

CHAPTER 924

H.B. No. 1494

AN ACT

relating to certain regulatory programs administered by the Department of Agriculture; providing penalties; imposing fees.

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

ARTICLE 1. ADMINISTRATIVE PENALTIES

SECTION 1.01. Section 12.020, Agriculture Code, is amended by amending Subsections (g), (h), (i), (j), (k), and (o) and adding Subsection (j-1) to read as follows:

(g) Not later than the 20th day after the date on which notice is received, the person charged shall ~~may~~ accept the determination of the department made under Subsection (e) ~~[of this section]~~, including the recommended penalty, or make a written request for a hearing on the determination.

(h) If the person charged with the violation accepts the determination of the department or fails to timely respond to the notice, the commissioner shall issue an order approving the determination and ordering the payment of the recommended penalty.

(i) If the person charged requests a hearing ~~[or fails to timely respond to the notice]~~, the department shall set a hearing and give notice of the hearing. The hearing shall be conducted under Section 12.032. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for decision as to the occurrence of the violation, including a recommendation as to the amount of the

1 proposed penalty if a penalty is warranted. Based on the findings  
2 of fact, conclusions of law, and recommendations of the judge, the  
3 commissioner by order may find a violation has occurred and may  
4 assess a penalty or may find that no violation has occurred.

5 (j) The department shall give notice of the commissioner's  
6 order under Subsection (h) or (i) to the person charged. The notice  
7 shall include:

8 (1) the findings of fact and conclusions of law  
9 separately stated;

10 (2) the amount of the penalty ordered, if any;

11 (3) a statement of the right of the person charged to  
12 judicial review of the commissioner's order, if any; and

13 (4) other information required by law.

14 (j-1) Not later than the 30th day after the date notice is  
15 provided under Subsection (j), a person ordered to pay a penalty  
16 under Subsection (h) shall pay the penalty.

17 (k) Within the 30-day period immediately following the day  
18 on which the order under Subsection (i) becomes final under Section  
19 2001.144, Government Code, the person charged with the penalty  
20 shall:

21 (1) pay the penalty in full;

22 (2) pay the amount of the penalty and file a petition  
23 for judicial review contesting the occurrence of the violation, the  
24 amount of the penalty, or both the occurrence of the violation and  
25 the amount of the penalty; or

26 (3) without paying the amount of the penalty, file a  
27 petition for judicial review contesting the occurrence of the

1 violation, the amount of the penalty, or both the occurrence of the  
2 violation and the amount of the penalty.

3 (o) Judicial review of the order of the commissioner under  
4 Subsection (i):

5 (1) is instituted by filing a petition as provided by  
6 Subchapter G, Chapter 2001, Government Code; and

7 (2) is under the substantial evidence rule.

8 SECTION 1.02. The changes in law made by this article to  
9 Section 12.020, Agriculture Code, apply only to a violation  
10 committed on or after the effective date of this Act. A violation  
11 committed before the effective date of this Act is governed by the  
12 law in effect on the date the violation was committed, and the  
13 former law is continued in effect for that purpose. For purposes of  
14 this section, a violation was committed before the effective date  
15 of this Act if any element of the violation occurred before that  
16 date.

17 ARTICLE 2. NOTICE REGARDING RENEWAL OF LICENSE OR REGISTRATION

18 SECTION 2.01. Section 12.024(f), Agriculture Code, is  
19 amended to read as follows:

20 (f) At least 30 days before the expiration of a person's  
21 license or registration, the department shall attempt to send  
22 [~~written~~] notice of the impending license or registration  
23 expiration to the person at the license holder's or registrant's  
24 last known e-mail or physical address according to the records of  
25 the department.

26 ARTICLE 3. REGULATION OF WEIGHTS AND MEASURES

27 SECTION 3.01. Section 13.001(a), Agriculture Code, is

1 amended to read as follows:

2 (a) In this chapter:

3 (1) "Commercial weighing or measuring device" means a  
4 weighing or measuring device used in a commercial transaction  
5 ["Weight or measure of a commodity" means the weight or measure of a  
6 commodity as determined by a weighing or measuring device].

