

AN ACT

relating to fever tick eradication; creating a penalty.

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

SECTION 1. Section 167.001, Agriculture Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a) and (8) to read as follows:

(1) "Animal" means any domestic, free-range, or wild animal capable of hosting or transporting ticks capable of carrying Babesia, including:

(A) livestock;

(B) zebras, bison, and giraffes; and

(C) deer, elk, and other cervid species.

(1-a) "Commission" means the Texas Animal Health Commission.

(8) "Treatment" means a procedure or management practice used on an animal to prevent the infestation of, control, or eradicate ticks capable of carrying Babesia.

SECTION 2. Subsections (a) and (c), Section 167.003, Agriculture Code, are amended to read as follows:

(a) In accordance with this chapter, the commission shall eradicate all ticks capable of carrying Babesia in this state and shall protect all land, premises, and animals [~~livestock~~] in this state from those ticks and exposure to those ticks.

(c) The commission by rule may provide for the manner and

1 method of treating [~~dipping~~] saddle stock and stock used for gentle
2 work and for the handling and certifying of that stock for movement,
3 but unless the commission so provides, the stock is subject to this
4 chapter as other animals [~~livestock~~].

5 SECTION 3. Subsections (a) and (b), Section 167.004,
6 Agriculture Code, are amended to read as follows:

7 (a) If a tick is found on an animal [~~a head of livestock~~],
8 the following are classified as tick infested:

9 (1) each animal [~~head of livestock~~] that is in the same
10 herd or is then or thereafter on the same range or in the same
11 enclosure as the animal on which the tick is found; and

12 (2) the range or enclosure in or on which the animal is
13 located.

14 (b) The commission by rule shall define what animals and
15 premises are to be classified as exposed to ticks. The commission
16 shall classify as exposed to ticks animals [~~livestock~~] that have
17 been on land or in an enclosure that the commission determines to be
18 tick infested or exposed to ticks or to have been tick infested or
19 exposed to ticks before or after the removal of the animals
20 [~~livestock~~], unless the commission determines that the infestation
21 or exposure occurred after the animals [~~livestock~~] were removed and
22 that the animals [~~livestock~~] did not become infested or exposed
23 before removal.

24 SECTION 4. Sections 167.007 and 167.008, Agriculture Code,
25 are amended to read as follows:

26 Sec. 167.007. TICK ERADICATION IN FREE AREA. (a) The
27 commission may conduct tick eradication in the free area and may

1 establish quarantines and require the treatment of animals [~~dipping~~
2 ~~of livestock~~] in the free area as provided by this chapter. The
3 commission shall designate in writing the land or premises in the
4 free area in which tick eradication is to be conducted.

5 (b) An owner or caretaker of animals [~~livestock~~] in the free
6 area and the commissioners court of a county all or part of which is
7 located in the free area shall cooperate with the commission in the
8 manner provided by this chapter for tick eradication in the tick
9 eradication area.

10 Sec. 167.008. INSPECTIONS. The commission may order the
11 owner, part owner, or caretaker of animals [~~livestock~~] to gather
12 the animals [~~livestock~~] for inspection at a time and place
13 prescribed in the order of the commission. The commission shall
14 serve written notice of the order not later than the 12th day before
15 the day of inspection. A person on whom an order is served is
16 entitled to request and obtain a hearing in the manner provided by
17 this chapter for hearings on orders to treat animals [~~dip~~
18 ~~livestock~~].

19 SECTION 5. Subsection (a), Section 167.021, Agriculture
20 Code, is amended to read as follows:

21 (a) The commission may establish quarantines on land,
22 premises, and animals [~~livestock~~] as necessary for tick
23 eradication.

24 SECTION 6. Subsection (b), Section 167.022, Agriculture
25 Code, is amended to read as follows:

26 (b) A quarantine under this section has the effect of
27 quarantining all land, premises, and animals [~~livestock~~] in the

1 area quarantined, regardless of whether any person's land,
2 premises, or animals [~~livestock~~] are specifically described in the
3 quarantine order.

4 SECTION 7. Subsections (a) and (c), Section 167.023,
5 Agriculture Code, are amended to read as follows:

6 (a) The commission by written order may establish a
7 quarantine in the free area if necessary for the purpose of
8 regulating the handling of animals [~~livestock~~] and eradicating
9 ticks or exposure to ticks in the free area or for the purpose of
10 preventing the spread of tick infestation into the free area.

11 (c) The commission shall give notice of a quarantine
12 established in the free area by:

13 (1) delivering notice to each owner or caretaker of
14 animals [~~livestock~~] in the area to be quarantined or to each owner
15 or caretaker of land or premises in the area on which animals
16 [~~livestock~~] are located;

17 (2) posting written notice at the courthouse door of
18 each county in which the area to be quarantined is located; or

19 (3) publishing notice in a newspaper published in each
20 county in which the area to be quarantined is located.

21 SECTION 8. Subsections (a), (b), and (c), Section 167.024,
22 Agriculture Code, are amended to read as follows:

23 (a) Unless a person first obtains a permit or a certificate
24 from an authorized inspector, the person may not move animals
25 [~~livestock~~] in a quarantined area:

26 (1) from land owned, leased, or occupied by one person
27 into or through any other land owned, leased, or occupied by another

1 person; or

2 (2) onto any open range, public street, public road,
3 or thoroughfare.

