

BILL ANALYSIS

Senate Research Center
80R8871 MSE-F

S.B. 1561
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S/C on Ag., Rural Affairs & Coastal Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1561 grants the Texas Department of Agriculture (TDA) the authority to develop a response plan to citrus canker and citrus greening in Texas. It allows TDA to remove trees that scientists determine have a high likelihood of being a carrier of citrus greening, and it gives TDA the power to obtain warrants through a judge to enter the property of another individual to inspect or treat diseased citrus trees. TDA would have to follow the same procedures as law enforcement in terms of obtaining a search warrant. TDA would be prohibited from entering dwellings.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Department of Agriculture is modified in SECTION 1 (Sec. 71.007, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 71.007, Agriculture Code, as follows:

- (a)(8) Includes rules that provide for a program to manage or eradicate exotic citrus diseases, including citrus canker and citrus greening, among the list of rules the Department of Agriculture (TDA) is authorized to adopt.
- (b) Provides that rules adopted under Subsection (a)(8) must establish when a healthy but suspect citrus plant must be destroyed, based on scientific evidence, and provide for compensation to an owner of a plant destroyed under Subdivision (1).

SECTION 2. Amends Subchapter A, Chapter 71, Agriculture Code, by adding Section 71.0083, as follows:

- Sec. 71.0083. AGRICULTURE WARRANTS. (a) Authorizes TDA to seek an agriculture warrant, in addition to vehicle inspections authorized under Section 71.0081 (Vehicle Inspections for Insect Pests of Plant Diseases), Agriculture Code, with respect to a plant post or plant disease identified in the application to undertake certain actions.
- (b) Authorizes an agriculture warrant to be issued only by a magistrate authorized to issue a search warrant under Chapter 18 (Search Warrants), Code of Criminal Procedure, on application by TDA accompanied by a supporting affidavit that establishes probable cause for the issuance of the warrant. Sets forth certain information the warrant must describe.
 - (c) Requires that it be sufficient to show only certain information when determining the existence of probable cause for the issuance of an agriculture warrant.
 - (d) Provides that a single application and affidavit is sufficient for the issuance of multiple agriculture warrants if the application for the warrant describes the location of each place or premises subject to the warrant and all those places or premises are located in the same county.

(e) Entitles TDA to an ex parte hearing on an application for an agriculture warrant. Authorizes the warrant to be served and executed by a TDA employee and requires the warrant to be authorize TDA employees to undertake any action authorized by the warrant.

(f) Requires a copy of the warrant to be delivered to a person 18 years of age or older who is occupying or living in the place or premises subject to the warrant or attached to the place of premises in a conspicuous location at the time the warrant is executed.

(g) Provides that an agriculture warrant is valid until the 61st day after the date the warrant is issued and authorizes multiple executions of the warrant before the date the warrant expires. Authorizes a warrant to be renewed or extended by the magistrate who issued the original warrant if the magistrate determines there is probable cause for the warrant to be reissued or extended. Provides that the agriculture warrant must be returned to the issuing magistrate before the warrant expires.

(h) Prohibits an agriculture warrant from being executed between 7 p.m. and 7 a.m. of the following day or on a state holiday, authorizing the entry into or inspection of the interior of any occupied dwelling, or being issued in blank.

(i) Provides that a person commits an offense if the person intentionally interferes with the execution of an agriculture warrant. Provides that an offense under this subsection is a Class B misdemeanor.

(j) Provides that this section does not restrict the authority of this state or a political subdivision of this state to otherwise conduct an inspection with or without a warrant as authorized by other law.

SECTION 3. Amends Section 71.0091, Agriculture Code, by amending Subsection (a), (b), (c), and (e) and adding Subsection (e-1), as follows:

(a) Includes a citrus plant located within proximity to a plant infected by a disease dangerous to any agricultural or horticultural product and determined by TDA to likely be infected by that disease, regardless of whether the plant currently exhibits symptoms of the disease to the list of citrus plants, citrus plant products, and citrus substances that TDA is authorized to seize. Makes conforming changes.

(b) Makes conforming changes.

(e) Makes a conforming change.

(e-1) Entitles the owner of a citrus plant, citrus plant product, or citrus substance destroyed under Section (a)(3) to compensation from TDA for the destruction of the plant, product, or substance.

SECTION 4. Effective date: September 1, 2007.