7 (2) "Operator" or "user" means a person in possession  
8 or control of a weighing or measuring device.

9 (3) "Sell" includes barter or exchange.

10 (4) [~~3~~] "Weighing or measuring device" means[~~+~~

11 [~~A~~] a scale[~~+~~] or

12 [~~B~~] a mechanical or electronic device used to  
13 dispense or deliver a commodity by weight, volume, flow rate, or  
14 other measure or to compute the charge for a service.

15 (5) "Weight or measure of a commodity" means the  
16 weight or measure of a commodity as determined by a weighing or  
17 measuring device.

18 SECTION 3.02. Section 13.007, Agriculture Code, is amended  
19 by amending Subsection (a) and adding Subsection (e) to read as  
20 follows:

21 (a) A person who violates Subchapter B or C [~~this chapter~~]  
22 or a rule adopted under Subchapter B or C [~~this chapter~~] is liable  
23 to the state for a civil penalty not to exceed \$500 for each  
24 violation. Each day a violation continues may be considered a  
25 separate violation for purposes of a civil penalty assessment.

26 (e) The department and the attorney general may each recover  
27 reasonable expenses incurred in obtaining injunctive relief and

1 civil penalties under this section, including investigative costs,  
2 court costs, reasonable attorney's fees, witness fees, and  
3 deposition expenses. The expenses recovered by the department may  
4 be appropriated only to the department for the administration and  
5 enforcement of this chapter. The expenses recovered by the  
6 attorney general may be appropriated only to the attorney general.

7 SECTION 3.03. Section 13.021(b), Agriculture Code, is  
8 amended to read as follows:

9 (b) The department may adopt rules for the purpose of  
10 administering this subchapter and bringing about uniformity  
11 between the standards established under this subchapter and the  
12 standards established by federal law. [~~A person who violates a rule~~  
13 ~~adopted under this subsection commits an offense.~~]

14 SECTION 3.04. Section 13.024, Agriculture Code, is amended  
15 by amending Subsection (b) and adding Subsection (d) to read as  
16 follows:

17 (b) [~~The barrel consists of 31-1/2 gallons. A hogshead~~  
18 ~~consists of two barrels.~~] Except as provided by Subsections  
19 [~~Subsection~~] (c) and (d), [~~of this section~~] all other measures of  
20 capacity for liquids are derived from the gallon by continual  
21 division by two, making half gallons, quarts, pints, half pints,  
22 and gills.

23 (d) For purposes of the retail sale of motor fuel only, the  
24 liquid gallon contains 231 cubic inches without adjustment based on  
25 the temperature of the liquid.

26 SECTION 3.05. Section 13.027(b), Agriculture Code, is  
27 amended to read as follows:

1 (b) A person violates this chapter [~~commits an offense~~] if  
2 the person fails or refuses to comply with the rules adopted under  
3 this section.

4 SECTION 3.06. Section 13.031(f), Agriculture Code, is  
5 amended to read as follows:

6 (f) A person violates this chapter [~~commits an offense~~] if,  
7 in violation of this section, the person sells a liquid commodity by  
8 other than liquid measure or a commodity that is not liquid by a  
9 measure other than length, weight, or numerical count.

10 SECTION 3.07. Section 13.033, Agriculture Code, is amended  
11 to read as follows:

12 Sec. 13.033. SALE OF MILK OR CREAM IN NONSTANDARD  
13 CONTAINER. A person violates this chapter [~~commits an offense~~] if  
14 the person sells or keeps, offers, or exposes for sale milk or cream  
15 in bottles or other containers of a capacity other than one of the  
16 standard liquid measures provided for by Section 13.024 [~~of this~~  
17 ~~code~~].

18 SECTION 3.08. Section 13.034(d), Agriculture Code, is  
19 amended to read as follows:

20 (d) A person violates this chapter [~~commits an offense~~] if,  
21 in violation of this section, the person sells or keeps, offers, or  
22 exposes for sale cheese, meat, or a meat food product by a measure  
23 other than standard net weight.

