

BILL ANALYSIS

Senate Research Center

S.B. 1405
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Subcommittee on Agriculture
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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. As proposed, 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 71.092, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 71.008, Agriculture Code, as follows:

(f) Requires the provisions of this section to not be construed to restrict the authority of the Texas Department of Agriculture (TDA) to establish an eradication program within a quarantined area on its own initiative in order to protect the state's agricultural resources.

SECTION 2. Amends Section 71.092, Agriculture Code, by adding Section 71.0092, as follows:

Sec. 71.0092. Treatment, Handling, Seizure, and Destruction of Non-Infested Host Materials Within A Quarantined Zone. (a) Defines "quarantined article."

(b) Authorizes TDA, by rule, to establish treatment and handling requirements for quarantined articles found within a quarantined area in order to prevent dissemination of a dangerous insect pest or plant disease outside the quarantined area or into a pest-free area within the state; prevent infestation of non-infested quarantined articles by a dangerous insect pest or plant disease that is subject to a quarantine established by TDA under this subchapter; suppress the level of occurrence within this state, or a quarantined area of this state, of a dangerous insect pest or plant disease that is subject to a quarantine established by TDA under this subchapter; or facilitate the eradication of a dangerous insect pest or plant disease that is subject to a quarantine established by TDA under this subchapter.

(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 the 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 first day 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 describe the quarantined article seized under certain conditions.

(f) Authorizes TDA, in enforcing the provisions of this section, to seek the assistance of the Department of Public Safety, as provided by 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 give effect to the provisions of this section and abate the nuisance.

(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.