

By: Burns

H.B. No. 1750

A BILL TO BE ENTITLED

AN ACT

relating to the applicability of certain city requirements to agricultural operations.

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

SECTION 1. The heading to Chapter 251, Agriculture Code, is amended to read as follows:

CHAPTER 251. EFFECT OF NUISANCE ACTIONS AND GOVERNMENTAL REQUIREMENTS ON CERTAIN [~~PREEXISTING~~] AGRICULTURAL OPERATIONS

SECTION 2. Sections 251.002(1) and (2), Agriculture Code, are amended to read as follows:

(1) "Agricultural operation" includes the following activities:

(A) cultivating the soil;

(B) producing crops or growing vegetation for human food, animal feed or forage, planting seed, or fiber;

(C) floriculture;

(D) viticulture;

(E) horticulture;

(F) silviculture;

(G) wildlife management;

(H) raising or keeping livestock or poultry; and

(I) planting cover crops or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

1           (2) "Governmental requirement" includes any rule,  
2 regulation, ordinance, zoning, license or permit requirement, or  
3 other requirement or restriction enacted or promulgated by a  
4 county, city, or other municipal corporation that has the power to  
5 enact or promulgate the requirement or restriction.

6           SECTION 3. Section [251.005\(c\)](#), Agriculture Code, is amended  
7 to read as follows:

8           (c) A governmental requirement of a city:

9           (1) does not apply to any agricultural operation  
10 located [~~situated~~] outside the corporate boundaries of the city;  
11 and

12           (2) applies to an agricultural operation located in  
13 the corporate boundaries of the city only if the governmental  
14 requirement complies with Section 251.0055 [~~on the effective date~~  
15 ~~of this chapter. If an agricultural operation so situated is~~  
16 ~~subsequently annexed or otherwise brought within the corporate~~  
17 ~~boundaries of the city, the governmental requirements of the city~~  
18 ~~do not apply to the agricultural operation unless the requirement~~  
19 ~~is reasonably necessary to protect persons who reside in the~~  
20 ~~immediate vicinity or persons on public property in the immediate~~  
21 ~~vicinity of the agricultural operation from the danger of:~~

22           ~~[(1) explosion, flooding, vermin, insects, physical~~  
23 ~~injury, contagious disease, removal of lateral or subjacent~~  
24 ~~support, contamination of water supplies, radiation, storage of~~  
25 ~~toxic materials, or traffic hazards, or~~

26           ~~[(2) discharge of firearms or other weapons, subject~~  
27 ~~to the restrictions in Section [229.002](#), Local Government Code].~~

SECTION 4. Chapter 251, Agriculture Code, is amended by adding Section 251.0055 to read as follows:

Sec. 251.0055. LIMITATIONS ON CITY GOVERNMENTAL REQUIREMENTS APPLICABLE WITHIN CORPORATE BOUNDARIES. (a) A city may not impose a governmental requirement that applies to agricultural operations located in the corporate boundaries of the city unless:

(1) there is evidence that the requirement is reasonably necessary to protect persons who reside in the immediate vicinity or persons on public property in the immediate vicinity of the agricultural operation from the danger of:

(A) the likelihood of an explosion;

(B) flooding;

(C) an infestation of vermin or insects;

(D) physical injury;

(E) the significant spread of an identified contagious disease that is directly attributable to the agricultural operation;

(F) the removal of lateral or subjacent support;

(G) an identified source of contamination of water supplies;

(H) radiation;

(I) improper storage of toxic materials;

(J) crops planted or vegetation grown in a manner that will cause traffic hazards; or

(K) discharge of firearms or other weapons, subject to the restrictions in Section 229.002, Local Government

1 Code;

2 (2) the governing body of the city makes a finding by  
3 resolution, based on a report described by Subsection (b), that the  
4 requirement is necessary to protect public health; and

5 (3) the requirement is not otherwise prohibited by  
6 this section.

7 (b) Before making a finding described by Subsection (a)(2),  
8 the governing body of the city must obtain and review a report  
9 prepared by the city health officer or a consultant that:

10 (1) identifies evidence of the health hazards related  
11 to agricultural operations;

12 (2) determines the necessity of regulation and the  
13 manner in which agricultural operation should be regulated;

14 (3) states whether each manner of regulation under  
15 Subdivision (2) will restrict or prohibit a generally accepted  
16 agricultural practice listed in the manual prepared under Section  
17 251.007; and

18 (4) if applicable, includes an explanation why the  
19 report recommends a manner of regulation that will restrict the use  
20 of a generally accepted agricultural practice that the manual  
21 indicates does not pose a threat to public health.

22 (c) A city may not impose a governmental requirement that  
23 directly or indirectly:

24 (1) prohibits the use of a generally accepted  
25 agricultural practice listed in the manual prepared under Section  
26 251.007;

27 (2) prohibits or restricts the growing or harvesting

1 of vegetation for animal feed or forage, except as provided by  
2 Subsection (d);

3 (3) prohibits the use of pesticides or other measures  
4 to control vermin or disease-bearing insects to the extent  
5 necessary to prevent an infestation; or

6 (4) requires an agricultural operation be designated  
7 for:

8 (A) agricultural use under Section 1-d, Article  
9 VIII, Texas Constitution; or

10 (B) farm, ranch, wildlife management, or timber  
11 production use under Section 1-d-1, Article VIII, Texas  
12 Constitution.

13 (d) A city may impose a maximum height for vegetation that  
14 applies to agricultural operations only if:

15 (1) the maximum vegetation height is at least 12  
16 inches; and

17 (2) the requirement applies only to portions of an  
18 agricultural operation located no more than 10 feet from a property  
19 boundary that is adjacent to a public sidewalk, street, or highway.

20 (e) A governmental requirement of a city relating to the  
21 restraint of a dog that would apply to an agricultural operation  
22 does not apply to a dog used to protect livestock on property  
23 controlled by the property owner while the dog is being used on such  
24 property for that purpose.

25 SECTION 5. Chapter 251, Agriculture Code, is amended by  
26 adding Section 251.007 to read as follows:

27 Sec. 251.007. GENERALLY ACCEPTED AGRICULTURAL PRACTICES.

1 The Texas A&M AgriLife Extension Service shall develop a manual  
2 that identifies generally accepted agricultural practices and  
3 indicates which of those practices do not pose a threat to public  
4 health, including a threat to public health posed by a danger listed  
5 in Section 251.0055(a)(1).

6 SECTION 6. Sections 251.005(c-1) and (c-2), Agriculture  
7 Code, are repealed.

8 SECTION 7. As soon as practicable after the effective date  
9 of this Act, the Texas A&M AgriLife Extension Service shall develop  
10 the manual described by Section 251.007, Agriculture Code, as added  
11 by this Act.

12 SECTION 8. Sections 251.002 and 251.005, Agriculture Code,  
13 as amended by this Act, and Section 251.0055, Agriculture Code, as  
14 added by this Act, apply to a governmental requirement adopted  
15 before, on, or after the effective date of this Act.

16 SECTION 9. This Act takes effect September 1, 2023.