

By: Hegar

S.B. No. 1871

A BILL TO BE ENTITLED

AN ACT

relating to the management of volunteer and other noncommercial cotton in pest management zones.

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

SECTION 1. Section 74.001, Agriculture Code, is amended to read as follows:

Sec. 74.001. PUBLIC NUISANCE. (a) The legislature finds that cotton pests are a menace to the cotton industry, and that control of those pests is a public necessity. Any portion of the state that is susceptible to infestation by cotton pests must be protected from this public nuisance and threat to the continued stability of the cotton industry.

(b) The legislature finds that volunteer and other noncommercial cotton is a public nuisance that threatens the cotton growers' boll weevil eradication program by serving as a host for cotton pests such as boll weevils and pink bollworms. To protect the cotton industry of this state, volunteer and other noncommercial cotton must be eliminated subject to the provisions of this chapter.

SECTION 2. Subchapter A, Chapter 74, Agriculture Code, is amended by adding Sections 74.0031 and 74.0032 to read as follows:

Sec. 74.0031. COTTON STALK DESTRUCTION. (a) The department shall submit the recommendations of each administrative committee that governs a pest management zone under Section 74.003

1 to the Texas Boll Weevil Eradication Foundation. On review of the  
2 administrative committee recommendations, the foundation shall  
3 submit to the department an estimate of the amount by which the  
4 implementation of each recommendation would increase the cost of  
5 administering the boll weevil eradication program.

6 (b) The Texas Boll Weevil Eradication Foundation shall:

7 (1) conduct a study of the effects of incomplete  
8 cotton stalk destruction and volunteer cotton control on boll  
9 weevil eradication activities; and

10 (2) submit annual recommendations to the department  
11 and the board of the foundation for a cotton stalk destruction  
12 deadline for each pest management zone.

13 (c) The Texas Boll Weevil Eradication Foundation may  
14 consult with its technical advisory committee in fulfilling its  
15 duties under Subsection (b).

16 (d) The department shall set a cotton stalk destruction  
17 deadline for each pest management zone, with consideration given to  
18 the recommendations of the foundation and the applicable  
19 administrative committee submitted under Subsection (b).

20 Sec. 74.0032. HOSTABLE COTTON FEE. (a) The department  
21 shall establish and collect a hostable cotton fee for fields in  
22 which hostable cotton stalks, hostable volunteer cotton, or other  
23 hostable noncommercial cotton remains past the stalk destruction  
24 deadline set for the applicable pest management zone under Section  
25 74.0031. A fee under this section shall be expressed in terms of  
26 dollars per acre, per week in which the stalks, volunteer cotton, or  
27 other noncommercial cotton remains in the field. The department

1 shall establish a procedure to notify a cotton grower that a fee is  
2 due the department under this section.

3 (b) If adverse weather conditions or other good cause  
4 exists, the administrative committee that governs the applicable  
5 pest management zone may request that the department grant an  
6 extension of the cotton stalk destruction deadline for any  
7 specified part of the pest management zone or for the entire pest  
8 management zone. A request under this subsection must be made not  
9 later than 10 business days before the applicable cotton stalk  
10 destruction deadline. A field is not subject to a hostable cotton  
11 fee if the department grants an extension of the deadline. The  
12 Texas Boll Weevil Eradication Foundation shall submit to the  
13 department an estimate of the amount by which an extension under  
14 this subsection will increase the cost of administering the boll  
15 weevil eradication program.

16 (c) If the applicable administrative committee does not  
17 request an extension, or if the department denies a request for an  
18 extension of the cotton stalk destruction deadline for a specified  
19 part of a pest management zone, a cotton grower may apply for an  
20 individual extension of the deadline. A request under this  
21 subsection must be made not later than 10 business days before the  
22 applicable pest management zone's stalk destruction deadline.

23 (d) The Texas Boll Weevil Eradication Foundation shall  
24 submit to the department an estimate of the amount by which any  
25 extension of a stalk destruction deadline that is granted under  
26 Subsection (c) will increase the cost of administering the boll  
27 weevil eradication program.

