

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1405
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Natural Resources
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Committee Report (Substituted)

DIGEST AND PURPOSE

The United States Department of Agriculture has notified Texas Department of Agriculture (TDA) officials that without additional authority to implement eradication processes, the entire state of Texas may be quarantined. C.S.S.B. 1405 establishes TDA's ability to seize or treat articles, such as vehicles or methods of storage, as well as agricultural produce, that are located in a quarantined area.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 2 (Section 71.0092, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 71.008, Agriculture Code, by adding Subsection (f), to provide that this section does not restrict the Texas Department of Agriculture's (TDA) authority to establish on its own initiative an eradication program within a quarantined area to protect the state's agricultural resources.

SECTION 2. Amends Chapter 71A, Agriculture Code, by adding Section 71.0092, as follows:

Sec. 71.0092. SEIZURE, TREATMENT, HANDLING, AND DESTRUCTION OF CERTAIN MATERIALS WITHIN QUARANTINED AREA. (a) Defines "quarantined article."

(b) Authorizes TDA, by rule, to establish treatment and handling requirements for quarantined articles found within a quarantined area. Requires the requirements to be designed to produce certain results.

(c) Requires a person in possession or control of a quarantined article located within a quarantined area to comply with TDA rules and orders regarding treatment and handling of quarantined articles.

(d) Authorizes TDA, if a person in possession or control of a quarantined article located within a quarantined area fails to comply with a rule or order of TDA under this section, to take certain actions, at the expense of the owner or other person in possession or control of the article.

(e) Requires TDA, if the owner of a quarantined article seized under this section is unknown to TDA, to publish or post notice that, not earlier than the fifth day after the date on which notice is published or posted, authorizes TDA to destroy, treat, or isolate the quarantined article at the owner's expense. Requires TDA to publish the notice for three consecutive days in a newspaper of general circulation in the county in which the quarantined article was located at the time it was seized. Requires the notice to include a description of the quarantined article. Requires TDA, if an owner claims the quarantined article before the date described by the notice and agrees in writing to treat or handle the article in a manner provided by TDA rule or order, to take a certain action. Authorizes TDA, if an owner does not

claim the quarantined article before the date described by the notice, to take certain actions. Authorizes TDA, if an owner refuses to agree in writing to comply with TDA's rule or order regarding treatment or handling of a quarantined article, to take certain actions, subject to Section 71.010.

(f) Authorizes TDA, in enforcing this section, to seek the assistance of the Department of Public Safety, under Section 71.0101 of this subchapter, or any law enforcement officer of the county in which the quarantined article is located, and requires the Department of Public Safety or local law enforcement officer to cooperate with TDA and provide any assistance necessary to implement this section.

(g) Provides that the owner of a quarantined article treated, isolated, or destroyed by TDA under this section is liable to TDA for the costs of treatment, isolation or destruction, and authorizes TDA to sue to collect those costs.

(h) Provides that the attorney general is entitled to court costs and reasonable attorneys fees in any suit brought on behalf of TDA under this section, including any suit for an injunction.

(i) Authorizes TDA to enter into an agreement with a private entity to obtain assistance in defraying the cost of implementing this section.

SECTION 3. Effective date: upon passage or September 1, 2003.