

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1809

By: Armes

AS INTRODUCED

An Act relating to agriculture; amending 2 O.S. 2001, Sections 3-100.1, 3-101, 3-103, 3-106, 3-113, 3-116, 3-117, 3-121 and 3-122, which relate to the Oklahoma Apiary Act; modifying definitions; modifying inspection powers; modifying certain destruction of certain bees; modifying certain inspections; modifying certain sales; modifying certain fees; modifying certain registration requirements; modifying certain inspections; requiring certain permits; clarifying terms; modifying certain inspection fees; modifying certain violations; clarifying terms; providing for certain crimes; providing for certain actions by the Oklahoma Department of Agriculture, Food, and Forestry; providing for certain exemptions; providing for certain fee; providing for certain reporting; repealing 2 O.S. 2001, Sections 3-107 and 3-114, which relate to shipment and pollination of bees; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 2 O.S. 2001, Section 3-100.1, is amended to read as follows:

Section 3-100.1 For purposes of the Oklahoma Apiary Act:

1. "Abandoned apiary" means any apiary not regularly attended in accordance with good beekeeping practices;
2. "Africanized honeybee" or "Apis mellifera scutellata" means a hybridized bee of African descent that at any stage of development is considered a pest to bees, humans, and animals;
3. "Apiary" means a place where one ~~(1)~~ or more colonies or nuclei of bees are kept;
- ~~2.~~ 4. "Apiary equipment" means any apparatus, tools, clothing, machines, or other devices used in the handling and manipulation of

bees, honey, wax, pollen, propolis, and hives and includes, but is not limited to, any containers of honey or wax that may be used in any apiary, any vehicle used in transporting bees and products, or apiary supplies;

5. "Bee" means any one of the honey-producing genera of Apis including any queen, worker, or drone, or any of their four (4) life stages. The term bee includes, but is not limited to, any species of bees used for commercial pollinating purposes-;

~~3.~~ 6. "Beekeeper" means a person who owns, possesses, controls, or manages one (1) or more hives colonies of bees for any purpose-;

~~4.~~ 7. "Bee disease" means an abnormal condition of the eggs, larvae, pupae, or adult stages of bees that impairs normal functioning;

8. "Certificate of inspection" means a document issued based on an inspection by the Oklahoma Department of Agriculture, Food, and Forestry or other state or province stating that the apiary, bees, and apiary equipment appear free of bee diseases and pest;

9. "Colony" means an aggregate of worker bees, drones, queen, and developing young bees and the hive and its components including bees, comb, honey, propolis, and pollen-;

~~5. "Entry permit" means a document issued by the State Board of Agriculture authorizing the transportation of bees or equipment into the state.~~

~~6. "Equipment" means any apparatus, tools, clothing, machines, or other devices used in the handling and manipulation of bees, honey, wax, pollen, propolis, and hives and includes, but is not limited to, any containers of honey or wax which may be used in any apiary, any vehicle used in transporting bees and their products, or apiary supplies.~~

~~7.~~ 10. "Feral colony" means any colony that is not managed according to good beekeeping practices;

11. "Hive" means any domicile for keeping bees-;

~~8.~~ 12. "Honey house" means any room in any building where honey is extracted, stored in raw form, processed, or packaged~~;~~;

~~9.~~ 13. "Migratory beekeeper" means a beekeeper who moves or transports colonies of bees to a more favorable location for the purpose of wintering colonies, increasing the strength of colonies, increasing the number of colonies, providing pollination services, or for honey production~~;~~;

14. "Nucleus" means any division or portion of a colony that contains comb and bees;

~~10.~~ 15. "Pest" means any living organism which is responsible, directly or indirectly, for any condition ~~which~~ that is or may be harmful or detrimental to bees in any of their four ~~(4)~~ life stages, or interferes with their management including, but not limited to, diseases, parasites, and Africanized ~~strains of~~ honeybees~~;~~;

~~11.~~ 16. "Pollination" means the use of ~~colonies of bees to~~ pollinate for the transfer of pollen in crops;

~~12.~~ 17. "Premise" means any place where bees, colonies, hive, apiary equipment, or honey may be located including, but not limited to, apiaries~~;~~; and

~~13.~~ 18. "Quarantine" means ~~the detaining of an,~~ but is not limited to, any order, hold, detainment, affected area, infected premise or area, movement restrictions of any kind, or notice issued by any state or federal entity specifying boundaries or conditions placed on any apiary, apiary equipment, bees, hives, or honey at its location after discovering the presence of a bee disease or pest.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 3-101, is amended to read as follows:

Section 3-101. A. ~~Any agent of the~~ The State Board of Agriculture or its authorized agents shall have the authority to ~~inspect or take samples on any premise within this state, during regular business~~ enter any premises or mode of transportation during reasonable hours to investigate and ascertain whether or not any

~~pest of bees exists. When there are no effective controls available, the Board may issue an order to destroy any infected or infested bees or equipment or both~~ for the purpose of implementing the Oklahoma Apiary Act or rules promulgated pursuant thereto.

