

By: Kacal

H.B. No. 4538

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of beekeeping; imposing fees and authorizing other fees; expanding the applicability of an occupational permit.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 131.001, Agriculture Code, is amended by amending Subdivisions (2), (3), (5), (6), and (8) and adding Subdivisions (8-a) and (12-a) to read as follows:

(2) "Apiary" means a place where [~~six or more~~] colonies of bees or nuclei of bees are kept.

(3) "Beekeeper" means a person who owns, leases, possesses, controls, or manages one or more colonies of bees for any [~~pollination or the production of honey, beeswax, or other by-products, either for~~] personal or commercial purpose [~~use~~].

(5) "Colony" means a distinguishable localized population of bees in which one or more life stages may be present [~~the hive and its equipment and appurtenances including bees, comb, honey, pollen, and brood~~].

(6) "Director" means the director of [~~the~~] Texas A&M

AgriLife Research [~~Agricultural Experiment Station~~].

(8) "Equipment" means hives, supers, frames, veils, gloves, tools, machines, vacuums, or other devices for the handling and manipulation of bees, honey, pollen, wax, or hives, including[~~r~~] storage or transportation [~~transporting~~] containers for pollen, honey, or wax, or other apiary supplies used in the operation of an apiary or honey house.

(8-a) "Hive" means a box or other shelter containing a colony of bees.

(12-a) "Package bees" means live bees in cages without combs or honey used in forming a new colony.

SECTION 2. Section 131.003, Agriculture Code, is amended to read as follows:

Sec. 131.003. CONFLICTS OF INTEREST. (a) A person may not serve as chief apiary inspector or be an assistant of the chief apiary inspector if the person is an officer, employee, or paid consultant of a trade association in the beekeeping industry.

(b) A person may not serve as chief apiary inspector or be an assistant of the chief apiary inspector of the grade 17 or over, including exempt employees, according to the position classification schedule under the General Appropriations Act, if the person cohabits with or is the spouse of an officer, managerial employee, or paid consultant of a trade association in the

beekeeping industry.

SECTION 3. Section 131.004(b), Agriculture Code, is amended to read as follows:

(b) The chief apiary inspector shall provide to the chief apiary inspector's [~~his~~] assistants and inspectors, as often as is necessary, information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 4. Sections 131.007(b) and (c), Agriculture Code, are amended to read as follows:

(b) The inspector shall prepare information of public interest describing the functions of the agency and describing the procedure by which complaints are filed with and resolved by the agency [~~inspector~~]. The inspector shall make the information available to the general public and appropriate state agencies.

(c) The inspector shall adopt rules establishing methods by which consumers and service recipients can be notified of the name, mailing address, and telephone number of the agency [~~inspector's office~~] for the purpose of directing complaints to the inspector. The inspector may provide for the notification by including the information:

(1) on each registration or application form submitted by a person regulated under this chapter;

(2) on a sign which is prominently displayed in the place of business of each person regulated under this chapter; or

(3) in a bill for services or goods provided by a person regulated under this chapter.

SECTION 5. Section 131.008(b), Agriculture Code, is amended to read as follows:

(b) If a written complaint is filed with the inspector regarding [~~relating to~~] a beekeeper who is not in compliance with this chapter or rules adopted [~~regulated~~] under this chapter, the inspector shall notify the parties to the complaint, at least quarterly and until final disposition of the complaint, of the status of the complaint, unless notice would jeopardize an undercover investigation.

SECTION 6. The heading to Subchapter B, Chapter 131, Agriculture Code, is amended to read as follows:

SUBCHAPTER B. DISEASE AND PEST CONTROL

SECTION 7. Section 131.021, Agriculture Code, is amended to read as follows:

Sec. 131.021. POWERS AND DUTIES OF CHIEF APIARY INSPECTOR.

(a) For the purpose of enforcing this chapter, the chief apiary inspector may:

(1) adopt rules and act as necessary to control, eradicate, or prevent the introduction, spread, or dissemination of

contagious or infectious diseases or, pests, or invasive species of bees;

(2) prohibit the shipment or entry into this state of bees, honey, combs, pollen, or other items capable of transmitting diseases or, pests, or invasive species of bees from another state, territory, or foreign country except in accordance with rules adopted by the inspector; and

(3) seize and order the destruction, treatment, or sale of a colony of bees, equipment, pollen, or honey that is determined to contain invasive species of bees or pests, be diseased, infectious, or abandoned, or be in violation of this chapter or a rule or quarantine adopted under this chapter.

