

# Analysis of Legal Application Issues on Violations of Epidemic Prevention Regulations by Animal Waterway Carriers Entering Hainan

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**Abstract.** Water transportation is the primary means of transporting animals across provinces. In the management of animal health supervision, carrier identification often only extends to the transport vehicle, with limited attention paid to waterway carriers. This paper analyzed the legal application issues surrounding violations of epidemic prevention regulations by animal waterway carriers entering Hainan, based on relevant laws and regulations. The aim is to provide insights for the prevention and control of animal epidemic transmission in the construction of the Hainan Free Trade Port.

**Keywords:** Waterway carriers; animal epidemic prevention; legal application.

## 1. Introduction

Hainan Island is surrounded by the sea on all sides, making it a relatively independent geographical unit. Provincial animals can only be transported to Hainan through two means: waterway and aviation, with waterway transportation being the predominant method. In order to carry out animal epidemic prevention and control work, Hainan Province established nine inter-provincial animal health supervision inspection stations (hereinafter referred to as “inspection stations”) in Haikou, Sanya, Danzhou (Yangpu), Wenchang, Dongfang and other places in 2008. These inspection stations serve as important barriers to strengthen the supervision and management of animal epidemic prevention during cross-provincial transportation. In recent years, the animal health supervision and law enforcement departments in Hainan Province have seized more than 100 cases of illegal entry of animals into the island each year at the inspection stations. Most of these cases involve “transporting animals into the province through unauthorized channels” and “introducing animals from outside the province without quarantine”. When handling such cases, carriers are often held accountable based on the vehicles listed on the “animal quarantine certificate”, and are fined accordingly. However, there is less accountability for waterway carriers outside of the transport vehicles. The author believes that the lack of accountability for waterway carriers is not conducive to curbing illegal entry of animals from outside the province. Based on the actual situation of animal health supervision, the author analyzed the legal application issues related to violations of epidemic prevention regulations by animal waterway carriers entering Hainan, providing insights for reference.

## 2. Qualification of Subject

### 2.1 Subject and authority of law enforcement

According to Article 74 of the *Law of the People's Republic of China on Animal Epidemic Prevention*, the Hainan Provincial Department of Agriculture and Rural Affairs is responsible for the supervision and management of animal epidemic prevention for animals entering Hainan by waterway. In response to the animal epidemic prevention and control situation in Hainan Province, starting from March 2022, the Hainan Provincial Department of Agriculture and Rural Affairs has entrusted the Hainan Animal Health Supervision Institute with the administrative law enforcement work within the jurisdiction of the inter-provincial animal health supervision inspection stations

throughout the province. The institute will investigate and punish illegal entry of animals and their products into Hainan Province in accordance with the law, and carry out administrative penalties in the name of the Hainan Provincial Department of Agriculture and Rural Affairs within the scope of its entrusted authority. Therefore, the Hainan Animal Health Supervision Institute is qualified as the law enforcement subject and can carry out administrative law enforcement and penalties within the nine inspection stations in accordance with relevant animal health laws and regulations, such as the *Law of the People's Republic of China on Animal Epidemic Prevention*, the *Measures for the Administration of Animal Quarantine*, and the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*.

## 2.2 The identification of waterway carrier as an object

If the driver of the vehicle transporting animals into Hainan purchases a ferry ticket from the ship operator on the Guangdong side of the Qiongzhou Strait, a transportation contract is established in accordance with Article 809 of the *Civil Code*. As shown on the transportation document, the goods being transported are “live animals and poultry”. According to Article 3, items 1, 3, and 8 of the *Rules for the Carriage of Goods by Internal Waterway*, the driver of the transport vehicle is clearly the consignor, the ship operator is the carrier, and the subject matter is live animals and poultry. Therefore, during the waterway transportation process in the Qiongzhou Strait, the ship operator is qualified as the object of the waterway carrier and should fulfill the rights and obligations conferred by animal health laws and regulations such as the *Law of the People's Republic of China on Animal Epidemic Prevention*, the *Measures for the Administration of Animal Quarantine*, and the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*.

## 3. Legal Liability

### 3.1 Relevant provisions on the administration of epidemic prevention in the transport link of animals entering Hainan

#### 3.1.1 Designated channel mechanism.

According to Article 53 of the *Law of the People's Republic of China on Animal Epidemic Prevention* and Article 30 of the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*, in December 2022, the Hainan Provincial People's Government issued the *Notice on the Management of Designated Channels for Animals Entering Hainan*<sup>[1]</sup>. It stipulates that animals entering Hainan by waterway transportation must legally enter Hainan Province through the Guangdong-Hainan Railway Nangang Inspection Station and report to the inspection station for supervision, inspection, and information registration. If animals enter Hainan Province from other waterway ports, it will be deemed as entering the province without using the designated channel.

