

CHAPTER 548

H.B. No. 2009

AN ACT

relating to the Texas Animal Health Commission and to the control of animal diseases and pests; providing penalties.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 161.026, Agriculture Code, is amended to read as follows:

Sec. 161.026. **EXPENSES AND PER DIEM.** Each commissioner is entitled to *reasonable travel expenses incurred in performing official duties and to the per diem set in the General Appropriations Act for members of state boards and commissions* [~~receive reimbursement for actual and necessary expenses incurred in the performance of official duties~~].

SECTION 2. Section 161.041(e), Agriculture Code, is amended to read as follows:

(e) An offense under Subsection (c) or (d) of this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 3. Section 161.050, Agriculture Code, is amended to read as follows:

Sec. 161.050. INJUNCTION. The commission is entitled to appropriate injunctive relief to prevent or abate a violation of a statute administered or enforced by the commission or a rule adopted or order issued by the commission under such a statute. On request of the commission, the attorney general [~~or the county or district attorney in the county in which the alleged violation is threatened or is occurring~~] shall file suit for the injunctive relief. Venue is in Travis County [~~the county in which the alleged violation is threatened or is occurring~~].

SECTION 4. Section 161.136(c), Agriculture Code, is amended to read as follows:

(c) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 5. Section 161.137(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C misdemeanor for each head of livestock moved as prohibited by Subsection (a) of this section *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 6. Section 161.138(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 7. Section 161.139(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 8. Section 161.140(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 9. Sections 161.141(a) and (b), Agriculture Code, are amended to read as follows:

(a) A person commits an offense if the person violates Section 161.065(a)(1) or (a)(2) of this code or, as owner or caretaker of the livestock, domestic animals, or domestic fowl, the person permits movement in violation of Section 161.065(a)(1) or (a)(2) of this code. Except as provided by Subsection (c) or (d) of this section, an offense under this subsection is a Class C [B] misdemeanor for each animal moved in violation of the quarantine *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

(b) A person commits an offense if the person violates Section 161.065(a)(3) of this code or, as owner or caretaker of the commodities or animals, the person permits movement in violation of Section 161.065(a)(3) of this code. Except as provided by Subsection (c) or (d) of this section, an offense under this subsection is a Class C [B] misdemeanor for each shipment moved in violation of the quarantine *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 10. Section 161.143(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 11. Section 162.011(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 12. Section 162.013(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 13. Section 163.072(c), Agriculture Code, is amended to read as follows:

(c) The owner or operator of a slaughter plant commits an offense if the slaughter plant fails to comply with this section or a rule adopted under this section. An offense under this subsection is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 14. Section 163.081(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 15. Section 163.082(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 16. Section 163.083(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 17. Section 163.084(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 18. Section 163.085(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 19. Section 165.025, Agriculture Code, is amended to read as follows:

Sec. 165.025. COMPENSATION OF OWNER OF SWINE. (a) *The commission may pay to the owner of swine exposed to brucellosis compensation in an amount to be determined by the commission if the commission determines that:*

(1) *the owner's herd is a problem herd; or*

(2) *the owner is in extreme financial hardship [If an animal infected with or exposed to vesicular exanthema, foot and mouth disease, or hog cholera is sold and slaughtered under Section 165.024 of this code, the commission may pay the owner an amount equal to not more than 50 percent of the appraised value of the animal, after deducting any amount received by the owner for salvage].*

(b) *The commission may adopt rules to implement this section, including rules for determining the amount of compensation a person is eligible to receive [Compensation under this section may not exceed the amount of any compensation paid to the owner of the swine by the United States Department of Agriculture.*

(c) *In order to be eligible for compensation under this section, an owner must have complied with Section 165.026 of this code and the rules of the commission applicable to the swine for which payment is made.*

(d) *For purposes of this section, the appraised value of an animal shall be determined by a representative of the commission or the United States Department of Agriculture and a representative of the owner of the animal. If they cannot agree on the value, they shall appoint a third appraiser and the value of the animal shall be determined by agreement of any two of the three appraisers. If either party is not satisfied with the value as appraised, that party may appeal to a court of competent jurisdiction in the county of the owner's*

~~residence. The appeal is by trial de novo as that term is used in appeals from the justice court to the county court.~~

~~[(e) The commission may compensate persons under this section only from funds appropriated for that purpose].~~

SECTION 20. Section 165.041(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 21. Section 167.131(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 22. Section 167.132(c), Agriculture Code, is amended to read as follows:

(c) An offense under this section is a Class C [B] misdemeanor for each head of livestock moved, permitted to move, or permitted to enter the pen *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 23. Sections 167.133(b) and (c), Agriculture Code, are amended to read as follows:

(b) An offense under Subsection (a)(1) of this code is a Class C [B] misdemeanor for each head of livestock moved or permitted to be moved *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

(c) An offense under Subsection (a)(2) of this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.* A person commits a separate offense under that subsection for the movement of each animal, each animal product, or each shipment of another commodity.

SECTION 24. Section 167.134(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor for each head of livestock moved *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 25. Section 167.135(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor for each head of livestock moved or conveyed without a certificate or permit as required by Subsection (a) of this section *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 26. Section 167.136(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 27. Section 167.137(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor for each car or other means of conveyance not cleaned and disinfected *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 28. Section 167.138(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 29. Section 167.139(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 30. Section 167.140(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 31. Section 167.141(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 32. Section 167.142(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 33. Section 167.143(b), Agriculture Code, is amended to read as follows:

(b) An offense under this section is a Class C [B] misdemeanor *unless it is shown on the trial of the offense that the defendant has been previously convicted under this section, in which event the offense is a Class B misdemeanor.*

SECTION 34. (a) The change in law made by Section 3 of this Act applies only to a suit for injunctive relief that is filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law then in effect, and the former law is continued in effect for that purpose.

(b) The changes in law made by Sections 2, 4-18, and 20-33 of this Act apply only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 35. This Act takes effect September 1, 1993.

SECTION 36. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 20, 1993, by a non-record vote; passed by the Senate on May 22, 1993, by a viva-voce vote.

Approved June 8, 1993.

Effective Sept. 1, 1993.