B. ~~For the purposes of enforcement of the Oklahoma Apiary Act, the~~ The Board has or its authorized agents shall have the authority to ~~enter any public or private premise during regular business hours to ascertain if the owner is subject to or in compliance with the provisions of~~ carry out all necessary and proper actions to determine compliance with the Oklahoma Apiary Act ~~or any rule including, but not limited to, conducting investigations, opening any bundle, package, or container, examining and making photocopies of records or documents, examining devices, collecting and submitting samples for analysis, issuing any order to destroy infected or infested bees or apiary equipment, and removing or destroying bees, hives or other articles as deemed necessary by the~~ Board.

C. The Board is authorized to promulgate rules ~~for the control of bee pests as authorized by~~ necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Oklahoma Apiary Act, including the establishment of fees. All fees shall be fair and equitable to all parties concerned. Any rules shall be promulgated pursuant to the Administrative Procedures Act.

D. The Board shall have the authority to:

1. Issue, renew, deny, modify, suspend, cancel, and revoke any registration, permit, certificate, license, identification, or order issued pursuant to the provisions of the Oklahoma Apiary Act;
2. Issue ~~inspection~~ certificates ~~to any person intending to transport any bees or equipment out of the state~~ of inspection;
3. Issue entry permits to any person transporting bees or apiary equipment into this state; ~~and~~

4. ~~Issue health certificates to any person shipping any queens or package bees intrastate~~ Investigate complaints and violations of the Oklahoma Apiary Act and rules promulgated thereto;

5. Issue quarantines, initiate control measures, confiscate, and destroy apiaries, bees, colonies, or hives that present a danger to the public safety or welfare; and

6. Exercise all incidental powers as necessary and proper to implement and enforce the provisions of the Oklahoma Apiary Act and the rules of the Board promulgated pursuant thereto.

E. Pursuant to the general powers contained in Section 2-6 of this title, the Board may establish an Apiary Advisory Committee composed of interested residents and beekeepers of the state who, without compensation, may advise and make recommendations to the Department on the administration of the Oklahoma Apiary Act and on other apiary matters.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 3-103, is amended to read as follows:

Section 3-103. 1. Upon ~~notification by the~~ discovery of any bee disease or pest, a premise shall be quarantined by the Oklahoma Department of Agriculture, Food, and Forestry.

2. The State Board of Agriculture, pursuant to this subarticle, shall have the owner of any apiary, authority to declare any form of bee equipment, or premise that is infected or infested by, plant, animal, or virus that is injurious to bees as a bee disease or pest shall initiate a control measure as determined by the Board within ten (10) days after verification by the Board that a pest exists. All of the infected or infested apiary or premise

3. Any person receiving a quarantine order shall immediately initiate any and all control measures specified in the quarantine.

4. The quarantine shall remain under quarantine in effect until it is inspected by the Board and certified that the potential of

~~spreading the pest no longer exists~~ officially removed by the Department.

5. When there are no effective control measures available, or the ~~owner~~ person fails to initiate control, ~~an~~ a Board order to destroy the bees and apiary equipment ~~possessing~~ infected or infested with the bee disease or pest may be issued by the Board Department to prevent the spread of the bee disease or pest.

SECTION 4. AMENDATORY 2 O.S. 2001, Section 3-106, is amended to read as follows:

Section 3-106. A. ~~Any queen producer or retailer who ships queens or package bees into the state is required to be registered annually by March 15 of each year with the State Board of Agriculture. A registration form shall be provided by the Board and a fee of Five Dollars (\$5.00) shall be charged for the registration~~

1. A person shall not sell or offer for sale any apiary, apiary equipment, bee, or hive in this state unless free of bee diseases or pests.

2. Any apiary, apiary equipment, bee, or hive shipped intrastate or interstate shall be accompanied with a certificate of inspection issued by the state of origin.