(b) For purposes of this section, apiaries, equipment, or bees are considered infectious if:

(1) the bees are not hived with movable frames or are not stored so as to prevent the possible spread of disease or pests; or

(2) the bees, equipment, or apiary generally comprise a hazard or threat to disease control in the beekeeping industry.

SECTION 8. Section 131.022(a), Agriculture Code, is amended to read as follows:

(a) If the chief apiary inspector determines that the public welfare or protection of the beekeeping industry requires the

establishment of a quarantine, the inspector may:

(1) declare a protective quarantine of a district, county, precinct, or other defined area in which a disease or pest of bees ~~or, a pest of bees, or an invasive~~ [a deleterious exotic] ~~species of bees~~ is not known to exist or in which the disease or, pest, or invasive [exotic] ~~species of bees~~ is being eradicated in accordance with this subchapter; or

(2) declare a restrictive quarantine of a district, county, precinct, or other defined area in which a disease or pest of bees ~~or, a pest of bees, or an invasive~~ [a deleterious exotic] ~~species of bees~~ is located.

SECTION 9. Section 131.023, Agriculture Code, is amended to read as follows:

Sec. 131.023. SALE OF QUEEN BEE AND ATTENDANTS, PACKAGE BEES, COLONIES, AND NUCLEI. A person may not sell or offer for sale a queen bee and attendant bees, package bees, colonies, nuclei, or queen cells in this state unless the bees are accompanied by:

(1) a copy of a certificate from the chief apiary inspector certifying that the apiary from which the bees were [~~queen bee was~~] shipped has been inspected not more than 12 months before the date of shipment and found apparently free from disease; or

(2) a copy of an affidavit made by the beekeeper stating

that[÷

~~[(A)]~~ to the beekeeper's ~~[his]~~ knowledge, the bees are not diseased[÷and

~~[(B) the honey used in making the candy contained in the queen cage has been diluted and boiled for at least 30 minutes in a closed vessel].~~

SECTION 10. Section 131.024(c), Agriculture Code, is amended to read as follows:

(c) If the inspector sells bees, equipment, pollen, or honey at a public auction under this section, the inspector shall return the proceeds of the sale to the former owner, if known, after deducting the costs of the sale.

SECTION 11. Section 131.025, Agriculture Code, is amended to read as follows:

Sec. 131.025. REPORTABLE DISEASES AND, REPORTABLE PESTS, AND INVASIVE SPECIES OF BEES ~~[DUTY TO REPORT DISEASED BEES]~~. (a) The chief apiary inspector shall maintain and publish a list of reportable diseases and, pests that are reportable, and invasive species of bees.

(b) If a beekeeper knows that a colony of bees has a reportable disease or contains a reportable pest or invasive species of bees ~~[is diseased]~~, the beekeeper shall immediately report to the chief apiary inspector all facts known about the

affected [~~diseased~~] bees.

SECTION 12. Section 131.041, Agriculture Code, is amended to read as follows:

Sec. 131.041. PERMIT FOR INTERSTATE MOVEMENT [~~IMPORTATION~~].

(a) A person may not ship or cause to be shipped bees or equipment into or out of this state unless the person has a permit issued by the chief apiary inspector authorizing the shipment.

(b) A permit issued under this section applies to all shipments made by the beekeeper and expires on August 31 following the date the permit is issued. The term of a permit may not exceed one year.

(c) A person may apply for a permit under this section by filing an application with the inspector. A person may apply for a permit at any time, but a person must apply for a permit before the 10th day preceding the date of a [the] shipment if the person does not hold a permit on the 10th day preceding the date of the shipment. An application for a permit must include all information required by the chief apiary inspector.

(d) A shipment originating outside this state requires:

- (1) [~~a complete description of the shipment;~~
- [~~(2) the destination of the shipment;~~
- [~~(3) the approximate date of the shipment;~~
- [~~(4) the names and addresses of the consignor and~~

~~consignee; and~~

~~[(5)] a certificate of inspection signed by the official apiary inspector or entomologist of the state, territory, or country from which the bees are to be shipped before the shipment may enter the state; or~~

(2) an inspection of the shipment by the chief apiary inspector of Texas not more than 12 months before the date of the shipment.

(e) ~~[(e)]~~ A certificate of inspection for a permit required by Subsection (d) (1) ~~[(b) (5) of this section]~~ must certify that the bees or equipment are apparently free from disease and, reportable pests, and invasive species of bees based on an actual inspection conducted not more than 12 months before the date of the shipment. If the bees or equipment are to be shipped into this state from a state, territory, or country that does not have an official apiary inspector or entomologist:

(1) ~~[(1)]~~ the person shipping the bees or equipment may provide other suitable evidence that the bees and equipment are free from disease and, reportable pests, and invasive species of bees; or

(2) the bees may be shipped into this state under quarantine and the person receiving the shipment shall have the bees inspected not later than the 30th day after the date the bees

enter this state.

(f) [~~(d)~~] If a person files an application in accordance with Subsection (c) [~~(b) of this section~~] and the inspector is satisfied that the shipment or shipments to which the permit applies do [~~does~~] not pose a threat to disease and pest control in the beekeeping industry, the inspector shall issue a permit [~~authorizing the shipment~~].

(g) [~~(e)~~] This section does not apply to a shipment of package [~~live~~] bees [~~in wire cages without combs or honey~~].

(h) The inspector shall charge a fee for each permit issued under this section. The inspector shall set the fee at an amount that is reasonable in relation to the costs of administering this section.

SECTION 13. Section 131.044, Agriculture Code, is amended to read as follows:

Sec. 131.044. CERTIFICATE OF INSPECTION. (a) A person who wants a certificate of inspection for bees, equipment, pollen, or honey must [~~file a written~~] request [~~for~~] the inspection from [~~with~~] the chief apiary inspector.

(b) On receipt of a request, the inspector shall authorize the inspection of the bees, equipment, pollen, or honey for the presence of disease and, ~~pests,~~ and invasive species of bees.

(c) If a disease or, ~~reportable pest,~~ or invasive species of

bees is not found in the bees, equipment, pollen, or honey, the inspector shall certify in writing that the bees, equipment, pollen, or honey is apparently free from disease and, reportable pests, and invasive species of bees.

(d) The inspector shall charge fees for inspections requested under this section. The inspector shall set the fees in amounts that are reasonable in relation to the costs of administering this section~~[, but at not less than the following amounts:~~

~~[(1) for each inspection of an apiary or group of apiaries, except a queen apiary, located within an area of 100 square miles\$ 50~~

~~[(2) for an inspection of a queen apiary or group of queen apiaries located within an area of 100 square miles\$200~~

~~[(3) for each additional inspection of a queen apiary or group of queen apiaries located within an area of 100 square miles\$ 50].~~

(e) The beekeeper of ~~[diseased]~~ bees or equipment that contain a reportable disease or, reportable pest, or invasive species of bees shall pay an additional fee, in a reasonable amount set by the inspector at not less than ~~[that]~~ \$25, for each subsequent inspection that the inspector determines is necessary to contain, treat, or eradicate the disease or, pest, or invasive species of bees.

SECTION 14. Section 131.045, Agriculture Code, is amended to read as follows:

Sec. 131.045. BEEKEEPER [APIARY] REGISTRATION. (a) Each beekeeper in this state may register on an annual basis with the [The] chief apiary inspector [may provide for the periodic registration of all apiaries in this state]. A registration under this section expires August 31 following the date the registration is issued.

(b) A registration must include:

(1) information required by the chief apiary inspector [the beekeeper's name, address, and telephone number]; and

(2) the county or counties in which the beekeeper operates [apiary will be located; and

[3) the approximate dates that the apiary will be located in each county].

(c) The inspector may require a beekeeper to submit with the registration information a map showing the exact location of each of the beekeeper's apiaries. A map submitted under this section is a trade secret under Chapter 552, Government Code, and may not be disclosed.

(d) Except as provided by Subsection (c), tThe chief apiary inspector may charge a fee for each registration issued under this

section. The inspector shall set the fee at an amount that is reasonable in relation to the costs of administering this section.

~~The chief apiary inspector may establish separate registration categories for purposes of setting and collecting fees under this section.~~

~~(c) The chief apiary inspector may not charge a fee for a registration made solely for the purpose of Section 1951.056, Occupations Code.~~

SECTION 15. Section 131.046(a), Agriculture Code, is amended to read as follows:

(a) Fees collected under this subchapter shall be deposited in the State Treasury [~~to the credit of a special fund to be known as the bee disease control fund to be used only to defray the costs of administering and enforcing this chapter~~].

SECTION 16. The heading to Subchapter D, Chapter 131, Agriculture Code, is amended to read as follows:

SUBCHAPTER D. BRANDING AND IDENTIFICATION OF HIVES [~~APIARY EQUIPMENT~~]

SECTION 17. Section 131.061, Agriculture Code, is amended to read as follows:

Sec. 131.061. IDENTIFICATION REQUIRED. (a) Except as provided by Subsection (b), a [A] person may not operate an apiary in this state unless the hives are [~~apiary equipment is~~]:

(1) clearly and permanently [~~indelibly~~] marked with the name [~~and address~~] of the person as provided by Section 131.064; [~~or~~]

(2) branded in accordance with Section 131.064 [~~of this code~~] with a brand registered to the person by the chief apiary inspector; or

(3) identified by a weatherproof sign posted within the apiary containing the name and contact information or the brand number of the person managing the apiary, printed in lettering at least one inch high.

(b) An apiary at the principal residence of a beekeeper is exempt from the requirements of Subsection (a).

SECTION 18. Section 131.062, Agriculture Code, is amended to read as follows:

Sec. 131.062. BRAND; REGISTRATION. (a) The chief apiary inspector shall maintain a system of registration of beekeeper [~~apiary equipment~~] brands to identify equipment used by the [a] beekeeper [~~in an apiary~~]. The inspector shall assign a brand number to each beekeeper, if requested, when the beekeeper registers under Section 131.045.

(b) Each brand shall consist of seven [~~three~~] numbers separated by hyphens, with the first number signifying that the brand is a state-registered brand, the next three numbers [~~second~~]

~~number~~] identifying the registrant's county of residence, and the last three numbers [~~third number~~] identifying the registrant.

SECTION 19. Section 131.064, Agriculture Code, is amended to read as follows:

Sec. 131.064. MANNER OF AFFIXING NAME OR BRAND TO HIVES [~~EQUIPMENT~~]. A name or brand must be affixed to a hive [~~registrant shall affix the registered brand to his or her apiary equipment~~] by burning, ~~or~~ pressing, painting, or otherwise permanently marking the name or brand, in figures at least one-half [~~three-quarters~~] of an inch high, into the wood or other material in a manner that shows the identification of the hive [~~equipment~~]. The [~~registrant shall affix the~~] name or brand must be affixed on one or both ends of the hive. [~~On other equipment, including a frame, intercover, top, bottom, or plank, the registrant may affix the brand in any place.~~]

SECTION 20. Section 131.101, Agriculture Code, is amended to read as follows:

Sec. 131.101. ENFORCEMENT AUTHORITY. The chief apiary inspector is the official responsible for enforcing Subchapters B, C, and D [~~of this chapter~~]. The [~~Texas~~] Department of State Health Services is the agency responsible for enforcing Subchapter E [~~of this chapter~~].

SECTION 21. Section 131.102(b), Agriculture Code, is amended

to read as follows:

(b) The [~~Texas~~] Department of State Health Services may enter at a reasonable hour any public or private premises, including a building, depot, express office, storeroom, vehicle, or warehouse, in which bees, equipment, pollen, or honey may be located to determine whether a violation of Subchapter E [~~of this chapter~~] has occurred or is occurring.

SECTION 22. The heading to Section 131.121, Agriculture Code, is amended to read as follows:

Sec. 131.121. DISEASE AND PEST CONTROL.

SECTION 23. Section 131.121(a), Agriculture Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) violates a provision of Section 131.022 or 131.023 [~~of this code~~];

(2) fails to report reportable diseases, or reportable pests, or invasive species of [~~diseased~~] bees in accordance with Section 131.025 [~~of this code~~];

(3) ships or causes bees or equipment to be shipped into this state [~~or between counties in this state~~] without the permit required by Section 131.041 [~~or 131.043 of this chapter~~];

(4) violates a rule, order, or quarantine of the chief apiary inspector adopted under this chapter;

(5) prevents or attempts to prevent an inspection of bees, equipment, pollen, or honey under the direction of the inspector under this chapter;

(6) prevents or attempts to prevent the discovery or treatment of bees with reportable diseases or reportable pests ~~or the discovery of a reportable invasive species of~~ [diseased] ~~bees~~;

(7) interferes with or attempts to interfere with the inspector in the discharge of the duties under this chapter;

(8) as the owner or keeper of a [diseased] colony of bees that has a reportable disease or contains a reportable pest ~~or invasive species of bees~~, barter, gives away, sells, ships, or moves the [diseased] bees, equipment, pollen, or honey or exposes other bees to the reportable disease, or reportable pest, ~~or invasive species of bees~~; or

(9) exposes honey, pollen, hives, frames, combs, bees, or appliances from a colony of bees known to have a reportable disease or contain a reportable pest ~~or invasive species of bees~~ [be diseased] in a manner that provides access to other bees [~~or~~

~~(10) sells, offers for sale, barter, gives away, ships, or distributes honey or pollen taken from a colony of diseased bees].~~

SECTION 24. The following provisions of the Agriculture Code are repealed:

- (1) Section 131.002(c);
- (2) Section 131.042;
- (3) Section 131.043;
- (4) Section 131.063(b);
- (5) Section 131.065(c); and
- (6) Section 131.104(d).

SECTION 25. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 26. This Act takes effect September 1, 2023.