

## **BILL ANALYSIS**

C.S.H.B. 4538  
By: Kacal  
Agriculture & Livestock  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

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. C.S.H.B. 4538 seeks to provide for this update and modernization.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the chief apiary inspector in SECTION 7 of this bill.

### **ANALYSIS**

C.S.H.B. 4538 amends the Agriculture Code to revise provisions relating to bees and honey. The bill does the following with respect to terms defined for purposes of those provisions:

- removes the restriction that a place where colonies of bees or nuclei of bees are kept is only considered an "apiary" if there are six or more such colonies or nuclei;
- replaces the definition of "beekeeper" as a person who owns, leases, or manages one or more colonies of bees for pollination or the production of honey, beeswax, or other by-products, either for personal or commercial use, to instead mean a person who owns, leases, possesses, controls, or manages one or more colonies of bees for any personal or commercial purpose;
- replaces the definition of "colony" as the hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood, to instead mean a distinguishable localized population of bees in which one or more life stages may be present;
- specifically includes vacuums as "equipment";
- defines "hive" as a box or other shelter containing a colony of bees; and
- defines "package bees" as live bees in cages without combs or honey used in forming a new colony.

C.S.H.B. 4538 expands the powers and duties of the chief apiary inspector, including the inspector's rulemaking authority, to include activities relating to protection of bees against pests. The bill includes the protection of the beekeeping industry as a purpose for which the chief apiary inspector may declare a quarantine. The bill revises the requirements for selling or offering for sale a queen bee and attendant bees, package bees, nuclei, or queen cells in Texas and also includes the selling or offering for sale of colonies under those provisions. The bill

requires the chief apiary inspector to maintain and publish a list of reportable diseases and pests and makes certain requirements applicable specifically to reportable diseases or reportable pests.

C.S.H.B. 4538 combines the importation and exportation permit into a single permit for interstate movement and makes related changes, including establishing that a permit applies to all shipments made by the beekeeper, capping the term of a permit at one year, setting a uniform date for permit expiration, and requiring a permit fee in an amount set by the chief apiary inspector that is reasonable in relation to the costs of permit administration. The bill repeals provisions that provide for an intrastate shipment permit.

C.S.H.B. 4538 removes prescribed minimum fee amounts for certain requested certification inspections and removes the specification that a certification request must be written. The bill replaces the authorization for the chief apiary inspector to provide for the periodic registration of all apiaries in Texas with an authorization for each beekeeper in Texas to register on an annual basis with the inspector. The bill prescribes the information a beekeeper registration must include, sets a uniform date for registration expiration, authorizes the chief apiary inspector to charge a fee for each registration, and requires the inspector to set the fee at an amount that is reasonable in relation to the costs of registration administration. The bill, with respect to the requirement that permit and registration fees be deposited in the state treasury, removes the specification that the fees be deposited to the credit of a special fund to be known as the bee disease control fund that is to be used only to defray the costs of administering and enforcing provisions relating to bees and honey.

C.S.H.B. 4538 makes identification requirements that apply to apiary equipment applicable instead to hives and exempts an apiary at the principal residence of a beekeeper from the requirements. The bill provides the option for identification by means of posting a weatherproof sign within the apiary as an alternative to affixing a name or brand to the hives. The bill sets out requirements for such a sign and makes changes relating to the prescribed manner of affixing a name or brand to a hive. The bill changes the brands for which the chief apiary inspector is required to maintain a system of registration from apiary equipment brands to beekeeper brands, requires the inspector to assign a brand number to each beekeeper, if requested, when the beekeeper registers with the inspector, and provides for a brand to consist of seven numbers instead of three as in current law.

C.S.H.B. 4538 revises the conduct that constitutes the Class C misdemeanor offense relating to disease control under statutory bee and honey provisions to reflect the bill's changes to those provisions with respect to reportable diseases and pests. The bill removes as conduct that constitutes such an offense selling, offering for sale, bartering, giving away, shipping, or distributing honey or pollen taken from a colony of diseased bees. The bill applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

C.S.H.B. 4538 repeals the following:

- the requirement that the state entomologist make an annual report to the director of Texas A&M AgriLife Research giving a detailed account of inspection activities, receipt and use of funds, and compliance actions brought under statutory provisions relating to bees and honey;
- the requirement that the chief apiary inspector remit money collected from brand recording fees to the comptroller of public accounts for deposit to the credit of the bee disease control fund;
- provisions relating to the sale of an individual piece of branded equipment; and
- a provision that establishes that the official or agency responsible for enforcing provision of state law relating to bees and honey or a rule or quarantine adopted under such law is not required to give bond or other security in a legal proceeding instituted or defended under such law in a court of the state.

C.S.H.B. 4538 repeals the following provisions of the Agriculture Code:

- Section 131.002(c);
- Section 131.042;
- Section 131.043;
- Section 131.063(b);
- Section 131.065(c); and
- Section 131.104(d).

**EFFECTIVE DATE**

September 1, 2023.

**COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 4538 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced included references to both pests of bees and invasive species of bees in certain provisions, the substitute only includes references to pests of bees.

The substitute omits provisions present in the introduced that did the following:

- authorized the chief apiary inspector to establish separate beekeeper registration categories for purposes of setting and collecting registration fees; and
- prohibited the inspector from charging a fee for a registration made solely for the purpose of qualifying for the beekeeper exemption from the Texas Structural Pest Control Act.

With respect to the bill's requirement that the chief apiary inspector assign a brand number to each beekeeper when the beekeeper registers with the inspector, the substitute conditions the requirement on the assignment of a brand number being requested, whereas the introduced did not include such a condition.