3. Any person moving or transporting colonies into, within, or through the State of Oklahoma shall secure the colonies in a manner that prevents the escape of bees.

4. Honey or honey products used in shipping cages for the transport or movement of bees shall be boiled for at least thirty (30) minutes.

B. ~~Any package containing a queen or bees which are shipped intrastate or shipped into the state shall be accompanied with a copy of a health certificate issued by the state of origin. Any person engaged in the rearing of queens or package bees for sale shall have the apiary or apiaries inspected by the Board before they shall be certified free of bee pests. Honey or honey products used~~

~~in shipping cages for the transport of queens or package bees shall be boiled for at least thirty (30) minutes.~~

~~C. Upon the discovery of any bee disease or pest, an apiary shall be quarantined and no further sale or shipment of queens or package bees shall be permitted until the pests within the apiary are satisfactorily controlled as determined by the Board. Removal of the quarantine order shall be issued by the Board.~~

~~D. The Board shall require all All persons located out-of-state that transport producers of queens or package bees who ship queens or package bees into Oklahoma ~~to~~ shall provide the purchaser with a copy of the health certificate of inspection issued from the state of origin. ~~All~~ If requested by the Department, all interstate shippers are required to shall provide the Board Department with the names and addresses of persons ~~who receive~~ that received shipments during the year upon request by the Board in Oklahoma in the previous twelve (12) months.~~

SECTION 5. AMENDATORY 2 O.S. 2001, Section 3-113, is amended to read as follows:

Section 3-113. A. ~~Migratory beekeepers who move colonies of bees into this state shall be required to register with the State Board of Agriculture annually, on a form provided by the Board, for all seasonal or permanent locations of their apiaries. The registrant shall provide the Board by March 15 of each year:~~

~~1. The legal description of the location where the bees are or shall be located;~~

~~2. The exact direction of the location of the bees from the nearest town;~~

~~3. The location of the bees within a town; and~~

~~4. The name of the owner or manager of the property where the bees are or shall be located~~ The Oklahoma Department of Agriculture, Food, and Forestry, on a form prescribed by the Department, shall require annual registration of:

1. Any person establishing, maintaining, or locating an apiary within the state;

2. Any person shipping bees into the state; or

3. Migratory beekeepers that transport colonies of bees into the state.

~~B. A migratory beekeeper shall not locate an apiary closer than two (2) miles to an established apiary. Any resident of this state may establish an apiary on their farm, acreage, or home lot which is adjacent to another apiary. An annual fee of Five Dollars (\$5.00) shall be charged for the registration of each migratory beekeeper required to register pursuant to this section~~ All registrations shall be due on a date established by the State Board of Agriculture.

C. Failure to register may result in an administrative fine, late penalty, destruction of the apiary or hive, or one or all of the above.

D. All registrants shall pay registration fees as established by the Board. Fees shall be paid to the Board prior to the processing of the registration. The Board shall deny a request for registration if the required fee is not paid.

E. If renewal registrations are not properly completed and filed by the 30th day of the month following the registration due date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the registration.

F. No person shall locate a new apiary within close proximity to an established apiary if the Department determines that the new apiary presents an imminent danger of spreading bee diseases or pests or interferes with the proper feeding and foraging of an established apiary.

G. The Department shall issue to each registrant a registration identification number.

H. If the Department discovers an apiary that does not appear to have a registration identification number, the Department shall make a reasonable effort to locate and notify the beekeeper or owner. If no beekeeper or owner is identified for the apiary, then it may be designated as an abandoned apiary, and the Department may destroy the apiary or donate it to an appropriate research facility.

I. If the apiary is determined to be an abandoned apiary, the Department may destroy the apiary or donate it to an appropriate research facility.

SECTION 6. AMENDATORY 2 O.S. 2001, Section 3-116, is amended to read as follows:

Section 3-116. ~~Any beekeeper intending to transport a bee colony or any equipment out of this state~~

A. For the purposes of obtaining a certificate of inspection, a person may request an inspection of the colony be made by the State Board of Agriculture. After the inspection is completed, an inspection certificate shall be given to the beekeeper or caretaker of the colony. If the Oklahoma Department of Agriculture, Food, and Forestry to conduct an inspection of their apiary, colony, hive, apiary equipment, or premise.

