

TEXAS ANIMAL HEALTH COMMISSION

"SERVING TEXAS SINCE 1893"

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December 1, 2003

FILE # ML-43362-03
I.D. # 43362

Honorable Greg Abbott
Attorney General
Office of Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request for an Attorney General's Opinion

Dear General Abbott:

This is to request an Attorney General Opinion regarding recent legislation which authorized the Texas Animal Health Commission (Commission) to charge an "inspection fee". During the 78th Legislative Session House Bill (H.B.) 3442 was enacted and contained this provision:

SECTION 5. ANIMAL HEALTH COMMISSION. (a) Subchapter C, Chapter 161, Agriculture Code, is amended by adding Section 161.060 to read as follows:
Sec. 161.060. INSPECTION FEES. The commission may charge a fee, as provided by commission rule, for an inspection made by the commission.

All veterinary practitioners, accredited by the United States Department of Agriculture (USDA), are required to obtain from the commission "certificates of veterinary inspection" ("Health Certificate") to record the health status of livestock inspected by the veterinary practitioner for movement of the animals. By statute the practitioner is required to pay a fee of \$0.25 per certificate. The fee for the health certificate from the

Legislative Session, HB 1593, was to recover the cost to the agency for printing the document. Section 161.081, entitled "Importation of Animals" of the Texas Agriculture Code provides that the: (d) [t]he commission shall charge a fee of 25 cents for each health certificate.

The Veterinary practitioner writes a certificate of veterinary inspection after examination and testing, as appropriate, of animals to be shipped. Once a certificate of veterinary inspection is completed a copy is then submitted to this office for review and processing. Those activities, performed by the Commission's Programs Record staff, include:

- (1) Review of health certificates for movement/testing requirements.
- (2) Review of health certificates to ensure Brucellosis and/or TB testing is provided only by accredited veterinarians.
- (3) Review of health certificates for proper documentation and completion of animal health status, veterinarian signature, origin of animals, destination of animals, etc.
- (4) Calculation of animal movement numbers required by National Agriculture Statistic Service (NASS) regarding exports of cattle, sheep, goats, swine, and equine.
- (5) Data entry of Brucellosis and TB test results off of each health certificate into the National Generic Database (GDB) to assist with historical disease tracking records.
- (6) Initiation of compliance action toward veterinarians or producers for violation of animal movement laws and regulations.

The Commission poses the following question: "may the commission charge an inspection fee for reviewing and processing the health certificates after completion by a private practitioner?"

Commission staff does not perform an actual physical inspection of the animals represented on the certificate. The agency is providing oversight in that we evaluate the information on the certificate to determine the health status of the animal and assure the animal is in compliance with applicable health requirements. If this oversight could be categorized as an "inspection" under the provisions of Section 161.060 of the Texas Agriculture Code the agency could assess a fee to offset the costs of the agency animal health programs as envisioned by the legislature through H.B. 3442. Such a fee provides the most equitable mechanism for cost recovery across the livestock industries because

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all segments of the livestock industry utilize health certificates for interstate and some intrastate movement of livestock in commerce. The Commission would asses this fee, in addition to the cost of the health certificates, at the time the veterinary practitioner requests new health certificate books.

We appreciate your assistance on this matter. If you have any question please give me a call at (512) 719-0700.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Hillman", followed by a large, stylized initial "B" or "H".

Bob Hillman, D.V.M
Executive Director

cc: Richard Traylor, Chairman, Texas Animal Health Commission