4 (b) Unless the person first obtains a permit or a
5 certificate from an authorized inspector, the owner or caretaker of
6 animals [~~livestock~~] in a quarantined area may not move the animals
7 [~~livestock~~], or permit the animals [~~livestock~~] to be moved, from an
8 enclosure owned, leased, or occupied by that person, from any open
9 range, street, road, or thoroughfare, or from any land that the
10 person does not own or control, into any other enclosure or other
11 land owned, cared for, or controlled by that person, if:

12 (1) the animals [~~livestock~~] are subject to treatment
13 [~~dipping~~] under this chapter and the land or enclosure to which the
14 animals [~~livestock~~] are moved:

15 (A) is classified in the records of the county
16 supervising inspector as being free from ticks; or

17 (B) has been released from quarantine by the
18 commission; or

19 (2) the animals [~~livestock~~] are subject to treatment
20 [~~dipping~~] but are not being treated [~~dipped~~] under this chapter in
21 the conduct of regular systematic tick eradication by the
22 commission and the land or enclosure to which the animals
23 [~~livestock~~] are moved is owned or controlled by that person and:

24 (A) tick eradication work is being conducted
25 there; or

26 (B) the land or enclosure is vacated under the
27 direction of the commission for the purpose of tick eradication.

1 (c) The owner or caretaker of animals [~~livestock~~] located in
2 a quarantined area may move animals [~~livestock~~], or permit animals
3 [~~livestock~~] to be moved, to and from treatment facilities [~~dipping~~
4 ~~vats~~] for the purpose of treating the animals [~~dipping the~~
5 ~~livestock~~] on a regular treatment [~~dipping~~] date at the treatment
6 facility [~~vats~~] to which the animals [~~livestock~~] are to be moved or
7 on another date designated by the inspector in charge of the
8 treatment facility [~~vats~~]. The movement of animals [~~livestock~~]
9 under this subsection must be in accordance with the rules of the
10 commission. Any other movement is considered to be in violation of
11 the quarantine.

12 SECTION 9. Section 167.025, Agriculture Code, is amended to
13 read as follows:

14 Sec. 167.025. MOVEMENT IN OR FROM INACTIVE QUARANTINED
15 AREA. A person may not move animals [~~livestock~~] or permit animals
16 [~~livestock~~] to be moved from or within the inactive quarantined
17 area except in accordance with the rules of the commission.

18 SECTION 10. Subsections (a) and (b), Section 167.026,
19 Agriculture Code, are amended to read as follows:

20 (a) A person may not move animals [~~livestock~~], or permit
21 animals [~~livestock~~] of which the person is the owner, part owner, or
22 caretaker to be moved, into this state from an area in another
23 state, territory, or country that is under state or federal
24 quarantine for tick infestation or exposure unless the animals
25 [~~livestock~~] are accompanied by a certificate from an inspector of
26 the Animal and Plant Health Inspection Service, United States
27 Department of Agriculture.

1 (b) A person may not move goats, hogs, sheep, exotic
2 livestock, or circus animals into this state from an area of another
3 state, territory, or country that is under state or federal
4 quarantine for tick infestation unless the animals:

5 (1) have been treated [~~dipped~~] free from infestation
6 or exposure; and

7 (2) are certified as having been so treated by an
8 inspector of the commission or of the Animal and Plant Health
9 Inspection Service, United States Department of Agriculture.

10 SECTION 11. Section 167.027, Agriculture Code, is amended
11 to read as follows:

12 Sec. 167.027. PERMIT OR CERTIFICATE TO ACCOMPANY MOVEMENT.

13 (a) A certificate or permit required for movement of animals
14 [~~livestock~~] within or into this state must be in the possession of
15 the person in charge of the movement or the conveyance from the
16 point of origin to the point of destination. If the movement is by a
17 transportation company, including a railway or express company, the
18 certificate must be attached to the shipping papers accompanying
19 the movement from the point of origin to the point of destination.
20 On demand of an inspector, the person in charge of the movement or
21 conveyance shall exhibit the certificate or permit.

22 (b) A certificate required for movement of [~~goats, hogs,~~
23 ~~sheep, exotic livestock, or circus animals, or for movement of~~]
24 articles listed in Section 167.026(c) [~~of this code,~~] must
25 accompany the movement to the final destination in this state or so
26 long as the [~~animals or~~] articles are moving through this state.

27 SECTION 12. Sections 167.028 and 167.029, Agriculture Code,

1 are amended to read as follows:

2 Sec. 167.028. STATEMENT OF POSSESSION AND DESTINATION. On
3 request of an inspector, the owner, part owner, or caretaker, or a
4 person accompanying and connected with a shipment, of animals
5 [~~livestock~~] that are being moved in this state or have been moved in
6 this state within 60 days preceding the request, shall make a
7 written statement of:

8 (1) the name of the owner or the person controlling the
9 land from which the shipment originated and the county in which that
10 land is located;

11 (2) the county and the particular place in that county
12 to which the shipment is or was destined;

13 (3) the name and address of the person from whom the
14 animals [~~livestock~~] were obtained, if the animals [~~livestock~~] were
15 obtained in the 30 days preceding the request, or, if the animals
16 [~~livestock~~] were not obtained during the 30 days preceding the
17 request, a statement of that fact; and

18 (4) the territory through which the shipment passed
19 since leaving the point of origin and through which the shipment is
20 intended to pass before reaching the point of destination.

21 Sec. 167.029. CONDITIONS, MANNER, AND METHOD OF MOVING AND
22 HANDLING. (a) The commission by rule shall provide the conditions
23 for and the manner and method of handling and moving animals
24 [~~livestock~~]:

25 (1) into, in, and from the tick eradication area;

26 (2) into, in, and from quarantined land or premises in
27 the free area;

1 (3) into the released part of the free area; and

2 (4) into, in, and from the inactive quarantined area.

3 (b) Animals [~~Livestock~~] must be certified as being free from
4 ticks and exposure to ticks, and must be moved to the destination
5 without exposure, if the animals [~~livestock~~] are to be moved:

6 (1) into the free area;

7 (2) from one county to another in the tick eradication
8 area; or

9 (3) within a county to land or premises that are
10 classified by the official records of the supervising inspector of
11 the county as being free from ticks and exposure to ticks.

12 (c) The commission may adopt rules relating to testing,
13 immunizing, treating, certifying, or marking or branding animals
14 [~~livestock~~] moving into this state from another state or country.