24 SECTION 3.09. Section 13.035(b), Agriculture Code, is  
25 amended to read as follows:

26 (b) A person violates this chapter [~~commits an offense~~] if  
27 the person:

1           (1) misrepresents the price of a commodity, item, or  
2 service sold or offered or exposed for sale; or

3           (2) represents the price or the quantity of a  
4 commodity, item, or service sold or offered or exposed for sale in a  
5 manner intended or tending to mislead or deceive an actual or  
6 prospective customer.

7           SECTION 3.10. Section 13.036, Agriculture Code, is amended  
8 to read as follows:

9           Sec. 13.036. FALSE REPRESENTATION OF COMMODITY QUANTITY. A  
10 person violates this chapter [~~commits an offense~~] if the person or  
11 the person's servant or agent:

12           (1) sells or offers or exposes for sale a quantity of a  
13 commodity or service that is less than the quantity the person  
14 represents; or

15           (2) as a buyer furnishing the weight or measure of a  
16 commodity or service by which the amount of the commodity or service  
17 is determined, takes or attempts to take more than the quantity the  
18 person represents.

19           SECTION 3.11. Section 13.037(a), Agriculture Code, is  
20 amended to read as follows:

21           (a) A person commits an offense if the person or the  
22 person's servant or agent knowingly uses an incorrect weighing or  
23 measuring device in:

24           (1) buying or selling a commodity;

25           (2) computing a charge for services rendered on the  
26 basis of weight or measure; or

27           (3) determining the weight or measure of a commodity,

1 if a charge is made for the determination.

2 SECTION 3.12. Section 13.038, Agriculture Code, is amended  
3 to read as follows:

4 Sec. 13.038. SALE OF COMMODITY IN VIOLATION OF SUBCHAPTER.  
5 A person violates this chapter [~~commits an offense~~] if the person or  
6 the person's servant or agent sells or keeps, offers, or exposes for  
7 sale a commodity in violation of this subchapter.

8 SECTION 3.13. Section 13.040, Agriculture Code, is amended  
9 to read as follows:

10 Sec. 13.040. STOP-SALE ORDER. (a) If the department has  
11 reason to believe that a commodity is being sold or kept, offered,  
12 or exposed for sale in violation of [~~Section 13.030, 13.031,~~  
13 ~~13.032, 13.033, 13.034, 13.035, 13.036, or 13.037 of~~] this chapter  
14 or that a commodity or service is being sold or offered for sale by  
15 or through the use of a weighing or measuring device that is in  
16 violation of this chapter [~~code~~], the department may issue and  
17 enforce a written or printed order to stop the sale of the commodity  
18 or service. The department shall present the order to the owner or  
19 custodian of the commodity or seller of the service. The person  
20 receiving the order may not sell the commodity or provide the  
21 service until discharged by a court under Subsection (b) [~~of this~~  
22 ~~section~~] or until the commissioner finds that the commodity or  
23 weighing or measuring device is in compliance with this chapter  
24 [~~the applicable section~~].

25 (b) The owner or custodian of a commodity or a person  
26 selling or offering for sale a service prohibited from sale by an  
27 order of the department is entitled to sue in a court of competent



1 jurisdiction where the commodity is found or the service is being  
2 sold or offered for sale for a judgment as to the justification of  
3 the order and for the discharge of the commodity or service in  
4 accordance with the findings of the court.

5 (c) This section does not limit the right of the department  
6 to proceed as authorized by other sections of this code  
7 [~~subchapter~~].

8 SECTION 3.14. Section 13.041, Agriculture Code, is amended  
9 to read as follows:

10 Sec. 13.041. PENALTIES; DEFENSE. (a) An offense under  
11 Section [~~13.021, 13.027, 13.029, or each of Sections~~] 13.030,  
12 13.032, 13.037, or [~~through~~] 13.039 [~~of this code~~] is a Class C  
13 misdemeanor.