1       (e) Any hostable cotton or hostable cotton stalks that  
2 remain in a field after the cotton stalk destruction deadline or any  
3 extension of the stalk destruction deadline has passed are subject  
4 to the hostable cotton fee established under Subsection (a). Any  
5 hostable cotton or hostable cotton stalks that remain in a field for  
6 more than 30 days after the stalk destruction deadline or any  
7 extension of the deadline are subject to 150 percent of the hostable  
8 cotton fee established under Subsection (a).

9       (f) A hostable cotton fee shall be sent to the comptroller  
10 and may be appropriated only for the purpose of treating hostable  
11 cotton or for other expenses related to boll weevil eradication.  
12 The department may contract with the Texas Boll Weevil Eradication  
13 Foundation or its successor entity for the treatment, control, or  
14 monitoring activities funded from the account.

15       (g) Unless on or before the 45th day after the date the  
16 department gives notice to a cotton grower that a hostable cotton  
17 fee is due the fee is paid, the department may destroy any cotton or  
18 cotton stalks that remain in the field, as provided by Section  
19 74.004.

20       (h) The department shall adopt rules to administer this  
21 section.

22       SECTION 3. Subsections (a) and (b), Section 74.118,  
23 Agriculture Code, are amended to read as follows:

24       (a) The commissioner may adopt reasonable rules regarding  
25 areas where cotton may not be planted in an eradication zone if  
26 there is reason to believe planting will jeopardize the success of  
27 the program by making treatment impracticable or present a hazard

1 to public health or safety.

2 (b) The commissioner may adopt rules relating to  
3 ~~[prohibiting the planting of]~~ noncommercial cotton located in  
4 eradication zones and requiring that all growers of commercial  
5 cotton in an eradication zone participate in a boll weevil or pink  
6 bollworm eradication program that includes cost sharing as required  
7 by the rules.

8 SECTION 4. Section 74.119, Agriculture Code, is amended to  
9 read as follows:

10 Sec. 74.119. AUTHORITY FOR DESTRUCTION OR TREATMENT OF  
11 COTTON IN ERADICATION ZONES; COMPENSATION PAYABLE. (a) The  
12 department shall ~~[may]~~ destroy or treat hostable volunteer or other  
13 hostable noncommercial cotton and establish procedures for the  
14 purchase and destruction of commercial cotton in eradication zones  
15 if the department determines the action is necessary to carry out  
16 the purposes of this subchapter. The department is not liable to  
17 the owner or lessee for the destruction of or injury to any cotton  
18 that was planted in an eradication zone after publication of notice  
19 as provided by this subchapter. The foundation is liable for the  
20 destruction of cotton if the cotton was planted in an eradication  
21 zone before publication of the notice.

22 (b) Not later than January 1, 2010, the department shall  
23 adopt rules providing for the regulation and control of volunteer  
24 and other noncommercial cotton in pest management zones. At a  
25 minimum, the rules must:

26 (1) provide a grower or landowner with a period of time  
27 in which the grower or owner is required to destroy hostable

1 volunteer or other hostable noncommercial cotton on receipt of a  
2 notice from the department; and

3 (2) allow the department or a person designated by the  
4 department:

5 (A) to monitor and treat hostable volunteer or  
6 other hostable noncommercial cotton that is located in a crop field  
7 for boll weevil infestation if the grower or landowner does not  
8 destroy the cotton in compliance with the notice from the  
9 department; and

10 (B) to destroy hostable volunteer or other  
11 hostable noncommercial cotton that is not in a crop field, as  
12 provided by Section 74.004.

13 (c) If a grower or landowner does not destroy hostable  
14 volunteer or other hostable noncommercial cotton as required by  
15 Subsection (b)(1), the grower or owner shall pay to the department a  
16 volunteer cotton fee in an amount determined by the department. A  
17 fee under this subsection:

18 (1) may be assessed only on acreage where hostable  
19 volunteer or other hostable noncommercial cotton is located;

20 (2) may not be less than one-half the amount the grower  
21 or owner would owe if the entire acreage were planted with cotton;  
22 and

23 (3) shall be deposited to the credit of the hostable  
24 cotton fee account established by Section 74.0032.

25 SECTION 5. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.