15 SECTION 13. Subsection (a), Section 167.030, Agriculture
16 Code, is amended to read as follows:

17 (a) A person, including a railway or transportation
18 company, who operates a conveyance into which animals [~~livestock~~]
19 are loaded shall clean and disinfect each car or other conveyance
20 after removal of the animals [~~livestock~~] unless the animals
21 [~~livestock~~] are clean and free from ticks or exposure to ticks.

22 SECTION 14. Sections 167.031 and 167.033, Agriculture Code,
23 are amended to read as follows:

24 Sec. 167.031. USE OF SAND AS BEDDING IN CONVEYANCE. The
25 commission may establish quarantines and restrict the use of sand
26 as bedding in an animal [~~a livestock~~] conveyance except for sand
27 from known tick-free sand pits.

1 Sec. 167.033. HANDLING AND REMOVAL OF REFUSE OR DEAD OR
2 INJURED ANIMALS [~~LIVESTOCK~~]. The commission may establish
3 quarantines and regulate the removal and handling of refuse matter
4 from quarantined stockyards, quarantined stock pens, and other
5 quarantined places and may establish quarantines and regulate the
6 handling or removal of animals [~~livestock~~] that die or are injured
7 in transit.

8 SECTION 15. The heading to Subchapter C, Chapter 167,
9 Agriculture Code, is amended to read as follows:

10 SUBCHAPTER C. TREATMENT [~~DIPPING~~]

11 SECTION 16. Sections 167.051 and 167.052, Agriculture Code,
12 are amended to read as follows:

13 Sec. 167.051. ANIMALS [~~LIVESTOCK~~] SUBJECT TO TREATMENT
14 [~~DIPPING~~]. (a) Animals [~~Livestock~~] located in the tick
15 eradication area are subject to treatment [~~dipping~~] if the animals
16 [~~livestock~~]:

- 17 (1) are infested with ticks;
18 (2) were exposed to ticks within the nine months
19 preceding an order to treat [~~dip~~]; or

20 (3) are on premises described in an order to treat
21 [~~dip~~] during the time that the order is in effect and the person to
22 whom the order is issued is the owner, part owner, or caretaker of
23 the animals [~~livestock~~].

24 (b) Animals [~~Livestock~~] located in the free area are subject
25 to treatment [~~dipping~~] if:

- 26 (1) the animals [~~livestock~~] are infested with ticks;
27 (2) the animals [~~livestock~~] were exposed to ticks

1 within the nine months preceding an order to treat [~~dip~~];

2 (3) the animals [~~livestock~~] are on premises described
3 in an order to treat [~~dip~~] during the time the order is in effect and
4 the person to whom the order is issued is the owner, part owner, or
5 caretaker of the animals [~~livestock~~]; or

6 (4) the commission determines that treatment
7 [~~dipping~~] is necessary to ensure that the animals [~~livestock~~] are
8 entirely free from infestation.

9 (c) The commission may require the treatment of animals
10 [~~dipping of livestock~~] that are located in the free area and are
11 tick infested or have been exposed to ticks regardless of whether
12 the animals [~~livestock~~] or the area in which the animals
13 [~~livestock~~] are located is under quarantine.

14 Sec. 167.052. ORDER TO TREAT [~~DIP~~]. (a) The commission
15 may order the owner, part owner, or caretaker of animals to treat
16 the animals [~~livestock to dip the livestock~~] in accordance with the
17 directions of the commission. The order must be dated, in writing,
18 and signed or stamped with the signature of the commission or the
19 presiding officer of the commission.

20 (b) An order to treat [~~dip~~] must:

21 (1) state the period of time covered by the order;

22 (2) describe the premises on which the animals to be
23 treated [~~livestock to be dipped~~] are located;

24 (3) state that the person to whom the order is directed
25 shall treat all animals [~~dip all livestock~~] of which the person is
26 the owner, part owner, or caretaker and which are located on those
27 premises during that time;

1 (4) state that the treatment [~~dipping~~] must be done
2 under the supervision of an inspector;

3 (5) designate the method by [~~vat at~~] which the animals
4 [~~livestock~~] are to be treated [~~dipped~~];

5 (6) state the dates on which the animals [~~livestock~~]
6 are to be treated [~~dipped~~]; and

7 (7) state that if the person does not treat the animals
8 [~~dip the livestock~~] on those dates, the treatment [~~dipping~~] will be
9 done at the person's expense by a peace officer acting in accordance
10 with this chapter.

11 (c) The order is not required to describe the premises on
12 which the animals [~~livestock~~] are located by field notes or metes
13 and bounds, but must provide a reasonable description sufficient to
14 inform the person to whom it is directed of the premises or land
15 covered by the order.

16 (d) An order may require the treatment of the animals
17 [~~dipping of the livestock~~] on as many dates as the commission
18 considers necessary for eradicating the infestation or exposure of
19 the animals [~~livestock~~] or the premises on which the animals are
20 [~~livestock is~~] located.

21 (e) An order to treat [~~dip~~] must be delivered to the person
22 to whom it is directed not later than the 12th day before the date
23 specified in the order for the first treatment [~~dipping~~], not
24 including the date of delivery or the date of the first treatment
25 [~~dipping~~].

26 (f) A person to whom an order to treat [~~dip~~] is directed
27 shall comply with the order and treat the animals [~~dip the~~]

1 ~~livestock~~] in accordance with the directions of the commission. If
2 the order is not delivered within the time provided by Subsection
3 (e) [~~of this section~~], the person receiving the order shall begin
4 treatment [~~dipping~~] on the first treatment [~~dipping~~] date that is
5 more than 12 days after the date of receipt of the order and shall
6 continue treatment [~~dipping~~] on subsequent dates as specified in
7 the order.

