

BILL ANALYSIS

Senate Research Center
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H.B. 4538
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Water, Agriculture & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There have been laws regulating beekeeping in Texas since a bill for the suppression and control of foulbrood and other diseases of bees was introduced and passed in the 28th Legislature in 1903. However, the last substantive revisions to statutes regulating beekeeping were made in 1983. These statutes need to be updated and modernized to better reflect the current scope of the industry. H.B. 4538 seeks to provide for this update and modernization.

H.B. 4538 amends current law relating to the regulation of beekeeping, imposes fees and authorizes other fees, and expands the applicability of an occupational permit.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the chief apiary inspector is modified in SECTION 4 (Section 131.007, Agriculture Code) and SECTION 7 (Section 131.021, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 131.001, Agriculture Code, by amending Subdivisions (2), (3), (5), (6), and (8) and adding Subdivisions (8-a) and (12-a) to redefine "apiary," "beekeeper," "colony," "director," and "equipment" and define "hive" and "package bees."

SECTION 2. Amends Section 131.003, Agriculture Code, as follows:

Sec. 131.003. CONFLICT OF INTEREST. (a) Prohibits a person from serving as chief apiary inspector (inspector) or be an assistant of the inspector if the person is an officer, employee, or paid consultant of a trade association in the beekeeping industry.

(b) Makes a conforming change to this subsection.

SECTION 3. Amends Section 131.004(b), Agriculture Code, to make a conforming change.

SECTION 4. Amends Sections 131.007(b) and (c), Agriculture Code, as follows:

(b) Requires the inspector to prepare information of public interest describing the functions of the Texas Apiary Inspection Service of Texas A&M AgriLife Research (agency) and describing the procedure by which complaints are filed with and resolved by the agency, rather than by the inspector.

(c) Makes a conforming change to this subsection.

SECTION 5. Amends Section 131.008(b), Agriculture Code, as follows:

(b) Requires the inspector to notify the parties to the complaint, at least quarterly and until final disposition of the complaint, of the status of the complaint, unless notice would jeopardize an undercover investigation if a written complaint is filed with the inspector regarding a beekeeper who is not in compliance with Chapter 131 (Bees and Honey) or

rules adopted under this chapter, rather than relating to a beekeeper regulated under this chapter

SECTION 6. Amends the heading to Subchapter B, Chapter 131, Agriculture Code, to read as follows:

SUBCHAPTER B. DISEASE AND PEST CONTROL

SECTION 7. Amends Section 131.021, Agriculture Code, as follows:

Sec. 131.021. POWERS AND DUTIES OF CHIEF APIARY INSPECTOR. (a) Authorizes the inspector, for the purposes of enforcing this chapter, to:

(1) adopt rules and act as necessary to control, eradicate, or prevent the introduction, spread, or dissemination of contagious or infectious diseases or pests of bees;

(2)-(3) makes conforming changes to these subdivisions.

(b) Provides that apiaries, equipment, or bees, for the purposes of this section, are considered infections if:

(1) the bees are not hived with movable frames or are not stored so as to prevent the possible spread of disease or pests; or

(2) makes no changes to this subdivision.

SECTION 8. Amends Section 131.022(a), Agriculture Code, as follows:

(a) Authorizes the inspector, if the inspector determines that the public welfare or protection of the beekeeping industry requires the establishment of a quarantine, to:

(1) declare a protective quarantine of a district, county, precinct, or other defined area in which a disease or pest of bees, rather than a disease of bees or a deleterious exotic species of bees, is not known to exist in which the disease or pest, rather than exotic species, is being eradicated in accordance with Subchapter B (Disease Control); or

(2) makes conforming changes to this subdivision.

SECTION 9. Amends Section 131.023, Agriculture Code, as follows:

Sec. 131.023. New heading: SALE OF QUEEN BEE AND ATTENDANTS, PACKAGE BEES, COLONIES, AND NUCLEI. Prohibits a person from selling or offering for sale a queen bee and attendant bees, package bees, colonies, nuclei, or queen cells in this state unless the bees are accompanied by:

(1) a copy of a certificate from the inspector certifying that the apiary from which the bees were shipped, rather than from which the queen bee was shipped, has been inspected not more than 12 months before the date of shipment and found apparently free from disease; or

(2) a copy of an affidavit made by the beekeeper stating that to the beekeeper's knowledge, the bees are not diseased.

Deletes existing text prohibiting a person from selling or offering for sale a queen bee and attendant bees, package bees, nuclei, or queen cells in this state unless the bees are accompanied by a copy of an affidavit made by the beekeeper stating that to his knowledge, the bees are not diseased and the honey used in making the candy contained in the queen cage has been diluted and boiled for at least 30 minutes in a closed vessel.

SECTION 10. Amends Section 131.024(c), Agriculture Code, as follows:

(c) Requires the inspector to return the proceeds of the sale to the former owner, if known, after deducting the costs of the sale, if the inspector sells bees, equipment, pollen, or honey at a public auction under Section 131.024 (Seizure of Bees, Equipment, Pollen, or Honey).

