

SUBJECT: Registration of certain poultry sellers, distributors, and transporters

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 5 ayes — Hardcastle, Miller, B. Brown, D. Jones, Swinford
0 nays
1 present not voting — Burnam
1 absent — Laney

WITNESSES: For — James Grimm and Bob Turner, Texas Poultry Federation; (*registered but did not testify:*) John Cowan, Texas Association of Dairymen
Against — Gib Lewis, Exotic Wildlife Association
On — Max E. Coats, Jr., D.V.M., and Bruce Hammond, Texas Animal Health Commission

BACKGROUND: Agriculture Code, ch. 161, subch. C sets forth the general powers and duties of the Texas Animal Health Commission (TAHC), the state's regulatory agency for livestock and poultry health. Many factors can expose Texas livestock, poultry, or wildlife to the risk of infection by contagious diseases. With increasing consolidation in the farm and ranch industry, large numbers of animals are kept in close quarters, creating a situation in which animal diseases can spread more quickly. Besides jeopardizing the commercial poultry industry, contagious diseases also can pose a threat to the caged-bird industry and poultry hobbyists.

Birds smuggled illegally into the United States bypass the quarantining and testing procedures of the U.S. Department of Agriculture (USDA). If a bird is carrying a foreign virus, owners and animal health officials may not discover the infection until an outbreak occurs. Because Texas has the longest contiguous state border with a foreign country, it is at increased risk for the introduction of a foreign animal disease.

Texas poultry are vulnerable to at least two fast-spreading diseases: exotic Newcastle disease (END) and avian influenza (AI). Both diseases are considered “foreign animal diseases,” which means they are not native to the United States. END is a high-pathogenic disease, meaning it is more likely to spread, while AI has both a low-pathogenic and a high-pathogenic strain. When an outbreak of a high-pathogenic disease occurs, international trade agreements ban the affected areas from international trade until they get a clean bill of health.

The USDA provides federal indemnity payments to poultry producers who lose their flocks to high-pathogenic diseases. Federal indemnity is not yet available to poultry producers for low-pathogenic diseases. TAHC provides indemnification for cattle owners who lose cattle to bovine tuberculosis or brucellosis, but does not provide a similar program for poultry producers.

A proposed federal program currently is pending approval with the USDA for low-pathogenic AI. It would provide assistance in indemnifying poultry producers affected by the disease, if the producer participated in a voluntary disease surveillance program.

The Texas Poultry Federation (TPF) provides a voluntary indemnification program for its members, which allows poultry producers to pay into a TPF fund that reimburses members for chickens lost to major disease outbreaks. For example, last May, 300,000 Texas chickens were put to death because of an outbreak of low-pathogenic AI. Since neither state nor federal indemnification was available, TPF had to assess fees on its membership in order to reimburse the affected producers for their losses.

On April 10, an outbreak of END was confirmed in a backyard flock near El Paso, resulting in the imposition of state and federal quarantines on five counties in Texas and New Mexico. Since October 2002, the state of California has had to kill 3.5 million birds to stop an END outbreak there; the disease also has appeared in Nevada and Arizona. As of April 17, a total of 31 flocks comprising 1,900 birds have been depopulated. In the El Paso area, the five affected counties remain under quarantine, and state and federal veterinarians continue to trace all potential contacts with the source flock to contain the further spread of disease.

DIGEST: CSHB 2328 would require sellers, distributors, and transporters of live domestic or exotic fowl who did not participate in a recognized disease surveillance program to register with TAHC, effective February 1, 2004. Registrants would have to disclose to TAHC all locations where they sold, distributed, or transported domestic or exotic fowl. It would be a class C misdemeanor (maximum fine of \$500) to knowingly fail to register, and on second offense, a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

By January 1, 2004, TAHC would have to adopt rules for administering the registration program, including rules for testing, identification, transportation, inspection, sanitation, and disinfection of domestic and exotic fowl. TAHC could set an annual registration fee no higher than the amount needed to recover the costs of the program.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: CSHB 2328 would remedy a potentially dangerous situation and prevent bird diseases in flocks of chickens and turkeys, as well as exotics like emu and ostrich. The poultry industry contributes \$4 billion annually to the Texas economy. Poultry ranks fourth in Texas in revenue generation for Texas agriculture. Nationally, Texas ranks fifth in boiler production and tenth in egg production.

Every weekend, hundreds of birds change hands at flea markets and other outdoor markets with no regulation whatsoever. Many individuals keep backyard flocks of birds that have been purchased at unregulated markets. This bill would help protect the owners of backyard flocks, by giving them the increased confidence that the chickens they were buying were coming from registered sellers.

The exchange of birds in flea markets easily could affect the millions of birds raised in commercial operations. For example, one truck carrying infected chickens during molting season could infect other chickens along its route simply by spreading wind-borne infected feathers. Or, a poultry farm worker who kept a backyard flock could spread the disease to the commercial operation of his or her employer by carrying an infection to work on shoes or clothing.

The recent outbreak of END in El Paso brings home the real danger of not having adequate records for tracking the path of disease transmission among infected birds. Epidemiologists need to know where a disease originated, where it has spread, and where it might be headed next. The basic information that would be required of registrants under this bill is critical for the successful management of an emergency response to a disease outbreak. Hundreds of birds already have been killed because of the infection of one backyard flock. The faster the state could trace, control, and contain a disease outbreak, the fewer casualties would occur.

CSHB 2328 would protect the economic interests of Texas poultry farmers and dealers by ensuring eligibility for federal indemnity programs. Last summer, an outbreak of AI in Texas led to more than 300,000 chickens being killed at the expense of TPF members. The bill would give TAHC the tools it needed to comply with the pending USDA indemnity proposal for low-pathogenic AI when it is finally approved. Without statutory authority to register poultry sellers and encourage them to participate in disease-surveillance programs, the Texas poultry industry would have to wait another two years to participate in the federal indemnity program.

The bill would not affect private (one-to-one) sales, nor would it affect animals in zoos or pet stores or feed stores that bought seasonal baby chicks from nationally approved hatcheries. It would apply only to non-commercial operations where co-mingling or cross-contamination among birds could occur. The fee structure would be graduated by size of flock, so a small producer would not be burdened unduly by the imposition of a new fee.

**OPPONENTS
SAY:**

Imposing fees on the owners of exotic birds could take the exotic fowl industry down a slippery slope of future regulation. Most exotic birds — such as emu, ostrich, swan, and guinea fowl — are sold privately between owners or at exotic fowl markets. They are not intermingled with domestic birds at public markets, thus there is an extremely small chance of cross contamination with commercial operations. Thousands of people in rural communities supplement their incomes with the sale of exotic fowl, and imposing a fee on them would create an unfair economic burden on many Texas citizens who already are struggling just to make ends meet.

HB 2328
House Research Organization
page 5

NOTES: The committee substitute differs from the bill as introduced by conforming it to the Texas Legislative Council bill format.