8 (g) If the animals [~~livestock~~] or the premises are not freed
9 from ticks or exposure to ticks before an order to treat [~~dip~~]
10 expires, the commission [~~Commission~~] may issue additional orders
11 regardless of whether the animals [~~livestock~~] were exposed to ticks
12 in the nine months preceding the date of the subsequent order.

13 SECTION 17. Subsections (a) and (c), Section 167.053,
14 Agriculture Code, are amended to read as follows:

15 (a) A person is entitled to request and obtain a hearing for
16 the purpose of protesting an order to treat [~~dip~~] by filing a sworn
17 application with the supervising inspector of the county in which
18 the animals [~~livestock~~] are located. The application must be filed
19 not later than the 10th day after the day on which the order was
20 received.

21 (c) If the commission's decision is delivered in person, a
22 person whose protest is overruled shall begin treatment of the
23 animals [~~dipping the livestock~~] on the first treatment [~~dipping~~]
24 date in the order that is more than two days after the day on which
25 the decision is received. If the decision is delivered by mail, the
26 person shall begin treatment [~~dipping~~] on the first treatment
27 [~~dipping~~] date in the order that is more than four days after the

1 day on which the decision was deposited in the mail.

2 SECTION 18. Sections 167.054, 167.055, 167.056, 167.057,
3 and 167.058, Agriculture Code, are amended to read as follows:

4 Sec. 167.054. EXCUSE FROM COMPLIANCE WITH ORDER. The
5 supervising inspector of a county for good cause may excuse a person
6 from complying with an order to treat [~~dip~~], but shall be held
7 responsible for excusing compliance without good cause.

8 Sec. 167.055. PERSONS RESPONSIBLE FOR TREATMENT [~~DIPPING~~]
9 AND ASSISTANCE. (a) A person who owns any interest in animals
10 [~~livestock~~] subject to treatment [~~dipping~~] or who is the caretaker
11 of the animals [~~that livestock~~] is responsible for the treatment of
12 the animals [~~dipping of the livestock~~] under this chapter and is
13 subject to prosecution for failure to treat the animals [~~dip the~~
14 ~~livestock~~].

15 (b) A husband and wife are jointly and severally liable for
16 the treatment of animals [~~dipping of livestock~~] subject to
17 treatment [~~dipping~~] that belong to their community estate. Each
18 spouse is responsible for the treatment of animals [~~dipping of~~
19 ~~livestock~~] belonging to that person's separate estate, except that
20 a spouse who is the caretaker of animals [~~livestock~~] owned by the
21 other spouse is responsible for the treatment of the animals
22 [~~dipping of that livestock~~].

23 (c) A person responsible for the treatment of animals
24 [~~dipping of livestock~~] subject to treatment [~~dipping~~] shall furnish
25 all necessary labor, at the person's own expense, for gathering the
26 animals [~~livestock~~], driving the animals to the treatment facility,
27 treating the animals [~~livestock to the dipping vat, dipping the~~

1 ~~livestock~~], and returning the animals [~~livestock~~] to the person's
2 premises after treatment [~~dipping~~].

3 Sec. 167.056. MANNER OF TREATMENT [~~DIPPING~~]. If the
4 commission requires animals to be treated, the animals [~~livestock~~
5 ~~to be dipped, the livestock~~] shall be [~~submerged in a vat, sprayed,~~
6 ~~or~~] treated in the [~~another sanitary~~] manner prescribed by the
7 commission.

8 Sec. 167.057. TREATMENT CHEMICALS [~~DIPPING MATERIALS~~].

9 (a) The commission shall prescribe by rule the official materials
10 in which animals are to be treated [~~livestock are to be dipped~~]
11 under this chapter. A person may not treat animals [~~dip livestock~~]
12 for purposes of this chapter in a material other than an official
13 material prescribed by the commission.

14 (b) The state, an agency of the state, or an agency of the
15 government of the United States shall, and a county may, furnish the
16 official materials for the treatment of animals [~~dipping of~~
17 ~~livestock~~] under this chapter.

18 Sec. 167.058. TREATMENT [~~DIPPING~~] INTERVALS. A person to
19 whom an order to treat [~~dip~~] is directed shall treat the animals
20 [~~dip the livestock~~] on the dates specified in the order, but the
21 order of the commission must provide an interval of at least 13
22 days, not including any part of a treatment [~~dipping~~] date, between
23 the days on which it directs the animals to be treated [~~livestock to~~
24 ~~be dipped~~]. The order of the commission may provide an interval
25 longer than 13 days.

26 SECTION 19. The heading to Section 167.059, Agriculture
27 Code, is amended to read as follows:

1 Sec. 167.059. TREATMENT [~~DIPPING~~] FACILITIES.

2 SECTION 20. Subsections (a), (b), and (c), Section 167.059,
3 Agriculture Code, are amended to read as follows:

4 (a) The commissioners court of each county, including a
5 county in the free area, in all or part of which the commission
6 conducts tick eradication shall cooperate with the commission and
7 shall furnish facilities necessary to the treatment of animals
8 [~~dipping of livestock~~] in that county. The commissioners court
9 shall furnish dipping vats, pens, chutes, and other necessary
10 facilities in the number, at the locations, and of the type
11 specified by the commission. In addition, the county, at its
12 expense, shall maintain the facilities and repair or remodel them
13 as necessary, shall provide the water for filling the vats, and
14 shall clean and refill the vats as necessary.

15 (b) For the purpose of constructing, purchasing, or leasing
16 treatment [~~dipping~~] facilities, and for the purpose of providing
17 necessary land, labor, or materials, a commissioners court may
18 appropriate money out of the general fund of the county or may incur
19 indebtedness by the issuance of warrants. A warrant issued may not
20 draw interest at a rate of more than six percent per year and may not
21 have a term of more than 20 years. The commissioners court may levy
22 taxes to pay interest on warrants and may establish a sinking fund
23 for the payment of warrants.