B. Upon completion of inspection, the Department shall issue a certificate of inspection stating that apiary, the colony, hive, apiary equipment, or premise is apparently either:

1. Apparently free of bee diseases or pests then the certificate shall so indicate. If a colony, equipment, or premise is found to contain a bee pest, the certificate shall bear a notation stating the name of the pest present; or

2. Not free of bee diseases or pests and contains a list of any and all bee diseases or pests found during the inspection.

C. Any beekeeper who provides colonies of bees for pollination purposes or honey production pursuant to an oral or written contract shall be subject to inspection by the Oklahoma Department of

Agriculture, Food, and Forestry for the strength of colonies and the presence of pests. The Department may, or upon complaint, investigate any bee colony. Copies of the written contract, if one exists, shall be furnished to the Board upon request.

SECTION 7. AMENDATORY 2 O.S. 2001, Section 3-117, is amended to read as follows:

Section 3-117. A. 1. Any ~~beekeeper who requests~~ person requesting inspection of an apiary, colony, hive, apiary equipment, or premise pursuant to ~~Section 3-116 of this title~~ the Oklahoma Apiary Act, is subject to the following an inspection fee schedule in paragraph 2 of this subsection. ~~The fee shall be based on the total number of colonies in the possession of the beekeeper and shall be deposited in the State Department of Agriculture Revolving Fund as established by the State Board of Agriculture.~~

2. ~~The following fees shall be charged at the time of inspection:~~

- a. ~~Five Dollars (\$5.00) for 5 to 50 colonies of bees,~~
- b. ~~Ten Dollars (\$10.00) for 51 to 100 colonies of bees,~~
- c. ~~Fifteen Dollars (\$15.00) for 101 to 300 colonies of bees,~~
- d. ~~Twenty-five Dollars (\$25.00) for 301 to 1,000 colonies of bees, and~~
- e. ~~Forty Dollars (\$40.00) for over 1,000 colonies of bees.~~

~~3. Upon~~ During an inspection or upon request, the ~~State Board~~ Oklahoma Department of Agriculture, Food, and Forestry may take samples and ~~perform laboratory diagnosis at a cost of Twenty-five Dollars (\$25.00) for each diagnosis.~~ The manner of sampling, the cost of sampling, and the method of diagnosis testing shall be at established by the ~~Board's discretion~~ Board.

B. ~~Inspections~~ Any inspections of the ~~apiaries upon~~ an apiary performed at the request of a beekeeper shall be limited to

availability of time and personnel. ~~If the beekeeper has more than two (2) colonies, the colonies shall be inspected on a random basis.~~

C. 1. Standard precautions for the prevention of the transmission of bee diseases or pests to humans, animals, and bees shall be followed by the Department when inspecting apiaries pursuant to their official duties specified by the Oklahoma Apiary Act.

2. Except for emergency situations or when enforcement of the provisions of the Oklahoma Apiary Act is required, the Department shall observe the health standards and sanitary requirements of the apiary.

SECTION 8. AMENDATORY 2 O.S. 2001, Section 3-121, is amended to read as follows:

Section 3-121. ~~A.—1.~~ It shall be unlawful and a violation of the Oklahoma Apiary Act for any person to:

1. To refuse to permit an inspection provided for by the Oklahoma Apiary Act, or to hinder or interfere with, in any way, the inspection or the person authorized to make the inspection;

2. ~~It shall be unlawful for any person renting~~ To rent a colony of bees to another ~~to~~ and misrepresent the strength of a colony;

3. ~~Any person who fails~~ To fail to pay a registration any fee, fine, or penalty as required and established by the Oklahoma Apiary Act ~~within thirty (30) days after March 15 of each year shall pay a late registration fee of Ten Dollars (\$10.00). All inspection fees are due within thirty (30) days after samples are processed or the inspection is completed. Late payment of inspection fees or fees for sample analysis are subject to a penalty of ten percent (10%) of the amount due or Ten Dollars (\$10.00), whichever is greater.~~

~~B. Any person who is convicted for a violation of any of the provisions of the Oklahoma Apiary Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than One~~

~~Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).~~ or promulgated rules;

4. To retain Africanized honeybees except for approved research purposes pursuant to this act;

5. To establish, maintain, or locate an apiary within this state without first registering with the Oklahoma Department of Agriculture, Food, and Forestry;

6. To knowingly expose comb, honey, frames, empty hives, cover, bottom boards or tools, or other appliances to any material from a diseased colony or apiary or infested with a bee pest;

7. To fail to comply with any State Board of Agriculture order;
or

8. To violate any provision of the Oklahoma Apiary Act and the rules promulgated by the Board.

SECTION 9. AMENDATORY 2 O.S. 2001, Section 3-122, is amended to read as follows:

