

BILL ANALYSIS

Senate Research Center
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S.B. 1095
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Agriculture, Rural Affairs, & Homeland Security
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As fever tick eradication techniques improve, the process of "dipping" an animal for fever ticks is now one of many ways that an animal can be treated for fever ticks.

S.B. 1095 amends sections of the Agriculture Code to broaden the definitions used for applications designed to eradicate fever ticks, which allows for the inclusion of modern techniques for fever tick eradication. S.B. 1095 also deletes references to "livestock," and adds the definition of "animals," which under the bill includes zebras, bison, giraffes, deer, elk, and other cervid species. The bill makes necessary changes to conform the language of the code with the new definitions.

As proposed, S.B. 1095 amends current law relating to fever tick eradication, and creates a penalty.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Animal Health Commission (TAHC) is modified in various sections throughout this bill.

Rulemaking authority is expressly granted to TAHC in SECTION 41 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 167.001, Agriculture Code, by amending Subdivision (1) and adding Subdivisions (1-a) and (8), to define "animal" and "treatment" and to make a nonsubstantive change.

SECTION 2. Amends Sections 167.003(a) and (c), Agriculture Code, as follows:

(a) Requires the Texas Animal Health Commission (TAHC), in accordance with this chapter, to eradicate all ticks capable of carrying Babesia in this state and to protect all land, premises, and animals, rather than livestock, in this state from those ticks and exposure to those ticks.

(c) Authorizes TAHC by rule to provide for the manner and the method of treating, rather than the method of dipping, saddle stock and stock used for gentle work and for the handling and certifying of that stock for movement, but unless TAHC so provides, the stock is subject to this chapter as other animals, rather than livestock.

SECTION 3. Amends Sections 167.004(a) and (b), Agriculture Code, as follows:

(a) Provides that if a tick is found on an animal, rather than a head of livestock, each animal that is in the same herd or is then or thereafter on the same range or in the same enclosure as the animal on which the tick is found, and the range or enclosure in or on which the animal is located is classified as tick infested. Makes a conforming change.

(b) Changes references to livestock to animals. Requires TAHC by rule to define what animals and premises are to be classified as exposed to ticks. Requires TAHC to classify

as exposed to ticks animals that have been on land or in an enclosure that TAHC determines to be tick infested or exposed to ticks or to have been tick infested or exposed to ticks before or after the removal of the animals, unless TAHC determines that the infestation or exposure occurred after the animals were removed and that the animals did not become infested or exposed before removal.

SECTION 4. Amends Sections 167.007 and 167.008, Agriculture Code, as follows:

Sec. 167.007. TICK ERADICATION IN FREE AREA. (a) Authorizes TAHC to conduct tick eradication in the free area and to establish quarantines and require the treatment of animals, rather than the dipping of livestock, in the free area as provided by this chapter.

(b) Requires an owner or caretaker of animals, rather than an owner or caretaker of livestock, in the free area and the commissioners court of a county all or part of which is located in the free area to cooperate with TAHC in the manner provided by this chapter for tick eradication in the tick eradication area.

Sec. 167.008. INSPECTIONS. Changes references to livestock to animals. Makes a conforming change.

SECTION 5. Amends Section 167.021(a), Agriculture Code, to change a reference to livestock to animals.

SECTION 6. Amends Section 167.022(b), Agriculture Code, to change references to livestock to animals.

SECTION 7. Amends Sections 167.023(a) and (c), Agriculture Code, as follows:

(a) Authorizes TAHC, by written order, to establish a quarantine in the free area if necessary for the purpose of regulating the handling of animals, rather than the handling of livestock, and eradicating ticks or exposure to ticks in the free area or for the purpose of preventing the spread of tick infestation into the free area.

(c) Changes references to livestock to animals.

SECTION 8. Amends Sections 167.024(a), (b), and (c), Agriculture Code, as follows:

(a) Prohibits a person, unless a person first obtains a permit or certificate from an authorized inspector, from moving animals, rather than from moving livestock, in a quarantined area to certain areas.