24 (c) For the purpose of acquiring necessary land for the
25 construction or maintenance of treatment [~~dipping~~] facilities, for
26 the purpose of acquiring treatment [~~dipping~~] facilities that have
27 already been constructed, or for the purpose of acquiring land

1 necessary for ingress and egress to and from those facilities, a
2 commissioners court has the power of eminent domain. The
3 commissioners court shall exercise the power of eminent domain in
4 the manner provided by law for acquiring land for the building and
5 maintenance of public buildings, except that the court shall
6 institute and prosecute condemnation proceedings on written
7 request from the presiding officer of the commission. The request
8 from the commission shall designate:

- 9 (1) the land to be condemned and its location;
10 (2) the name of the owner of the land to be condemned;
11 and
12 (3) the easement to be acquired for ingress and
13 egress.

14 SECTION 21. The heading to Section 167.060, Agriculture
15 Code, is amended to read as follows:

16 Sec. 167.060. TREATMENT [~~DIPPING~~] REQUIRED FOR MOVEMENT
17 FROM QUARANTINED AREA.

18 SECTION 22. Subsections (a), (b), and (c), Section 167.060,
19 Agriculture Code, are amended to read as follows:

20 (a) An inspector may not issue a certificate or permit for
21 the movement of animals [~~livestock~~] from a quarantined enclosure
22 unless the owner or caretaker of the animals [~~livestock~~]:

23 (1) is cooperating with the commission in the regular
24 systematic treatment of the animals [~~dipping of the livestock~~]
25 listed in Subsection (b) [~~of this section~~]; and

26 (2) has treated those animals [~~dipped those livestock~~]
27 on the last two treatment [~~dipping~~] dates that were prescribed for

1 the area in which the animals [~~livestock~~] are located and that
2 preceded the date of movement.

3 (b) In order to be issued the permit or certificate, the
4 owner or caretaker must cooperate with the commission in the
5 regular systematic treatment of animals [~~dipping of livestock~~] of
6 which the person is the owner or caretaker and which:

7 (1) are located in the enclosure from which the
8 animals [~~livestock~~] are to be moved;

9 (2) are located in quarantined enclosures that connect
10 with the enclosure from which the animals [~~livestock~~] are to be
11 moved, including an enclosure that:

12 (A) connects with an enclosure that connects with
13 the enclosure from which the animals [~~livestock~~] are to be moved; or

14 (B) is on the opposite side of a lane or road from
15 the enclosure from which the animals [~~livestock~~] are to be moved; or

16 (3) are located on the quarantined open range that
17 connects with any of the enclosures under Subdivision (1) or (2) [~~of~~
18 ~~this subsection~~].

19 (c) If ticks are found on any of the animals [~~livestock~~]
20 submitted for movement, before the certificate or permit is issued,
21 each head of the animals must be treated as prescribed by commission
22 rules [~~livestock must be dipped at intervals of not less than every~~
23 ~~7th day nor more than every 14th day and found free from ticks at the~~
24 ~~last dipping~~].

25 SECTION 23. Subsection (b), Section 167.082, Agriculture
26 Code, is amended to read as follows:

27 (b) A person to whom a notice is directed may request a

1 hearing for the purpose of protesting the designation in the manner
2 provided by Section 167.053 [~~of this code~~] for requesting a hearing
3 on an order to treat [~~dip~~]. The commission shall grant the hearing
4 and give notice of its decision in the manner provided by that
5 section.

6 SECTION 24. Subsection (e), Section 167.101, Agriculture
7 Code, is amended to read as follows:

8 (e) Only an inspector appointed for the purpose may conduct
9 tick eradication or issue permits and certificates certifying
10 animals [~~livestock~~] to be free from ticks or exposure to ticks. An
11 inspector shall issue those permits and certificates in accordance
12 with the rules of the commission.

13 SECTION 25. Subsection (c), Section 167.102, Agriculture
14 Code, is amended to read as follows:

15 (c) The search warrant shall describe the place to be
16 entered in a reasonable manner that will enable the person in charge
17 of the property to identify the property described, but the warrant
18 is not required to describe the property by field notes or by metes
19 and bounds. If the applicant for the warrant seeks to enter the
20 property to determine whether animals [~~livestock~~] are on the
21 property, the application for the warrant shall state that. If the
22 warrant is obtained for the purpose of seizing or treating animals
23 [~~dipping livestock~~], the application and the warrant shall describe
24 the animals [~~livestock, state whether the animals are cattle,~~
25 ~~horses, mules, jacks, or jennets,~~] and give the approximate number
26 of animals. If any of that information is unknown to the applicant,
27 the application and warrant shall state that the information is

1 unknown.

2 SECTION 26. Sections 167.103, 167.104, and 167.105,
3 Agriculture Code, are amended to read as follows:

4 Sec. 167.103. TREATMENT OF ANIMALS [~~DIPPING OF CATTLE~~] BY
5 PEACE OFFICER ON REQUEST OF INSPECTOR. (a) If a person
6 responsible for treating animals [~~dipping livestock~~] fails to treat
7 the animals [~~dip the livestock~~] at the time and place directed in
8 the order or, prior to a treatment [~~dipping~~] date in the order,
9 states that he or she does not intend to treat the animals [~~dip the~~
10 ~~livestock~~], the inspector in charge of tick eradication in that
11 county shall notify a peace officer.

12 (b) The peace officer shall deputize a sufficient number of
13 assistants, to be designated by the supervising inspector of the
14 county, shall enter the property on which the animals [~~livestock~~]
15 are located, and shall gather and treat the animals [~~dip the~~
16 ~~livestock~~] under the supervision of an inspector and in accordance
17 with the directions of the commission.

18 (c) The peace officer shall continue to treat the animals
19 [~~dip the livestock~~] on each treatment [~~dipping~~] date specified in
20 the order until the person responsible for treatment [~~dipping~~]
21 begins and continues the treatment [~~dipping~~] in accordance with
22 that order.

