

BILL ANALYSIS

C.S.H.B. 338
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Department of Agriculture (TDA) is required to publish a list regarding invasive and noxious terrestrial plants growing in Texas. Other state agencies, as well as municipalities and other political subdivisions, produce lists of terrestrial plant species those entities consider noxious or invasive and distribute such lists through printed materials or on the entity's Internet website. C.S.H.B. 338 seeks to require a public entity, other than the TDA, that produces such a list to include with the list a specified disclaimer.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Agriculture in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 338 amends the Agriculture Code to require a public entity, other than the Department of Agriculture (TDA), that produces a list of noxious or invasive terrestrial plant species that includes a species growing in Texas for public distribution to commercial or residential landscapers to provide with the list a disclaimer stating that the list is a recommendation and has no legal effect and that it is lawful to sell, distribute, import, or possess a plant on the list unless the TDA labels the plant as noxious or invasive on the department's plant list. The bill requires a public entity, other than the TDA, that produces such a list in printed material made for public distribution to commercial or residential landscapers, including a newspaper, trade publication, notice, circular, or Internet website, to post the required disclaimer in at least 12-point type in a conspicuous location readily visible by persons viewing the list.

C.S.H.B. 338 requires the TDA to adopt rules requiring a public entity to include the disclaimer, in a manner equivalent to the manner required for posting a disclaimer in printed material made for public distribution, for publication of the entity's list through media other than such printed material, including billboards, radio productions, and television productions.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 338 differs from the original by specifying that the list of noxious or invasive terrestrial plant species a public entity, other than the Department of Agriculture (TDA), produces for public distribution is distributed to commercial or residential landscapers and by making a conforming change relating to that specification.

C.S.H.B. 338 adds a provision not in the original requiring the disclaimer on such a list to state that it is lawful to sell, distribute, import, or possess a plant on the list unless the TDA labels the

plant as noxious or invasive on the department's plant list. The substitute omits a provision in the original requiring the disclaimer to state that the TDA has sole authority to label terrestrial plants as noxious or invasive. The substitute contains a saving provision not in the original.