(b) Changes references to livestock to animals and references to dipped or dipping to treated or treatment.

(c) Authorizes the owner or caretaker of animals located in a quarantined area to move animals, or permit animals to be moved, to and from treatment facilities, rather than dipping vats, for the purpose of treating the animals on a regular treatment date at the treatment facility to which the animals are to be moved or on another date designated by the inspector in charge of the treatment facility. Requires the movement of animals under this subsection to be in accordance with the rules of TAHC. Makes conforming changes.

SECTION 9. Amends Section 167.025, Agriculture Code, to prohibit a person from moving animals or permitting animals to be moved from or within the inactive quarantined area except in accordance with the rules of TAHC, and to make conforming changes.

SECTION 10. Amends Sections 167.026(a) and (b), Agriculture Code, as follows:

(a) Changes references to livestock to animals. Prohibits a person from moving animals, or permitting animals of which the person is the owner, part owner, or caretaker from

being moved, into this state from an area in another state, territory, or country that is under state or federal quarantine for tick infestation or exposure unless the animals are accompanied by a certificate from an inspector of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

(b) Changes a reference to dipped to treated.

SECTION 11. Amends Section 167.027, Agriculture Code, as follows:

Sec. 167.027. PERMIT OR CERTIFICATE TO ACCOMPANY MOVEMENT. (a) Requires that a certificate or permit required for movement of animals within or into this state be in the possession of the person in charge of the movement or the conveyance from the point of origin to the point of destination. Makes a conforming change.

(b) Requires that a certificate required for movement of articles listed in Section 167.026(c) (relating to prohibiting a person from moving certain articles into this state for any purpose from an area of another state, territory or country that is under quarantine unless certain treatments have been administered and a certificate granted) accompany the movement to the final destination in this state or so long as the articles are moving through this state, rather than requiring a certificate for the movement of goats, hogs, sheep, exotic livestock, or circus animals or certain articles, to accompany the movement to the final destination in this state or so long as the animals or articles are moving through this state.

SECTION 12. Amends Sections 167.028 and 167.029, Agriculture Code, as follows:

Sec. 167.028. STATEMENT OF POSSESSION AND DESTINATION. Requires, on request of an inspector, the owner, part owner, or caretaker, or a person accompanying and connected with a shipment of animals that are being moved in this state or have been moved in this state within 60 days preceding the requires, to make a written statement with certain information. Makes conforming changes.

Sec. 167.029. CONDITIONS, MANNER, AND METHOD OF MOVING AND HANDLING. (a) Requires TAHC by rule to provide the conditions for and the manner and method of handling and moving animals into certain areas. Makes a conforming change.

(b) Requires that animals be certified as being free from ticks and exposure to ticks, and be moved to the destination without exposure, if the animals are to be moved to certain areas. Makes conforming changes.

(c) Authorizes TAHC to adopt rules relating to testing, immunizing, treating, certifying, or marking or branding animals moving into this state from another state or country. Makes a conforming change.

SECTION 13. Amends Section 167.030(a), Agriculture Code, to make conforming changes.

SECTION 14. Amends Sections 167.031 and 167.033, Agriculture Code, as follows:

Sec. 167.031. USE OF SAND AS BEDDING IN CONVEYANCE. Authorizes TAHC to establish quarantines and restrict the use of sand as bedding in an animal conveyance, rather than in a livestock conveyance, except for sand from known tick-free sand pits.

Sec. 167.033. New heading: HANDLING AND REMOVAL OF REFUSE OR DEAD OR INJURED ANIMALS. Authorizes TAHC to establish quarantines and regulate the removal and handling of refuse matter from quarantined stockyards, quarantined stock pens, and other quarantined places and to establish quarantines and regulate the handling or removal of animals that die or are injured in transit. Makes a conforming change.

