

BILL ANALYSIS

Senate Research Center
77R10648 JAT-D

C.S.S.B. 766
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Health & Human Services
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Committee Report (Substituted)

DIGEST AND PURPOSE

Current Texas law authorizes a variety of enforcement sanctions regarding the processing and packaging of meat and poultry products. However, it does not provide for injunctive relief from a court in the case of an imminent threat to the public's health or safety or an inspector's personal safety. C.S.S.B. 766 authorizes the Texas Department of Health to pursue injunctive relief through a court. It also provides criminal penalties for interference with an inspection and provides for emergency withdrawal of the mark of inspection or the suspension and withdrawal of inspection services in cases where public health or safety is threatened or when a person affiliated with the processing facility impedes an inspection.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 433F, Health and Safety Code, by adding Sections 433.0815, 433.099, and 433.100, as follows:

Sec. 433.0815. INTERFERENCE WITH INSPECTION; CRIMINAL PENALTIES. (a) Provides that a person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with a livestock inspector while the inspector is performing a duty under this chapter.

(b) Makes an offense under this section a Class B misdemeanor.

(c) Provides that it is a defense to prosecution under this section that the interruption, disruption, impediment, or interference alleged consisted of speech only.

Sec. 433.099. INJUNCTION. (a) Authorizes the commissioner of health (commissioner), if it appears that a person is violating or has violated this chapter or a rule under this chapter, to request the attorney general or the district attorney or county attorney in the jurisdiction where the violation is alleged to have occurred, is occurring, or may occur to institute a civil suit for certain purposes.

(b) Provides that the venue for a suit brought under this section is in the county in which the violation occurred or in Travis County.

(c) Authorizes the commissioner or attorney general to recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, attorney's fees, and other expenses. Authorizes the expenses recovered by the commissioner under this section to be used for the administration and enforcement of this chapter. Authorizes the attorney general to use recovered expenses for any purpose.

Sec. 433.100. EMERGENCY WITHDRAWAL OF MARK OR SUSPENSION OF INSPECTION SERVICES. (a) Authorizes the commissioner or the commissioner's designee to immediately withhold the mark of inspection or suspend or withdraw inspection services if the commissioner or the commissioner's designee determines that a violation of this chapter presents an imminent threat to public health and safety, or a person affiliated with the processing establishment impedes an inspection under this chapter.

(b) Entitles an affected person to a review of an action of the commissioner or the commissioner's designee under Subsection (a) in the same manner that a refusal or withdrawal of inspection services may be reviewed under Section 433.028.

SECTION 2. Effective date: September 1, 2001.

Makes application of Sections 433.099 and 433.100, Health and Safety Code, as added by this Act, prospective.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Differs from the original by adding Sections 433.0815 and 433.100, Health and Safety Code.

Proposed Section 433.099, Health and Safety Code, differs from the original by removing authorization for a civil penalty under this section.

SECTION 2.

Differs from the original by making the prospective clause applicable only to Sections 433.099 and 433.100.