23 Sec. 167.104. SEIZURE AND DISPOSAL OF ANIMALS [~~LIVESTOCK~~]
24 RUNNING AT LARGE. (a) An inspector may request a peace officer to
25 seize animals [~~livestock~~] if:

26 (1) the inspector determines the animals [~~livestock~~]
27 to be running at large or on the open range of a county or part of a

1 county in which the commission is conducting tick eradication under
2 this chapter; and

3 (2) the inspector is unable to locate the owner or
4 caretaker of the animals [~~livestock~~].

5 (b) The peace officer may deputize assistants, shall seize
6 the animals [~~livestock~~], and shall treat the animals [~~tip the~~
7 ~~livestock,~~] under the supervision of an inspector. The officer
8 shall impound the animals [~~livestock~~] at a place designated by the
9 inspector or otherwise dispose of the animals [~~livestock~~] as
10 necessary for the purpose of tick eradication.

11 Sec. 167.105. SEIZURE AND DISPOSAL OF ANIMALS [~~LIVESTOCK~~]
12 MOVED IN VIOLATION OF QUARANTINE. (a) An inspector who discovers
13 animals [~~livestock~~] that are being or have been moved in violation
14 of a quarantine may request a peace officer to seize the animals
15 [~~livestock~~] and:

16 (1) impound the animals [~~livestock~~] at the expense of
17 the owner; or

18 (2) if practicable, return the animals [~~livestock~~] at
19 the expense of the owner to the point of origin.

20 (b) In addition to other expenses, the owner of the seized
21 animals [~~livestock~~] shall pay the officer a fee of \$2 and the cost
22 of feeding, watering, and holding the animals [~~livestock~~].

23 SECTION 27. Subsection (c), Section 167.106, Agriculture
24 Code, is amended to read as follows:

25 (c) The commission or a resident of a county or part of a
26 county in which tick eradication is being conducted may sue for
27 permanent or temporary relief to compel a person who is an owner,

1 part owner, or caretaker of animals to treat the animals [~~livestock~~
2 ~~to dip that livestock~~] in accordance with this chapter if the person
3 has failed or refused to treat the animals [~~dip the livestock~~] or
4 has threatened to fail or refuse to treat the animals [~~dip the~~
5 ~~livestock~~]. If the court finds that the defendant has been served
6 with an order of the commission to treat the animals [~~dip the~~
7 ~~livestock~~], that the animals [~~livestock~~] are subject to treatment
8 [~~dipping~~], and that the material allegations of the plaintiff's
9 petition are true, the court shall enter an order commanding the
10 defendant to treat the animals [~~dip the livestock~~] in accordance
11 with the directions of the commission at the time and place
12 designated in the order of the commission or in the order of the
13 court. If the defendant fails to comply with the order of the
14 court, the court may hold the defendant in contempt and punish the
15 defendant accordingly and shall order a peace officer to deputize
16 assistants and treat the animals [~~dip the livestock~~] in accordance
17 with the order of the court. The expense of treating the animals
18 [~~dipping the livestock~~] and employing the peace officer and
19 assistants shall be taxed against the defendant as a cost of suit.

20 SECTION 28. Section 167.107, Agriculture Code, is amended
21 to read as follows:

22 Sec. 167.107. SALE OF ANIMALS TREATED [~~LIVESTOCK DIPPED~~] OR
23 SEIZED BY PEACE OFFICER. (a) A peace officer who gathers and
24 treats [~~dips~~] or who seizes and impounds or disposes of animals
25 [~~livestock~~] under Section 167.103, 167.104, or 167.105 [~~of this~~
26 ~~code~~] is entitled to retain and sell the animals [~~livestock~~] for the
27 purpose of securing payment for the expenses of handling, including

1 the expenses of holding, feeding, and watering the animals
2 [~~livestock~~].

3 (b) Not later than the 60th day after the day on which
4 animals are treated [~~livestock are dipped~~] or seized, the peace
5 officer may sell at public sale to the highest bidder a number of
6 the animals sufficient to cover the secured expenses. The officer
7 shall conduct the sale at the courthouse door of the county in which
8 the animals [~~livestock~~] are located and shall post notice of the
9 sale at that courthouse door at least five days before the day of
10 the sale.

11 (c) If any proceeds of the sale remain after deducting the
12 amount to which the peace officer is entitled, the peace officer
13 shall pay those proceeds to the county treasurer subject to the
14 order of the owner of the animals [~~livestock~~].

15 (d) A peace officer who treats animals [~~dips livestock~~]
16 under Section 167.103 [~~of this code~~] is entitled to act under this
17 section to secure the expenses of each day on which the animals are
18 treated [~~dipped~~].

19 SECTION 29. Subsections (a), (b), (c), (d), (e), and (g),
20 Section 167.108, Agriculture Code, are amended to read as follows:

21 (a) A peace officer who gathers and treats [~~dips~~] or who
22 seizes and impounds or disposes of animals [~~livestock~~] under
23 Section 167.103, 167.104, or 167.105 [~~of this code~~] has a lien on
24 the animals [~~livestock~~] for the purpose of securing payment of the
25 officer's fees and the expenses of handling the animals
26 [~~livestock~~], including the expenses of holding, feeding, and
27 watering the animals [~~livestock~~] and the expenses of paying

1 assistants. Instead of retaining and selling the animals
2 [~~livestock~~] under Section 167.107 [~~of this code~~], the officer may
3 perfect and foreclose a lien granted by this section.

4 (b) A peace officer who treats animals [~~dips livestock~~] in
5 accordance with an order of a court under Section 167.106(c) [~~of~~
6 ~~this code~~], and the peace officer's assistants, have a lien on the
7 animals [~~livestock~~] to secure payment of the expenses and costs of
8 the treatment [~~dipping~~].