SECTION 11. Amends Section 131.025, Agriculture Code, as follows:

Sec. 131.025. New heading: REPORTABLE DISEASES AND PESTS. (a) Requires the inspector to maintain and publish a list of reportable diseases and pests.

(b) Requires a beekeeper to immediately report to the inspector all facts known about the affected bees, if a beekeeper knows that a colony of bees has a reportable disease or contains a reportable pest. Makes nonsubstantive changes.

SECTION 12. Amends Section 131.041, Agriculture Code, as follows:

Sec. 131.041. New heading: PERMIT FOR INTERSTATE MOVEMENT. (a) Prohibits a person from shipping or causing to be shipped bees or equipment into or out of this state unless the person has a permit issued by the inspector authorizing the shipment.

(b) Provides that a permit issued under this section applies to all shipments made by the beekeeper and expires on August 31 following the date the permit is issued. Prohibits the term of a permit from exceeding one year.

(c) Creates this subsection from existing text. Authorizes a person to apply for a permit at any time, but a person is required to apply for a permit before the 10th day preceding the date of a shipment if the person does not hold a permit on the 10th day preceding the date of the shipment. Requires that an application for a permit include all information required by the inspector.

(d) Provides that a shipment originating outside this state requires

(1) a certificate of inspection signed by the official apiary inspector or entomologist of the state, territory, or country from which the bees are to be shipped before the shipment is authorized to enter the state; or

(2) an inspection of the shipment by the inspector not more than 12 months before the date of the shipment.

Deletes existing text requiring that an application for a permit include a complete description of the shipment, the destination of the shipment, the approximate date of the shipment, and the names and addresses of the consigner and consignee.

(e) Creates this subsection from existing text. Provides that if the bees or equipment are to be shipped into this state from a state, territory, or country that does not have an official apiary inspector or entomologist:

(1) the person shipping the bees or equipment is authorized to provide other suitable evidence that the bees and equipment are free from disease and reportable pests; or

(2) the bees are authorized to be shipped into this state under quarantine and the person receiving the shipment is required to have the bees inspected not later than the 30th day after the date the bees enter this state.

Makes conforming changes.

(f) Requires the inspector to issue a permit, rather than issue a permit authorizing the shipment, if a person files an application in accordance with Subsection (c) and the inspector is satisfied that the shipment or shipments to which the permit applies do not pose a threat to disease and pest control in the beekeeping industry. Makes conforming changes.

(g) Provides that this section does not apply to a shipment of package bees, rather than live bees in wire cages without combs or honey.

(h) Requires the inspector to charge a fee for each permit issued under this section. Requires the inspector to set the fee at an amount that is reasonable in relation to the costs of administering this section.

SECTION 13. Amends Section 131.044, Agriculture Code, as follows:

Sec. 131.044. CERTIFICATE OF INSPECTION. (a) Requires a person who wants a certificate of inspection for bees, equipment, pollen, or honey to request the inspection from the inspector, rather than to file a written request for the inspection with the inspector.

(b)-(c) Makes conforming changes to these subsections.

(d) Requires the inspector to set the fees in amounts that are reasonable in relation to the costs of administering this section. Deletes existing text requiring the inspector to set the fees in amounts that are reasonable in relation to the costs of administering this section, but at not less than certain amounts.

(e) Requires the beekeeper of bees or equipment that contain a reportable disease or reportable pest, rather than the beekeeper of diseased bees or equipment, to pay an additional fee, in a reasonable amount set by the inspector at not less than \$25, for each subsequent inspection that the inspector determines is necessary to contain, treat, or eradicate the disease or pest.

SECTION 14. Amends Section 131.045, Agriculture Code, as follows:

Sec. 131.045. New heading: BEEKEEPER REGISTRATION. (a) Authorizes each beekeeper in this state to register on an annual basis with the inspector. Provides that a registration under this section expires August 31 following the date the registration is issued. Deletes existing text authorizing the inspector to provide for the periodic registration of all apiaries in this state.

(b) Requires that a registration include information required by the inspector and the county or counties in which the beekeeper operates, rather than the beekeeper's name, address, and telephone number, the county or counties in which the apiary will be located, and the approximate dates that the apiary will be located in each county.

(c) Makes no changes to this subsection.

(d) Authorizes the inspector to charge a fee for each registration issued under this section. Requires the inspector to set the fee at an amount that is reasonable in relation to the costs of administering this section.

SECTION 15. Amends Section 131.046(a), Agriculture Code, as follows:

(a) Deletes existing text requiring fees collected under Subchapter C (Permits and Registration) to be deposited in the state treasury to the credit of a special fund to be known as the bee disease control fund to be used only to defray the costs of administering and enforcing this chapter.

