

By: Hegar

S.B. No. 1871

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the management of volunteer and other noncommercial
3 cotton in pest management zones and the official cotton growers'
4 boll weevil eradication program.

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

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

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

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

21 SECTION 2. Subchapter A, Chapter 74, Agriculture Code, is
22 amended by adding Sections 74.0031 and 74.0042 to read as follows:

23 Sec. 74.0031. COTTON STALK DESTRUCTION. (a) The
24 department shall submit the recommendations of each administrative

1 committee for each pest management zone under Section 74.003 to the
2 Texas Boll Weevil Eradication Foundation, Inc. On review of the
3 administrative committee recommendations, the foundation shall
4 submit to the department an estimate of the amount by which the
5 implementation of each recommendation would increase the cost of
6 administering the boll weevil eradication program.

7 (b) The Texas Boll Weevil Eradication Foundation, Inc.:

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

11 (2) shall submit recommendations to the department and
12 the foundation's board of directors for a cotton stalk destruction
13 deadline for each pest management zone not later than November 1,
14 2009; and

15 (3) may consult with its technical advisory committee
16 in formulating the study and recommendations called for by this
17 subsection.

18 (c) The department shall set a cotton stalk destruction
19 deadline for each pest management zone based on the foundation's
20 recommendations under Subsection (b).

21 Sec. 74.0042. HOSTABLE COTTON FEE. (a) The department
22 shall establish and collect a hostable cotton fee for fields in
23 which cotton stalks, volunteer cotton, or other noncommercial
24 cotton remains past the stalk destruction deadline for the
25 applicable pest management zone. A fee under this section shall be
26 expressed in terms of dollars per acre per week and shall apply for
27 each week that the stalks, volunteer cotton, or other noncommercial

1 cotton remains in the field.

2 (b) If adverse weather affects an area within 10 days of the
3 date of harvest, the administrative committee for the applicable
4 pest management zone may request that the department grant a
5 blanket extension of the cotton stalk destruction deadline for all
6 fields located in the pest management zone. A request under this
7 subsection must be made not later than the 14th day before the
8 applicable cotton stalk destruction deadline. A field is not
9 subject to a hostable cotton fee if the department grants a blanket
10 extension of the deadline. The Texas Boll Weevil Eradication
11 Foundation, Inc., shall submit to the department an estimate of the
12 amount by which an extension under this subsection will increase
13 the cost of administering the boll weevil eradication program.

14 (c) If the department denies a request for a blanket
15 extension of the cotton stalk destruction deadline for the fields
16 in a pest management zone, a cotton grower may apply for an
17 individual extension of the deadline. A request under this
18 subsection must be made not later than the fourth business day
19 before the applicable pest management zone's stalk destruction
20 deadline. The Texas Boll Weevil Eradication Foundation, Inc.,
21 shall submit to the department an estimate of the amount by which
22 any extension of a stalk destruction deadline that is granted under
23 this subsection will increase the cost of administering the boll
24 weevil eradication program.

25 (d) Any cotton or cotton stalks that remain in a field after
26 the cotton stalk destruction deadline has passed that are covered
27 by an individual extension are subject to one-half the hostable

1 cotton fee established under Subsection (a) for the duration of the
2 individual extension.

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

10 (f) Hostable cotton fees collected by the department shall
11 be sent to the comptroller and deposited in an account established
12 for the treatment of cotton until the cotton is rendered
13 nonhostable and for other expenses incident to boll weevil
14 eradication. The department may contract with the Texas Boll
15 Weevil Eradication Foundation, Inc., or its successor entity for
16 treatment, control, or monitoring activities funded from the
17 account.

18 (g) If a hostable cotton fee that is due is not paid on or
19 before the 45th day after the date the department gives notice to a
20 cotton grower that the fee is due, the department may destroy any
21 cotton or cotton stalks that remain in the field, as provided by
22 Section 74.004.

23 (h) The department shall adopt rules to administer this
24 section.

25 SECTION 3. Subsection (a), Section 74.118, Agriculture
26 Code, is amended to read as follows:

27 (a) The commissioner may adopt reasonable rules regarding

1 areas where cotton may not be planted in an eradication zone if
2 there is reason to believe that planting will jeopardize the
3 success of the program by making treatment impracticable or present
4 a hazard to public health or safety.

5 SECTION 4. Section 74.119, Agriculture Code, is amended to
6 read as follows:

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

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

23 (1) provide a cotton grower with a period of not less
24 than five or more than 15 days in which the grower is required to
25 destroy volunteer or other noncommercial cotton on receipt of a
26 notice from the department; or

27 (2) allow the department or a person designated by the

1 department to monitor and treat volunteer or other noncommercial
2 cotton for boll weevil infestation if the cotton grower does not
3 destroy the cotton in compliance with the notice from the
4 department.

5 (c) If a cotton grower does not destroy volunteer or other
6 noncommercial cotton as provided by Subsection (b)(1), the grower
7 shall be liable to the department for a volunteer cotton fee to be
8 set by the department. The fee shall in no event be less than the
9 eradication assessment that would have been owed if the entire
10 field in question were planted in cotton. Volunteer cotton fees
11 shall be deposited in the hostable cotton fee account established
12 under Section 74.0042, and the fee proceeds may be expended for like
13 purposes.

14 SECTION 5. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.