SECTION 15. Amends the heading to Subchapter C, Chapter 167, Agriculture Code, to read as follows:

SUBCHAPTER C. TREATMENT

SECTION 16. Amends Sections 167.051 and 167.052, Agriculture Code, as follows:

Sec. 167.051. New heading: ANIMALS SUBJECT TO TREATMENT. (a) Provides that animals located in the tick eradication area are subject to treatment under certain conditions. Makes a conforming change.

(b)-(c) Changes references to livestock to animals and references to dip or dipping to treat or treatment.

Sec. 167.052. New heading: ORDER TO TREAT. (a) Authorizes TAHC to order the owner, part owner, or caretaker of animals to treat the animals in accordance with the directions of TAHC. Makes conforming changes.

(b)-(f) Makes conforming changes.

(g) Authorizes TAHC to issue additional orders regardless of whether the animals were exposed to ticks in the nine months preceding the date of the subsequent order if the animals or the premises are not freed from ticks or exposure to ticks before an order to treat expires. Makes conforming changes.

SECTION 17. Amends Sections 167.053(a) and (c), Agriculture Code, as follows:

(a) Entitles a person to request and obtain a hearing for the purpose of protesting an order to treat by filing a sworn application with the supervising inspector of the county in which the animals are located. Requires the application to be filed not later than the 10th day after the day on which the order was received. Makes conforming changes.

(c) Makes conforming changes.

SECTION 18. Amends Sections 167.054, 167.055, 167.056, 167.057, and 167.058, Agriculture Code, as follows:

Sec. 167.054. EXCUSE FROM COMPLIANCE WITH ORDER. Authorizes the supervising inspector of a county for good cause to excuse a person from complying with an order to treat but requires that the supervising inspector be held responsible for excusing compliance without good cause. Makes a conforming change.

Sec. 167.055. New heading: PERSONS RESPONSIBLE FOR TREATMENT AND ASSISTANCE. (a) Provides that a person who owns any interest in animals subject to treatment or who is the caretaker of the animals is responsible for the treatment of the animals under this chapter and is subject to prosecution for failure to treat the animals. Makes conforming changes.

(b)-(c) Makes conforming changes.

Sec. 167.056. New heading: MANNER OF TREATMENT. Requires the animals, if TAHC requires animals to be treated, to be treated in the manner prescribed by TAHC, rather than requiring the livestock, if TAHC requires livestock to be dipped, to be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by TAHC.

Sec. 167.057. New heading: TREATMENT CHEMICALS. (a) Requires TAHC to prescribe by rule the official materials in which animals are to be treated under this chapter. Prohibits a person from treating animals for purposes of this chapter in a material other than an official material prescribed by TAHC. Makes conforming changes.

(b) Requires the state, an agency of the state, or an agency of the government of the United States to, and authorizes a county to, furnish the official materials for the treatment of animals under this chapter. Makes a conforming change.

Sec. 167.058. New heading: TREATMENT INTERVALS. Requires a person to whom an order to treat is directed to treat the animals on the dates specified in the order, but requires that the order of TAHC provide an interval of at least 13 days, not including any part of a treatment date, between the days on which it directs the animals to be treated. Makes a conforming change.

SECTION 19. Amends the heading to Section 167.059, Agriculture Code, to read as follows:

Sec. 167.059. TREATMENT FACILITIES.

SECTION 20. Amends Sections 167.059(a), (b), and (c), Agriculture Code, as follows:

(a) Requires the commissioners court of each county, including a county in the free area, in all or part of which TAHC conducts tick eradication to cooperate with TAHC and to furnish facilities necessary to the treatment of animals in that county. Makes a conforming change.

(b)-(c) Makes conforming changes.

SECTION 21. Amends the heading to Section 167.060, Agricultural Code, to read as follows:

Sec. 167.060. TREATMENT REQUIRED FOR MOVEMENT FROM QUARANTINED AREA.