SECTION 16. Amends the heading to Subchapter D, Chapter 131, Agriculture Code, to read as follows:

SUBCHAPTER D. BRANDING AND IDENTIFICATION OF HIVES

SECTION 17. Amends Section 131.061, Agriculture Code, as follows:

Sec. 131.061. **IDENTIFICATION REQUIRED.** (a) Prohibits a person, except as provided by Subsection (b), from operating an apiary in this state unless the hives, rather than apiary equipment, are:

(1) clearly and permanently, rather than indelibly, marked with the name, rather than name and address, of the person as provided by Section 131.064;

(2) makes nonsubstantive changes to this subdivision;

(3) identified by a weatherproof sign posted within the apiary containing the name and contact information or the brand number of the person managing the apiary, printed in lettering at least one inch high.

(b) Provides that an apiary at the principal residence of a beekeeper is exempt from the requirements of Subsection (a).

SECTION 18. Amends Section 131.062, Agriculture Code, as follows:

Sec. 131.062. **BRAND; REGISTRATION.** (a) Requires the chief apiary inspector to maintain a system of registration of beekeeper brands, rather than apiary equipment brands, to identify equipment used by the beekeeper, rather than by the beekeeper in an apiary. Requires the inspector to assign a brand number to each beekeeper, if requested, when the beekeeper registers under Section 131.045.

(b) Requires each brand to consist of seven, rather than three, numbers separated by hyphens, with the first number signifying that the brand is a state-registered brand, the next three numbers, rather than second number, identifying the registrant's county of residence, and the last three numbers, rather than third number, identifying the registrant.

SECTION 19. Amends Section 131.064, Agriculture Code, as follows:

Sec. 131.064. New heading: **MANNER OF AFFIXING NAME OR BRAND TO HIVES.** Requires a name or brand to be affixed to a hive by burning, pressing, painting, or otherwise permanently marking the name or brand, in figures of at least one-half of an inch high, into the wood or other material in a manner that shows the identification of the hive. Requires the name or brand to be affixed on one or both ends of the hive, rather than requiring the registrant to affix the brand on one or both ends of the hive. Deletes existing text requiring a registrant to affix the registered brand to his or her apiary equipment by burning or pressing the brand, in figures at least three quarters of an inch high, into the wood or other material in a manner that shows the identification of equipment. Deletes existing text authorizing the registrant to affix the brand in any place on other equipment, including a frame, intercover top, bottom, or plank.

SECTION 20. Amends Section 131.101, Agriculture Code, as follows:

Sec. 131.101. **ENFORCEMENT AUTHORITY.** Provides that the Department of State Health Services, rather than the Texas Department of Health, is the agency responsible for enforcing Subchapter E (Labeling and Sale of Honey). Makes nonsubstantive changes.

SECTION 21. Amends Section 131.102(b), Agriculture Code, to make a conforming change.

SECTION 22. Amends the heading to Section 131.121, Agriculture Code, to read as follows:

Sec. 131.121. DISEASE AND PEST CONTROL.

SECTION 23. Amends Section 131.121(a), Agriculture Code, as follows:

(a) Provides that a person commits an offense if the person:

(1) makes nonsubstantive changes to this subdivision;

(2) fails to report reportable diseases or reportable pests, rather than diseased bees, in accordance with Section 131.125 (Duty to Report Diseased Bees);

(3) ships or causes bees or equipment to be shipped into this state without the permit required by Section 131.041, rather than ships or causes bees or equipment to be shipped into this state or between counties in this state without the permit required by Section 131.041 or 131.043 (Permits for Intrastate Shipment) of this chapter;

(4)-(5) makes no changes to these subdivisions;

(6) prevents or attempts to prevent the discovery or treatment of bees with reportable diseases or reportable pests, rather than diseased bees;

(7) makes no changes to this subdivision;

(8) as the owner or keeper of a colony of bees that has a reportable disease or contains a reportable pest, barter, gives away, sells, ships, or moves the bees, equipment, pollen, or honey or exposes other bees to the reportable disease or reportable pest; or

(9) exposes honey, pollen, hives, frames, combs, bees, or appliances from a colony of bees known to have a reportable disease or contain a reportable pest, rather than known to be diseased, in a manner that provides access to other bees.

Deletes existing text providing that a person commits an offense if a person sells, offers for sale, barter, gives away, ships, or distributes honey or pollen taken from a colony of diseased bees. Makes conforming and nonsubstantive changes.

SECTION 24. Repealers: Sections 131.002(c) (relating to requiring the state entomologist to make an annual report to the director giving a detailed account of inspection activities, receipt and use of funds, and compliance actions brought under this chapter) and 131.042 (Permit for Exportation), Agriculture Code.

Repealers: Sections 131.043 (Permits for Intrastate Shipment) and 131.063(b) (relating to requiring the inspector to remit money collected under this section to the comptroller for deposit to the credit of the bee disease control fund), Agriculture Code.

Repealers: Sections 131.065(c) (relating to authorizing person to sell an individual piece of branded equipment, but the brand is not transferred to the buyer) and 131.104(d) (relating to providing that the official or agency is not required to give bond or other security in a legal proceeding instituted or defended under this chapter in a court of this state), Agriculture Code.

SECTION 25. Makes application of this Act prospective.

SECTION 26. Effective date: September 1, 2023.