (1) the identity of the purchaser or applicator;
- 2-42 (2) the physical destination of the poultry litter;
- 2-43 (3) the date the poultry litter was removed from the
2-44 poultry facility; and
- 2-45 (4) the number of tons of poultry litter removed.

2-46 (b) A person that purchases or obtains poultry litter for
2-47 application must maintain, until the second anniversary of the date
2-48 of application, a signed and dated proof of delivery document for
2-49 every load of poultry litter land applied. The landowner shall note
2-50 on the document the date on which the poultry litter was land
2-51 applied.

2-52 Sec. 26.305. INSPECTION OF RECORDS. The commission may
2-53 inspect any record required to be maintained under this subchapter.

2-54 SECTION 4. This Act takes effect September 1, 2009.

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