SECTION 22. Amends Sections 167.060(a), (b), and (c), Agriculture Code, as follows:

(a) Prohibits an inspector from issuing a certificate or permit for the movement of animals from a quarantined enclosure unless the owner or caretaker of the animals:

(1) is cooperating with TAHC in the regular systematic treatment of the animals listed in Subsection (b); and

(2) has treated those animals on the last two treatment dates that were prescribed for the area in which the animals are located and that preceded the date of movement.

Makes conforming changes.

(b) Makes conforming changes.

(c) Requires that each head of the animals, if ticks are found on any of the animals submitted for movement, before the certificate or permit is issued, be treated as prescribed by TAHC rules. Deletes existing text requiring that, before the certificates or permit is issued, each head of livestock be required to be dipped at intervals of not less than every 7th day nor more than every 14th day and found free from ticks at the last dipping if ticks are found on any of the livestock submitted for movement.

SECTION 23. Amends Section 167.082(b), Agriculture Code, to make nonsubstantive and conforming changes.

SECTION 24. Amends Section 167.101(e), Agriculture Code, as follows:

(e) Provides that only an inspector appointed for the purpose is authorized to conduct tick eradication or issue permits and certificates certifying animals to be free from ticks or exposure from ticks. Requires an inspector to issue those permits and certificates in accordance with the rules of TAHC. Makes a conforming change.

SECTION 25. Amends Section 167.102(c), Agriculture Code, as follows:

(c) Requires that the application for a search warrant, if the applicant for the search warrant seeks to enter the property to determine whether animals are on the property, state that fact. Requires that the application and the warrant, if the warrant is obtained for the purpose of seizing or treating animals, to describe the animals and give the approximate number of animals, rather than if the warrant is obtained for the purpose for the purpose of seizing or dipping livestock, to describe the livestock, state whether the animals are cattle, horses, mules, jacks, or jennets, and give the approximate number of animals. Makes conforming changes.

SECTION 26. Amends Sections 167.103, 167.104, and 167.105, Agriculture Code, as follows:

Sec. 167.103. New heading: TREATMENT OF ANIMALS BY PEACE OFFICER ON REQUEST OF INSPECTOR. (a) Requires the inspector in charge of tick eradication in that county to notify a peace officer if a person responsible for treating animals fails to treat the animals at the time and place directed in the order or, prior to a treatment date in the order, states that he or she does not intend to treat the animals. Makes conforming changes.

(b)-(c) Makes conforming changes.

Sec. 167.104. New heading: SEIZURE AND DISPOSAL OF ANIMALS RUNNING AT LARGE. (a) Authorizes an inspector to request a peace officer to seize animals, if the inspector determines the animals to be running at large or on the open range of a county or part of a county in which TAHC is conducting tick eradication under this chapter, and the inspector is unable to locate the owner or caretaker of the animals. Makes conforming changes.

(b) Makes conforming changes.

Sec. 167.105. New heading: SEIZURE AND DISPOSAL OF ANIMALS MOVED IN VIOLATION OF QUARANTINE. (a) Authorizes an inspector who discovers animals, that are being or have been moved in violation of a quarantine to request a peace officer to seize the animals and impound the animals at the expense of the owner, or if practicable, return the animals at the expense of the owner to the point of origin. Makes conforming changes.

(b) Makes a conforming change.

SECTION 27. Amends Section 167.106(c), Agriculture Code, to make conforming changes.

SECTION 28. Amends Section 167.107, Agriculture Code, as follows:

Sec. 167.107. New heading: SALE OF ANIMALS TREATED OR SEIZED BY PEACE OFFICER. (a) Entitles a peace officer who gathers and treats or who seizes and impounds or disposes of animals under Section 167.103, 167.104, or 167.105 to retain and sell the animals for the purpose of securing payment for the expenses of handling, including the expenses of holding, feeding, and watering the animals. Makes conforming and nonsubstantive changes.

(b)-(d) Makes conforming and nonsubstantive changes.