9 (c) A peace officer may perfect a lien under Subsection (a)
10 [~~of this section~~] by filing a sworn statement of indebtedness with
11 the county clerk of the county in which the animals [~~livestock~~] are
12 located. The statement must describe the animals [~~livestock~~] and
13 must be filed within six months after the treatment [~~dipping~~] or
14 other action of the peace officer giving rise to the lien. The
15 statement may cover a single action or actions over a period of
16 time. If the statement covers actions over a period of time, the
17 statement must be filed within six months after the last treatment
18 [~~dipping~~] or other action giving rise to the lien.

19 (d) A peace officer may perfect a lien under Subsection (b)
20 [~~of this section~~] by filing a sworn statement covering a single
21 treatment [~~dipping~~] or a number of treatments [~~dippings~~] with the
22 clerk of the district court. The statement must show the number of
23 animals treated [~~livestock dipped~~] and must describe the animals
24 [~~livestock~~]. The statement must be filed within 12 months after
25 each treatment [~~dipping~~].

26 (e) A peace officer may foreclose a lien under Subsection
27 (a) [~~of this section~~] by filing suit against the owner of the

1 animals [~~livestock~~] in a court of competent jurisdiction for
2 collection of the account and foreclosure of the lien. The suit
3 must be filed within 24 months after the statement is filed with the
4 county clerk. In the suit, the court may not require a cost bond of
5 the peace officer or any person to whom the peace officer has
6 assigned the account. The court shall enter judgment for the debt,
7 with interest and costs of suit, and for foreclosure of the lien on
8 the number of animals that the court determines necessary to defray
9 the expenses and fees secured.

10 (g) If a lien is foreclosed under this section, the
11 remainder of the proceeds of the sale following deduction of
12 expenses and costs shall be paid to the clerk of the court in which
13 the suit is pending and are subject to the order of the owner of the
14 animals [~~livestock~~].

15 SECTION 30. Sections 167.110, 167.111, and 167.112,
16 Agriculture Code, are amended to read as follows:

17 Sec. 167.110. PRESUMPTION OF EXISTENCE OR SUFFICIENCY OF
18 TREATMENT [~~DIP~~]. (a) In the trial of any case under this chapter
19 in connection with the treatment of animals [~~dipping of livestock~~]
20 or the failure to treat animals [~~dip livestock~~], it is presumed
21 that:

22 (1) the treatment [~~dipping vat~~] contained a sufficient
23 amount of treatment chemical and the treatment chemical [~~dipping
24 solution and the dipping solution~~] had been properly tested; or

25 (2) the treatment chemical [~~dipping solution~~] could
26 have and would have been put into the treatment facility [~~vat~~] and
27 tested if the owner or caretaker had brought the animals to the

1 treatment facility [~~livestock to the vat~~] for the purpose of
2 treatment [~~dipping~~].

3 (b) In a criminal prosecution for failure to treat animals
4 [~~dip livestock~~] under this chapter, the state is not required to
5 allege and prove that the treatment facility [~~vat~~] contained
6 treatment chemical [~~dipping solution~~].

7 (c) If it is necessary in a court proceeding to prove the
8 test of a treatment chemical [~~dipping solution~~], it is only
9 necessary to prove that:

10 (1) the treatment chemical [~~dipping solution~~] used was
11 one of the official treatment chemicals [~~dipping materials~~]
12 prescribed by the commission; and

13 (2) the inspector tested the treatment chemical
14 [~~dipping solution~~] in accordance with the rules of the commission.

15 Sec. 167.111. PRESUMPTION OF OWNERSHIP OR CARE. (a) If an
16 inspector determines that a person is the owner, part owner, or
17 caretaker of animals [~~livestock~~] subject to treatment [~~dipping~~] and
18 an order to treat [~~dip~~] is issued and served, it is presumed that,
19 at the time of a failure to treat [~~dip~~], the person was still the
20 owner, part owner, or caretaker of animals [~~livestock~~] subject to
21 treatment [~~dipping~~] located on the premises described in the order.
22 In that case, the state is required to prove only that the person
23 was the owner, part owner, or caretaker of animals [~~livestock~~]
24 subject to treatment [~~dipping~~] located on the premises at the time
25 the order was served.

26 (b) After the service of an order to treat [~~dip~~], if there
27 are no longer any animals [~~livestock~~] subject to treatment

1 [~~dipping~~] located on the premises and if no animals [~~livestock~~]
2 subject to treatment [~~dipping~~] have been illegally removed, the
3 defendant may file a sworn statement of that fact at the beginning
4 of the trial. If the defendant does not file that statement, it is
5 presumed that the defendant's status as owner, part owner, or
6 caretaker remained unchanged since the service of the order.

7 Sec. 167.112. VENUE OF CRIMINAL PROSECUTION. The owner,
8 part owner, or caretaker of animals [~~livestock~~] is subject to
9 prosecution under this chapter in the county in which the animals
10 [~~livestock~~] and the premises are located, regardless of whether the
11 defendant was in the county at the time of issuance and service of
12 the order to treat [~~dip~~], at the time of the failure to treat [~~dip~~],
13 or at the time of violation of the quarantine.

14 SECTION 31. Subsection (a), Section 167.131, Agriculture
15 Code, is amended to read as follows:

16 (a) A person commits an offense if, as the owner, part
17 owner, or caretaker of animals [~~livestock~~], the person fails to
18 gather the animals [~~livestock~~] for inspection at the time and place
19 ordered by the commission under Section 167.008 [~~of this code~~].

