

SUBJECT:	Allowing TDA to obtain agricultural search warrants
COMMITTEE:	Agriculture and Livestock — favorable, without amendment
VOTE:	<p>8 ayes — Gonzalez Toureilles, Anderson, B. Brown, Crabb, Hardcastle, Heflin, Rios Ybarra, Swinford</p> <p>0 nays</p> <p>1 absent — Kleinschmidt</p>
WITNESSES:	<p>For — Ray Prewett, Texas Citrus Mutual; (<i>Registered, but did not testify</i>: Jim Reaves, Texas Nursery & Landscape Association)</p> <p>Against — None</p> <p>On — (<i>Registered, but did not testify</i>: David Kostroun, Texas Department of Agriculture)</p>
BACKGROUND:	Agriculture Code, Sec. 71.0081 authorizes the Texas Department of Agriculture (TDA) to conduct vehicle inspections and set up vehicle check points to search for plant diseases or pests that could cause harm to the agricultural industry.
DIGEST:	<p>HB 1949 would allow TDA to seek warrants to search for plant diseases or pests. Agricultural warrants would be used to conduct inspections of real property including:</p> <ul style="list-style-type: none">• buildings;• containers; or• items that are likely to contain a plant pest, plant disease, or an infected or potentially infected plant. <p>The warrant also would be used to set up pest traps, examine records, and to test, treat, identify, quarantine, take samples of, seize, or destroy infected or exposed plants.</p>

The bill would create an offense punishable as a Class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) for interference with the execution of an agricultural warrant.

TDA would have to present probable cause to a judge in order to obtain a warrant. TDA would have to provide an affidavit showing that:

- the place described in the warrant application was located in an area subject to a TDA quarantine with respect to the pest or disease in question, or
- it was reasonably probable that the place under suspicion contained a plant pest or disease due to its proximity to a known infestation.

The bill would allow TDA to request a sheriff or constable to accompany a TDA employee when executing a warrant. A copy of the warrant would have to be given to an adult at said location or placed in a conspicuous location.

Agricultural warrants would be required to specify the exact locations of the places subject to the warrant and each type of pest or disease that would be addressed by the warrant. Only one application would have to be submitted to obtain multiple warrants within the same county. Warrants would be valid for 61 days, but could be renewed by the issuing judge if there was probable cause.

An agricultural warrant could not:

- be executed between 7:00 p.m. and 7:00 a.m. of the following day or on a state holiday;
- authorize entry into or inspection of the interior of an occupied building; or
- be issued in blank.

The bill would not restrict the authority of the state or a local government entity to conduct other inspections that were authorized by law.

The bill would take effect September 1, 2009.

SUPPORTERS
SAY:

HB 1949 would give TDA the much-needed ability to seek a warrant in the unfortunate event of a plant disease or pest outbreak. In the past, TDA has had to call upon the U.S. Department of Agriculture in order to stop an

agricultural disease outbreak, causing delays. Some plant diseases and pests are capable of spreading quickly and causing widespread devastation. HB 1949 would give TDA the tools to intercept these outbreaks immediately, before they reached their maximum destructive potential.

HB 1949 would be particularly beneficial to the citrus industry, which remains susceptible to citrus canker and citrus greening — two diseases that kill citrus trees. Citrus canker was eradicated in Texas in 1943, but a recent outbreak in Florida has Texas citrus growers worried that it may reappear. Similarly, citrus greening exists in Florida but has not yet affected the Texas citrus industry. HB 1949 would allow TDA to obtain search warrants in the event of a disease outbreak among citrus trees.

Property owners who refuse voluntary TDA inspections endanger the economic livelihood of the entire Texas agricultural industry. Property owners who refuse TDA inspections may not understand the gravity of a potential disease outbreak. Citrus greening, for example, has a latent period of two to three years, preventing symptoms from being obvious to a grower until the disease has spread. HB 1949 would allow TDA to circumvent property owners who may not believe their crops are infested.

**OPPONENTS
SAY:**

Assigning a Class B misdemeanor to property owners who refuse to allow state inspectors on their land would be too stringent. Property owners should have the right to decide whether or not government officials can inspect and possibly seize their property.

NOTES:

The companion bill, SB 1132 by Hinojosa, was reported favorably by the Senate Agriculture and Rural Affairs Committee on April 20 and recommended for the Local And Uncontested Calendar.