#### 3.1.2 Quarantine certificate shall be attached.

According to Articles 51 and 54 of the *Law of the People's Republic of China on Animal Epidemic Prevention*, animals entering Hainan should be accompanied by an animal quarantine certificate (A certificate) proving that they have passed animal quarantine. It is important to distinguish between animals that do not have a quarantine certificate and animals that have not undergone quarantine<sup>[2]</sup>. Currently, the country is promoting paperless issuance of quarantine certificates, and in some provinces, animals entering Hainan may not have a paper version of the A certificate. However, it is necessary to verify through “Muyuntong” whether the animals have been quarantined, and to check whether the electronic quarantine certificate matches the actual situation on site.

### **3.2 Relevant provisions on the waterway carrier for the entry of animals**

#### **3.2.1 Mandatory provisions**

According to Article 26, items 3 and 4 of the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*, when animals arrive at a port in Hainan Province, the waterway carrier should report to the inspection station and cooperate in animal disease prevention and control work. When the inspection station inspects the transportation vehicles, ships, warehouses, and storage places, the port and relevant carriers should cooperate. These are mandatory provisions that must be followed by waterway carriers and relevant units when transporting animals into Hainan.

#### **3.2.2 Liability provisions**

According to Article 52 of the *Law of the People's Republic of China on Animal Epidemic Prevention*, waterway carriers are not allowed to transport animals without quarantine certificates. When transporting live animals, carriers should comply with the provisions of Chapter 4 of the *Rules for the Carriage of Goods by Internal Waterway*, and accurately fill in the name and quantity of the goods on the "transportation document". According to Article 8, item 3 of the *Provisions of Hainan Province on the Administration of Ferry Transportation in Qiongzhou Strait* (revised in 2017), in accordance with the requirements of the *Notice on the Management of Designated Channels for Animals Entering Hainan* (Q.F. [2022] No. 45) issued by the Hainan Provincial People's Government, animals entering Hainan without using the designated channel or without an animal quarantine certificate should be regarded as "prohibited items", and carriers are not allowed to transport them.

## **4. Cause Determination and Application of Law**

In accordance with the provisions of the *Law of the People's Republic of China on Animal Epidemic Prevention*, waterway carriers of animals entering Hainan Province may be subject to two types of legal violations: firstly, transporting animals without quarantine certificates, and secondly, transporting animals through channels not designated for animal entry into the province.

### **4.1 In the event that animals are transported without quarantine certificates**

The inspection station within the port area is authorized to seize such animals in accordance with the provisions of Article 51 of the *Law of the People's Republic of China on Animal Epidemic Prevention*. In cases where the carrier and consignor are unable to provide evidence of the animals' quarantine certificates, a violation of the law has occurred, satisfying the elements of administrative illegality. Pursuant to Article 100 of the *Law of the People's Republic of China on Animal Epidemic Prevention* and Article 41 of the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*, the animal health supervision department of Hainan Province may impose a fine on the carrier, excluding the shipper, of three to five times the transportation fee. In cases of severe violations, the fine may be increased to ten times the transportation fee.

### **4.2 Regarding the transportation of animals through channels not designated for animal entry into the province**

It should be noted that the Guangdong–Hainan Railway Nangang Inspection Station is currently the only designated channel for waterway transportation. Any entry into Hainan Province through other inspection stations would be considered a violation of Article 53 of the *Law of the People's Republic of China on Animal Epidemic Prevention*, Article 30 of the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*, and the *Notice of the Hainan Provincial People's Government on the Management of Designated Channels for Animal Entry into Hainan Province*. The facts and legal basis of the administrative violation are clear, and in accordance with Article 102 of the *Law of the People's Republic of China on Animal Epidemic Prevention* and

Article 43 of the *Hainan Provincial Regulation on Management of Specified Animal Disease Free Zones*, the animal health supervision department of Hainan Province may impose a fine of no less than 5,000 yuan and no more than 10,000 yuan on the transporter. In cases of severe violations, the fine may be increased to no less than 10,000 yuan and no more than 50,000 yuan.

