

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1693
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Agriculture & Rural Affairs
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Livestock and poultry wastes from animal feeding operations are regulated to prevent dumping. Livestock and poultry wastes are also regulated when it is applied on land controlled by the operators of the animal feeding operations. When these by-products are exported from the animal operations to private lands, they are treated like fertilizer and regulations for hauling and application are limited.

C.S.S.B. 1693 amends current law relating to the regulation of poultry facilities and poultry litter.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Soil and Water Conservation Board in SECTION 2 (Section 26.302, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 382, Health and Safety Code, by adding Sections 382.068, as follows:

Sec. 382.068. POULTRY FACILITY ODOR; RESPONSE TO COMPLAINTS. (a) Defines "poultry facility" and "poultry litter."

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC) to respond and investigate not later than eighteen hours after receiving one of the following types of complaints: (i) a second complaint concerning odor associated with a poultry facility or the application of poultry litter, or (ii) a complaint concerning odor from a poultry facility where TNRCC has previously substantiated nuisance odor conditions in the past twelve (12) months.

(c) Requires TNRCC, if after the investigation it determines that a poultry facility is violating the terms of its air quality authorization or creating a nuisance, to issue a notice of violation.

(d) Requires TNRCC, if three notices of violation are issued by TNRCC in any 12-month period for a single poultry facility, to enter into a comprehensive compliance agreement with the facility.

(e) Requires all comprehensive compliance agreements between poultry facilities and TNRCC to include an order control plan detailing the facility's plans to control odors, and establish requirements for the submission and approval of the odor control plan by TNRCC.

(f) Authorizes TNRCC to require changes to a plan submitted under Subsection (e) if the executive director determines that the plan is insufficient to control odors.

(g) Requires the owner or operator of a poultry facility which begins construction after the effective date of this law to complete a poultry facility training course on the prevention of odor nuisances from the Poultry Science Unit of Texas AgriLife Extension Service not later than 90 days after the date the facility first accepts poultry to raise.

(h) Requires the owner or operator of a poultry facility subject to Subsection (g) to maintain records of the training and make the records available to TNRCC for inspection.

(i) Authorizes the Poultry Science Unit of Texas AgriLife Extension Service to collect a fee from an owner or operator of a poultry facility subject to Subsection (g) to offset the direct cost of providing the training.

SECTION 2. Amends Section 26.302, Water Code, as follows:

(c) Prohibits the Texas State Soil and Water Conservation Board (SWCB) from certifying a water quality management plan for a poultry facility located within one-half mile of surrounding businesses, permanently inhabited residences, or places of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides a suitable odor control plan.

(d) Provides that SWCB will by rule establish criteria for the siting and construction of new poultry facilities, in consultation with the Texas Commission on Environmental Quality, to determine what geographic, seasonal, and agronomic factors should be considered when determining that a persistent nuisance odor condition is likely to occur.

(e) Provides that Subsection (c) does not apply to a revision of a previously certified and existing water quality management plan or to any poultry facility which is located more than one-half mile from surrounding businesses, permanently inhabited residences, or places of worship established before the date of construction of the poultry facility.

(f) Redesignates Subsection (c) as Subsection (f). Makes no further changes to this subsection.

(g) Makes no further changes to this subsection.

SECTION 3. Amends Subchapter H, Chapter 26, Water Code, by adding Sections 26.304 and 26.305, as follows:

Sec. 26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR APPLICATION OF POULTRY LITTER. (a) Requires a poultry facility that sells or transfers poultry litter for remote application to maintain, until the second anniversary of the date of sale or transfer, a record regarding certain information.

(b) Requires a person that purchases or obtains poultry litter for application to maintain, until the second anniversary of the date of application, a signed and dated proof of delivery document for every load of poultry litter land applied. Requires the land owner to note on the document the date(s) on which the poultry litter was land applied.

Sec. 26.305. INSPECTION OF RECORDS. Authorizes TNRCC to inspect any record required to be maintained under this subchapter.

SECTION 4. Effective date: September 1, 2009.