SECTION 29. Amends Sections 167.108(a), (b), (c), (d), (e), and (g), Agriculture Code, as follows:

(a) Provides that a peace officer who gathers and treats or who seizes and impounds or disposes of animals under Section 167.103, 167.104, or 167.105 has a lien on the animals for the purpose of securing payment of the officer's fees and the expenses of handling the

animals, including the expenses of holding, feeding, and watering the animals and the expenses of paying assistants. Authorizes the officer to perfect and foreclose a lien granted by this section instead of retaining and selling the animals under Section 167.107. Makes conforming and nonsubstantive changes.

(b)-(g) Makes conforming and nonsubstantive changes.

SECTION 30. Amends Sections 167.110, 167.111, and 167.112, Agriculture Code, as follows:

Sec. 167.110. New heading: PRESUMPTION OF EXISTENCE OR SUFFICIENCY OF TREATMENT. (a) Provides that in the trial of any case under this chapter in connection with the treatment of animals or the failure to treat animals, it is presumed that the treatment contained a sufficient amount of treatment chemical and the treatment chemical had been properly tested, or the treatment chemical could have and would have been put into the treatment facility and tested if the owner or caretaker had brought the animals to the treatment facility for the purpose of treatment. Makes conforming changes.

(b) Makes conforming changes.

(c) Provides that if it is necessary in a court proceeding to prove the test of a treatment chemical, it is only necessary to prove that the treatment chemical used was one of the official treatment chemicals prescribed by TAHC, and the inspector tested the treatment chemical in accordance with the rules of TAHC. Makes conforming changes.

Sec. 167.111. PRESUMPTION OF OWNERSHIP OR CARE. (a)-(b) Makes conforming changes.

Sec. 167.112. VENUE OF CRIMINAL PROSECUTION. Makes conforming changes.

SECTION 31. Amends Section 167.131(a), Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 32. Amends Section 167.132, Agriculture Code, as follows:

Sec. 167.132. New heading: MOVEMENT OF ANIMALS IN VIOLATION OF QUARANTINE. (a) Provides that as an owner, part owner, or caretaker of animals, a person commits an offense if the person moves or permits the movement from any land, premises, or enclosure that is under quarantine for tick infestation or exposure in violation of the quarantine without a permit issued by an inspector of TAHC or of the Animal and Plant Health Inspection Service, United States Department of Agriculture. Makes a conforming change.

(b)-(c) Makes conforming changes.

(d) Makes conforming and nonsubstantive changes.

SECTION 33. Amends Sections 167.133(a) and (b), Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 34. Amends Sections 167.134 and 167.135, Agriculture Code, as follows:

Sec. 167.134. New heading: MOVEMENT OF ANIMALS IN VIOLATION OF PERMIT OR CERTIFICATE. (a)-(b) Makes conforming and nonsubstantive changes.

Sec. 167.135. FAILURE TO POSSESS OR EXHIBIT PERMIT OR CERTIFICATE. (a)-(b) Makes conforming and nonsubstantive changes.

SECTION 35. Amends Section 167.138(a), Agriculture Code, to provide that a person commits an offense if the person uses sand as bedding in an animal conveyance, rather than in a livestock

conveyance, in violation of a quarantine established or TAHC rule adopted under Section 167.031.

SECTION 36. Amends the heading to Section 167.140, Agriculture Code, to read as follows:

Sec. 167.140. IMPROPER HANDLING AND REMOVAL OF ANIMAL REFUSE OR DEAD OR INJURED ANIMALS.

SECTION 37. Amends the heading to Section 167.141, Agriculture Code, to read as follows:

Sec. 167.141. FAILURE TO TREAT ANIMALS.

SECTION 38. Amends Section 167.141(a), Agriculture Code, to make conforming and nonsubstantive changes.

SECTION 39. Amends the heading to Section 167.142, Agriculture Code, to read as follows:

Sec. 167.142. DESTRUCTION OF PUBLIC TREATMENT FACILITIES.

SECTION 40. (a) Provides that the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. Provides that for purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) Provides that an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 41. Requires TAHC to adopt rules as required by this Act not later than December 1, 2013.

SECTION 42. Effective date: September 1, 2013.