20 SECTION 32. Section 167.132, Agriculture Code, is amended
21 to read as follows:

22 Sec. 167.132. MOVEMENT OF ANIMALS [~~LIVESTOCK~~] IN VIOLATION
23 OF QUARANTINE. (a) A person commits an offense if the person
24 moves, or as owner, part owner, or caretaker permits the movement
25 of, animals [~~livestock~~] from any land, premises, or enclosure that
26 is under quarantine for tick infestation or exposure in violation
27 of the quarantine without a permit issued by an inspector of the

1 commission or of the Animal and Plant Health Inspection Service,
2 United States Department of Agriculture.

3 (b) A railroad or other transportation company commits an
4 offense if it permits an animal [~~a head of livestock~~] to enter stock
5 pens in the tick eradication area under the company's control
6 without a written certificate or permit from an inspector of the
7 commission or of the Animal and Plant Health Inspection Service,
8 United States Department of Agriculture.

9 (c) An offense under this section is a Class C misdemeanor
10 for each animal [~~head of livestock~~] moved, permitted to move, or
11 permitted to enter the pen unless it is shown on the trial of the
12 offense that the defendant has been previously convicted under this
13 section, in which event the offense is a Class B misdemeanor.

14 (d) Except as provided by this subsection, a person commits
15 a separate offense under Subsection (a) [~~of this section~~] for each
16 county into which animals [~~livestock~~] are moved within 30 days
17 following the day on which the animals [~~livestock~~] leave the county
18 in which they were quarantined. A person does not commit an offense
19 for a county if the person complied with the requirements of this
20 chapter prior to entry into that county.

21 SECTION 33. Subsections (a) and (b), Section 167.133,
22 Agriculture Code, are amended to read as follows:

23 (a) A person commits an offense if the person:

24 (1) moves animals [~~livestock~~] or, as owner, part
25 owner, or caretaker, permits animals [~~livestock~~] to be moved into
26 this state in violation of Section 167.026(a) [~~of this code~~]; or

27 (2) moves animals or commodities into this state in

1 violation of Section 167.026(b) or (c) [~~of this code~~].

2 (b) An offense under Subsection (a)(1) [~~of this code~~] is a
3 Class C misdemeanor for each animal [~~head of livestock~~] moved or
4 permitted to be moved unless it is shown on the trial of the offense
5 that the defendant has been previously convicted under this
6 section, in which event the offense is a Class B misdemeanor.

7 SECTION 34. Sections 167.134 and 167.135, Agriculture Code,
8 are amended to read as follows:

9 Sec. 167.134. MOVEMENT OF ANIMALS [~~LIVESTOCK~~] IN VIOLATION
10 OF PERMIT OR CERTIFICATE. (a) A person commits an offense if the
11 person moves or, as owner, part owner, or caretaker, permits the
12 movement of, animals [~~livestock~~] under a certificate or permit from
13 quarantined land, premises, or enclosures to a place other than
14 that designated on the certificate or permit by the inspector.

15 (b) An offense under this section is a Class C misdemeanor
16 for each animal [~~head of livestock~~] moved unless it is shown on the
17 trial of the offense that the defendant has been previously
18 convicted under this section, in which event the offense is a Class
19 B misdemeanor.

20 Sec. 167.135. FAILURE TO POSSESS OR EXHIBIT PERMIT OR
21 CERTIFICATE. (a) A person commits an offense if the person is in
22 charge of animals [~~livestock~~] for which a certificate or permit is
23 required or is in charge of the conveyance transporting that animal
24 [~~livestock~~] and the person fails to possess or exhibit the
25 certificate or permit in the manner provided by Section 167.027 [~~of~~
26 ~~this code~~].

27 (b) An offense under this section is a Class C misdemeanor

1 for each animal [~~head of livestock~~] moved or conveyed without a
2 certificate or permit as required by Subsection (a) [~~of this~~
3 ~~section~~] unless it is shown on the trial of the offense that the
4 defendant has been previously convicted under this section, in
5 which event the offense is a Class B misdemeanor.

6 SECTION 35. Subsection (a), Section 167.138, Agriculture
7 Code, is amended to read as follows:

8 (a) A person commits an offense if the person uses sand as
9 bedding in an animal [~~a livestock~~] conveyance in violation of a
10 quarantine established or a commission rule adopted under Section
11 167.031 [~~of this code~~].

12 SECTION 36. The heading to Section 167.140, Agriculture
13 Code, is amended to read as follows:

14 Sec. 167.140. IMPROPER HANDLING AND REMOVAL OF ANIMAL
15 [~~LIVESTOCK~~] REFUSE OR DEAD OR INJURED ANIMALS [~~LIVESTOCK~~].

16 SECTION 37. The heading to Section 167.141, Agriculture
17 Code, is amended to read as follows:

18 Sec. 167.141. FAILURE TO TREAT ANIMALS [~~DIP LIVESTOCK~~].

19 SECTION 38. Subsection (a), Section 167.141, Agriculture
20 Code, is amended to read as follows:

21 (a) A person who is the owner, part owner, or caretaker of
22 animals [~~livestock~~] commits an offense if, after the 12th day
23 following the day on which notice of an order to treat [~~dip~~] is
24 received, the person fails or refuses to treat the animals [~~dip the~~
25 ~~livestock~~] as prescribed in the order, on any date prescribed in the
26 order, during the hours prescribed in the order, under the
27 supervision of an inspector, with [~~in~~] an official treatment

1 chemical [~~dipping material~~], or in the treatment facility [~~dipping~~
2 ~~vat~~] designated in the order.

3 SECTION 39. The heading to Section 167.142, Agriculture
4 Code, is amended to read as follows:

5 Sec. 167.142. DESTRUCTION OF PUBLIC TREATMENT [~~DIPPING~~]
6 FACILITIES.

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

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

15 SECTION 41. Not later than December 1, 2013, the Texas
16 Animal Health Commission shall adopt rules as required by this Act.

17 SECTION 42. This Act takes effect September 1, 2013.

S.B. No. 1095

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1095 passed the Senate on April 25, 2013, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1095 passed the House on May 17, 2013, by the following vote: Yeas 134, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor