

SUBJECT: Prohibiting disclosure of personal information of certain pesticide applicators

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 4 ayes — Hardcastle, Miller, B. Brown, Swinford

0 nays

1 present not voting — Burnam

2 absent — D. Jones, Laney

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: *(On companion bill, HB 1452:)*
For — *(Registered, but did not testify:)* Regan Beck, Texas Farm Bureau,
Robert Turner, Texas Sheep and Goat Raisers Association

Against — None

On — *(Registered, but did not testify:)* Gary Nunley, Texas A&M
University-Wildlife Damage Management Service; Phil Tham, Texas
Department of Agriculture

BACKGROUND: The Texas Department of Agriculture (TDA) licenses certain pesticide applicators to use predator control devices. The U.S. Environmental Protection Agency classifies a predator control device as a restricted-use product making it unavailable for purchase without a license.

Predator control devices include two models: M-44 and a Livestock Protection Collar (LPC). An M-44 device kills a predator by ejecting sodium cyanide into the mouth of the predator. The poison is released when a predator pulls on a piece of bait. An LPC is a collar containing sodium flouroacetate worn around the neck of livestock. When a predator attacks livestock by lunging for an animal's throat, the collar releases the chemical into the predator's mouth.

DIGEST: SB 644 would prohibit a governmental entity from disclosing the name, address, or telephone number of a private pesticide applicator if disclosure would reveal that a person was authorized, had used, or intended to use a predator control device, except to:

- a pesticide dealer authorized to distribute predator control devices;
- another governmental entity in Texas seeking such information in connection with official business;
- the U.S. Environmental Protection Agency under a cooperative agreement;
- a federal agency providing a subpoena for the information; or
- an agency or court in which the private pesticide applicator was a defendant.

The bill also would prohibit a governmental entity from disclosing the name, address, or telephone number of an owner or operator of land if disclosing the information would reveal the use or intended use of a predator control device on the land. It also would prohibit a governmental entity from disclosing information identifying land on which a predator control device had been used or was intended to be used if it would reveal the name, address, or telephone number of the owner or operator of the land.

SB 644 would define a predator control device as a device using an active ingredient that was used for the control of livestock predators. A governmental entity and its officers or employees would be immune from civil or criminal action for unintentionally violating the prohibition.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

SUPPORTERS SAY: SB 644 would prohibit a governmental entity from releasing personal information about a licensed applicator of predator control devices or a property owner on whose land a device was used. Animal rights groups have sought such information in the past, raising concerns that applicators or property owners could be targeted for harassment, intimidation, or other harm. The bill would protect these individuals by prohibiting the disclosure of information that could be used for these purposes.

The name, address, and telephone number of property owners and licensed applicators should not be public information. Applicators and property owners share this personal information with governmental entities for regulatory and record-keeping purposes, not for dissemination to the public. Restricting this private information would not violate the purpose of open records laws, which is to ensure that the public can obtain information about the government.

Although a group requesting such information might have honorable intentions, the information is out of the state's control once it has been released. There is no guarantee that the information would not find its way to extremist groups seeking to use it for illegal or harmful purposes. The bill would not prohibit the release of statistical or general information on the use of predator control devices. It only would protect information that could be used to identify or find pesticide applicators or property owners.

The bill also would bolster efforts to improve homeland security. The chemicals used in predator control devices could be extremely dangerous in the wrong hands. The bill would make it more difficult for terrorists or other evil doers to obtain information on people trained in the use of these chemicals.

Predator control devices are a safe and effective way to reduce the number of livestock lost to predators. TDA's licensing process requires applicators to undergo specific training in the use of predator control devices, pass an exam, and participate in continuing education. LPCs are the most commonly used predator control device and release chemicals only when punctured by an attacking predator. Research by the U.S. Department of Agriculture has not found any hazards to nontarget animals and shows that secondary poisonings do not occur because the carcasses of coyotes that ingested the poison contain only non-toxic trace levels of the poison.

**OPPONENTS
SAY:**

The use of animal collars that release poisonous chemicals is a public safety issue, and because of the potential danger of these devices, the public has a right to know where they are being used and by whom. For example, a neighbor's children or pets could encounter livestock wearing the collars, or a collar's poisonous contents could be released into the environment from an accidental release triggered by barbed wire or vegetation. Studies have shown

that very few attacking coyotes are recovered after they die, and a contaminated carcass could become a hazard to other livestock or wildlife.

The potential harassment of a licensed applicator is not enough reason to restrict government information. These applicators are licensed by the state and using their licenses to make money and should have to deal with any inconvenience that results. Criminal laws could be used to deal with any situation in which an applicator was harassed or harmed.

NOTES:

On April 10, the House approved an identical companion bill, HB 1452 by Hilderbran. On May 20, HB 1452 was approved by the Senate on the Local and Uncontested Calendar.