

AN ACT

relating to agriculture and the powers and duties of the Department of Agriculture.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 12.034, Agriculture Code, is amended to read as follows:

Sec. 12.034. REFUND OR WAIVER OF FEES. The department by rule may provide for:

(1) the full or partial refund of a fee collected by the department;

(2) the waiver of a licensing, registration, or certification fee collected by the department, including any related late fee; and

(3) the waiver of an inspection fee.

SECTION 2. Section 14.041, Agriculture Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (c) and (d), an applicant for a license must file or have on file with the department a certificate of insurance evidencing that:

(1) the applicant has an effective policy of insurance issued by an insurance company authorized to do business in this state or, with the approval of the department, by an eligible surplus lines insurer that meets the requirements of Article

1 1.14-2, Insurance Code, and rules adopted by the commissioner under
2 that article; and

3 (2) the policy insures, in the name of the applicant,
4 all depositor grain that is or may be in the public grain warehouse
5 for its full market value against loss by or due to water or other
6 fluid resulting from an insured peril, excluding flood and other
7 rising waters resulting from natural causes, malicious mischief,
8 vandalism, [~~theft, intentional waste or destruction,~~] smoke, fire,
9 internal explosion, lightning, hail, windstorm, hurricane, or
10 tornado.

11 (b) If water or other fluid resulting from an insured peril,
12 excluding flood and other rising waters resulting from natural
13 causes, malicious mischief, vandalism, [~~theft, intentional waste~~
14 ~~or destruction,~~] smoke, fire, internal explosion, lightning, hail,
15 windstorm, hurricane, or tornado destroys or damages grain in a
16 public grain warehouse, the warehouse operator shall, on demand by
17 the depositor and presentation of a receipt or other evidence of
18 ownership, make settlement with the depositor of the grain. The
19 amount of the settlement shall be the average price paid for grain
20 of the same grade and quality on the date of the loss at the location
21 of the warehouse, minus the warehouse operator's charges and
22 advances. If a settlement is not made before the 31st day following
23 the date of demand, the depositor is entitled to seek recovery from
24 the insurance company.

25 (d) An applicant for a license shall insure depositor grain
26 for its full market value against loss by or due to fire or
27 windstorm if the grain is in temporary or emergency storage. The

1 certificate required under Subsection (a) must evidence that the
2 applicant has an effective policy of insurance under this
3 subsection before the applicant may store depositor grain in
4 temporary or emergency storage.

5 SECTION 3. Section 18.071, Agriculture Code, is amended to
6 read as follows:

7 Sec. 18.071. AGRICULTURAL CERTIFICATION. The department
8 may establish [~~voluntary~~] certification programs under this
9 subchapter relating to the protection, sale, advertising,
10 marketing, or related production processes in this state.

11 SECTION 4. Sections 71.051(a) and (c), Agriculture Code,
12 are amended to read as follows:

13 (a) Except as otherwise provided by department rule, a [A]
14 person may not ship a nursery product or florist item into this
15 state without first obtaining [~~filing with the department~~] a
16 certificate of inspection issued by the proper authority of the
17 state from which the shipment originates.

18 (c) Except as otherwise provided by department rule, each
19 [~~Each~~] car, box, bale, or package of a nursery product or florist
20 item shipped into this state shall bear a tag printed with a copy of
21 the certificate of inspection from the originating state.

22 SECTION 5. Section 103.005(a), Agriculture Code, is amended
23 to read as follows:

24 (a) A person who deals with a license holder under Chapter
25 101 in the purchasing, handling, selling, and accounting for sales
26 of perishable commodities [~~vegetables or citrus fruit~~] and who is
27 aggrieved by an action of the license holder as a result of a

1 violation of terms or conditions of a contract made by the license
2 holder for the sale of Texas-grown produce may initiate a claim
3 against the fund by filing with the department:

4 (1) a sworn complaint against the license holder; and

5 (2) a filing fee, as provided by department rule.

6 SECTION 6. Section 71.051, Agriculture Code, as amended by
7 this Act, applies only to an item shipped into this state that
8 enters the state on or after September 1, 2003.

9 SECTION 7. This Act takes effect September 1, 2003.

Rand Swihart

President of the Senate

Jim Cappelletti

Speaker of the House

I certify that H.B. No. 2133 was passed by the House on April 25, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2133 on May 19, 2003, by a non-record vote.

Robert Hanes

Chief Clerk of the House

I certify that H.B. No. 2133 was passed by the Senate, with amendments, on May 8, 2003, by the following vote: Yeas 31, Nays 0.

Patsy Gaud

Secretary of the Senate

APPROVED:

2 JUNE 03

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:35pm O'CLOCK

Ann Shea
JUN 02 2003
Secretary of State