Furthermore, it is imperative to note that if waterway carriers contravene animal epidemic prevention regulations and are suspected of committing the crime of obstructing animal and plant epidemic prevention and quarantine, in addition to administrative penalties, they should strengthen the connection between administrative and criminal law enforcement and transfer the case to judicial authorities. Pursuant to Article 337 of the *Criminal Law*, the carrier (entity) shall be fined, and the responsible managers and other directly responsible personnel shall be sentenced to imprisonment for no more than three years or detention, and may also be fined. In addition, according to Article 19, item 3 of the *Provisions of Hainan Province on the Administration of Ferry Transportation in Qiongzhou Strait* (revised in 2017), if the ship operator fails to perform its duties to inspect and prevent passengers and vehicles from carrying prohibited items or hiding passengers using vehicles, the Qiongzhou Strait Office of Hainan Province shall order them to rectify the situation, impose a fine of no less than 10,000 yuan and no more than 30,000 yuan, and may also require them to reschedule their operations.

## 5. Recommendations

In order to enhance animal epidemic prevention measures, it is imperative to establish a joint prevention and control mechanism at the border. On April 10, 2023, during his visit to Xuwen, Guangdong, General Secretary Xi Jinping emphasized that the Qiongzhou Strait is a strategic channel for China's development of the South China Sea, and that Xuwen Port should be developed into a modern land-sea transportation hub connecting the Guangdong-Hong Kong-Macao Greater Bay Area and the Hainan Free Trade Port<sup>[3]</sup>. In accordance with the important instructions of General Secretary Xi Jinping, Hainan Province must strengthen cooperation with Guangdong Province to jointly establish an animal epidemic prevention and control mechanism, and explore and coordinate consistent measures to prevent animals that have not undergone quarantine or have entered Hainan through non-designated channels from entering the island, thereby safeguarding public health. Furthermore, Hainan Province must leverage the animal epidemic prevention and control mechanism in the central-southern region (Fujian, Jiangxi, Hunan, Guangdong, Guangxi, and Hainan), establish a regular consultation system for the region, organize and analyze the animal epidemic prevention and control situation in the region, optimize the promotion and application of the "Muyuntong" system, establish and improve a cross-regional animal transportation information sharing mechanism, and enhance the level of digital management in animal epidemic prevention and control.

In accordance with the principles of lawful administration, it is imperative to strictly punish illegal and irregular behavior related to the transportation of animals into Hainan via waterways. Given that the regulation of animal transportation involves multiple departments, such as transportation, agriculture and rural areas, maritime affairs, and public security, each department must base its management on industry standards and regulations, and promptly dispose of illegal and irregular behavior in accordance with existing laws and regulations, in order to prevent the recurrence of catastrophic animal epidemics, such as African swine fever, spreading across regions. In particular, in recent years, the animal health supervision and law enforcement departments in Hainan Province have discovered that illegal individuals often transport live animals in box trucks, which are difficult to detect through conventional inspection methods. Therefore, it is necessary to hold port operators accountable and, during the public safety video image inspection process, promptly identify and prevent transport vehicles from boarding, and promptly notify relevant functional departments for disposal.

Based on the principles of border closure operations, it is imperative to continuously improve the animal prevention and control management mechanism for animals entering Hainan. The Hainan Free Trade Port will launch a full island border closure operation by the end of 2025<sup>[4]</sup>. Against this backdrop, it is urgent to focus on agricultural biosecurity prevention and control. Hainan Province must address shortcomings and loopholes in animal biosecurity prevention and control, and plan a series of system construction projects to prevent foreign animal epidemics in port planning and construction special projects. Departments such as agriculture and rural areas, natural resources and planning, ecological environment, and customs must plan projects such as animal disease prevention and control command centers, animal isolation facilities, and inter-provincial animal health supervision and inspection stations, in order to improve the ability to quarantine and detect animal diseases in animals entering Hainan via waterways, establish a closed-loop management mechanism, enhance the level of biosecurity risk prevention and control in the Hainan Free Trade Port, and avoid the “barrel effect”. In addition, it is necessary to strengthen domestic and international cooperation in animal epidemic prevention and control, draw on the advanced experiences of member countries of the World Organization for Animal Health (WOAH), and continuously enrich and improve the level of animal epidemic prevention and control and emergency response.

It is important to carry out public legal education and enhance awareness of animal public health and safety laws. Both waterway carriers and ordinary vehicle carriers are important carriers for transporting animals across provinces into Hainan. It is necessary to strengthen public legal education and supervision of animal transportation enterprises, establish strict animal transportation access systems, clarify the qualification requirements for animal transportation enterprises, vehicle disinfection, personnel training, and other standards, to ensure the safe and orderly transportation of animals.

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