

BILL ANALYSIS

Senate Research Center

S.B. 1693
By: Ogden
Agriculture & Rural Affairs
3/27/2009
As Filed

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.

As proposed, S.B. 1693 establishes notification procedures if a complaint concerning odors associated with poultry facilities is filed. Additionally, the bill requires the commissioner of agriculture to coordinate with relevant agencies, poultry facilities, and poultry operations as necessary to identify the cause of the odor and develop and implement an odor abatement plan to eliminate the odor. The bill also requires the poultry facilities that are the subjects of the complaints or the associated poultry processing facility to pay any costs associated with the development of an abatement. Furthermore, the bill requires a poultry facility that sells or transfers poultry litter for remote application to keep a record of certain information related to the sale.

[**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 (TCEQ), as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 1 (Section 382.069, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 382, Health and Safety Code, by adding Sections 382.068 and 382.069 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 notify the commissioner of agriculture (commissioner) not later than the fifth day after the date TNRCC receives a complaint concerning odor associated with a poultry facility if TNRCC has also received a separate complaint concerning odors associated with another poultry facility and both poultry facilities are located not further than 100 miles from the same poultry processing facility and the complaints were received not more than 30 days apart.

(c) Requires the commissioner, on receipt of notification under Subsection (b), to contact the poultry facilities that are the subjects of the complaints and the associated poultry processing facility and coordinate with relevant agencies, poultry facilities, and poultry operations as necessary to identify the cause of the odor and develop and implement an odor abatement plan to eliminate the odor.

(d) Requires the poultry facilities that are the subjects of the complaints or the associated poultry processing facility to pay any costs, including costs to an

agency of this state, that are associated with the development of an odor abatement plan under Subsection (c).

(e) Requires TNRCC, not later than three hours after receiving a complaint concerning odor associated with a poultry facility or the application of poultry litter, to respond to and investigate the complaint if the poultry facility or application of poultry litter is located not more than 100 miles from a poultry processing facility that commenced or expanded its operations less than 12 months preceding the date of the complaint, or TNRCC has received, during any 60-day period, three or more complaints concerning odor associated with a poultry facility or the application of poultry litter from at least three different businesses or households located not further than two miles from each other.

(f) 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 and enter into a comprehensive compliance agreement with the facility.

Sec. 382.069. POULTRY FACILITY AIR CONTAMINANT PREVENTION MEASURES. (a) Defines "poultry facility."

(b) Requires TNRCC, by rule, to require a poultry facility to submit to TNRCC for approval a nuisance control plan detailing the facility's plans to control odors, dust, and other air contaminants and establish requirements for the submission and approval of poultry facility nuisance control plans.

(c) Requires that a nuisance control plan required under TNRCC rules adopted under Subsection (b) be submitted to TNRCC before a new poultry facility begins operations, or for a poultry facility operating as of the effective date of TNRCC's rules, not later than the 90th day after the effective date.

(d) Authorizes TNRCC to require changes to a plan submitted under Subsection (c) if the executive director determines that the plan is insufficient to control odors, dust, and other air contaminants.

(e) Requires a poultry processing facility that contracts with a poultry facility, not later than the 60th day after the date the contract is executed, to provide the poultry facility with training on the prevention of odor nuisances.

(f) Requires a poultry processing facility to maintain records of the training required under Subsection (e) and make the records available to TNRCC for inspection.

SECTION 2. 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 record regarding the location of the application of the poultry litter, the date the poultry litter was applied, and the amount of poultry litter applied.

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

SECTION 3. Effective date: September 1, 2009.