Section 3-122. A. Whenever the ~~State Board~~ Oklahoma Department of Agriculture, Food, and Forestry determines there are reasonable grounds to believe that there has been a violation of any of the provisions of the Oklahoma Apiary Act, any rule, or any order of the State Board of Agriculture, ~~it shall give written notice to the alleged violator specifying the cause of complaint. The notice shall require that the matters complained of be corrected or that the alleged violator appear before the Board at a time and place specified in the notice and answer the charges. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection D of this section not less than twenty (20) days before the time set for the hearing.~~

~~B. The Board shall afford the alleged violator or violators an~~ shall be given the opportunity for a fair hearing in accordance with the provisions of ~~subsection E of this section. On the basis of the evidence produced at the hearing, the Board shall make findings of~~

~~fact and conclusions of law and enter an order. The Board shall give written notice of the order to the alleged violator and to other persons who have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the Board itself, the person shall transmit the record of the hearing together with recommendations for findings of fact and conclusions of law to the Board which shall enter its order. The Board may, in its discretion, enter its order on the basis of the record or, before issuing its order, require additional hearings, or further evidence to be presented. The order of the Board shall become final and binding on all parties unless appealed to the district court as provided in Article II of the Administrative Procedures Act within thirty (30) days after notice has been sent to the parties.~~

~~C. B. 1. Whenever the Board finds that an emergency exists requiring immediate action to protect the public health or welfare or to protect bees from any bee pest or disease which is infectious or contagious in its nature to bees or pest, it may without notice or hearing issue an order reciting the existence of an emergency and requiring that immediate action be taken to meet the emergency.~~

~~Notwithstanding the provisions of subsection B of this section, the~~

~~2. The order shall be effective immediately. Any upon issuance, but any person to whom an order is directed shall comply immediately but ~~on application to the Board~~ may request within fifteen (15) days after the order is served an administrative enforcement hearing.~~

~~3. The hearing shall be ~~afforded a hearing~~ held by the Department within ten (10) days after receipt of the request.~~

~~4. On the basis of the hearing record, the Board shall ~~continue the order in effect~~ affirm, revoke ~~it~~, or modify ~~it~~ the order.~~

~~5. Any person aggrieved by the final order ~~continued after the hearing provided in this subsection~~ may appeal to the district court of the area affected within thirty (30) days.~~

6. The appeal when docketed shall have priority over all cases pending on the docket, except criminal.

~~D. Except as expressly provided, any notice, order, or other instrument issued by or under authority of the Board may be served on any person affected personally or by publication. Proof of the service shall be made in the same manner as service of a summons or by publication in a civil action, and proof shall be filed in the office of the Board. Service may also be made by mailing a copy of the notice, order, or other instrument by registered mail directed to the person affected at the last-known post office address shown by the files or records of the Board, and proof may be made by the affidavit of the person who did the mailing, filed in the office of the Board.~~

~~Every certificate or affidavit of service made and filed shall be prima facie evidence of the facts stated, and a certified copy shall have like force and effect.~~

~~E. The hearings provided may be conducted by the Board itself at a regular or special meeting of the Board, or the Board may designate hearing officers who shall have the power and authority to conduct the hearings in the name of the Board at any time and place. The hearings shall be conducted in conformity with and records made as provided in the Administrative Procedures Act.~~

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-123 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be illegal to retain Africanized honeybees except for specifically approved research purposes as determined by rules promulgated by the State Board of Agriculture.

B. All abandoned apiaries observed or captured in counties where Africanized honeybees have been detected shall be destroyed.

C. If a feral colony of Africanized honeybees is found in the state, the Oklahoma Department of Agriculture, Food, and Forestry

shall take immediate actions to protect the public safety and welfare. The Department may confiscate or destroy the feral Africanized honeybee colony.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-124 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture may promulgate rules to establish a Certified Beekeeper Program.

B. The Board may promulgate rules to establish and administer a voluntary European Honeybee Certification Program.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-125 of Title 2, unless there is created a duplication in numbering, reads as follows:

No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This provision shall not be construed to restrict the zoning authority of a county or municipal government to establish appropriate locations for apiaries.

SECTION 13. REPEALER 2 O.S. 2001, Sections 3-107 and 3-114, are hereby repealed.

SECTION 15. This act shall become effective November 1, 2005.

50-1-6422 SBH 01/18/05