14 (b) It is a defense to prosecution or to the imposition of a  
15 civil or administrative penalty for a violation of [~~under~~] Sections  
16 13.030-13.038 [~~of this code~~] that a discrepancy between the actual  
17 weight or volume at the time of sale to a consumer and the weight  
18 marked on the container or a discrepancy between the fill of a  
19 container and the capacity of the container is due to unavoidable  
20 leakage, shrinkage, evaporation, waste, or causes beyond the  
21 control of the seller acting in good faith.

22 SECTION 3.15. Subchapter C, Chapter 13, Agriculture Code,  
23 is amended by adding Section 13.1001 to read as follows:

24 Sec. 13.1001. AUTHORITY TO INSPECT. (a) If the department  
25 has reason to believe that a weighing or measuring device is being  
26 used for a commercial transaction and the device is not registered  
27 with the department, the department may inspect the device and the

1 records of the owner, operator, or user of the device that relate to  
2 use of the device to determine whether the device is in compliance  
3 with this chapter.

4 (b) The department has reason to believe a weighing or  
5 measuring device is being used for a commercial transaction if:

6 (1) the weighing or measuring device is found in close  
7 proximity to commodities being sold or offered for sale by weight or  
8 measure and the device appears to be under the control or in the  
9 possession of the person selling the commodities or offering the  
10 commodities for sale; or

11 (2) other available evidence is sufficient for a  
12 prudent person to believe that the weighing or measuring device is  
13 being used for a commercial transaction.

14 SECTION 3.16. Section 13.101, Agriculture Code, is amended  
15 to read as follows:

16 Sec. 13.101. [~~REQUIRED~~] INSPECTION OF DEVICES. (a) Unless  
17 a commercial weighing or measuring device is exempt from the  
18 application of this section by department rule, a commercial  
19 weighing or measuring device shall be inspected and tested for  
20 correctness by the department at [At] least once every four years,  
21 or more often as required by the department, [~~a weighing or~~  
22 ~~measuring device shall be inspected and tested for correctness by~~  
23 ~~the department~~] if it:

24 (1) is kept for sale, sold, or used by a proprietor,  
25 agent, lessee, or employee in proving the weight or measure,  
26 including the size, quantity, extent, or area, of any item; or

27 (2) is purchased, offered, or submitted by a

1 proprietor, agent, lessee, or employee for sale, hire, or award.

2 (b) The department may [~~shall~~], to the extent necessary to  
3 ensure compliance with the official standards, implement  
4 risk-based inspections, respond to complaints, and, as a term of  
5 probation, require or perform additional inspection and testing of  
6 commercial weighing or measuring devices.

7 (c) A person who uses or keeps for use, or has or offers for  
8 sale, a commercial weighing or measuring device is responsible for  
9 having the device inspected and tested as required by this section,  
10 department rule, or department order imposing a term of probation.

11 (d) [~~Unless the department requires an additional~~  
12 ~~inspection, a weighing or measuring device that is inspected and~~  
13 ~~found correct by the department may be kept for use, used, kept or~~  
14 ~~offered for sale, or sold without further testing.~~

15 [(e)] The department may inspect and test a commercial  
16 weighing or measuring device less frequently than required by  
17 Subsection (a):

18 (1) to accommodate complaint-based and risk-based  
19 inspection schedules; or

20 (2) in response to an emergency or a limitation in  
21 department funding.

22 SECTION 3.17. Section 13.1011, Agriculture Code, is amended  
23 to read as follows:

24 Sec. 13.1011. REQUIRED REGISTRATION. (a) Unless a  
25 commercial weighing or measuring device is exempt from the  
26 application of this section by department rule, a [A] person who  
27 owns or operates a commercial weighing or measuring device [~~for a~~

1 ~~commercial transaction]~~ shall register the device [~~annually~~] with  
2 the department before using the device for a commercial  
3 transaction.

4 (b) An application for a device registration must:

5 (1) be submitted to the department on a form  
6 prescribed by the department;

7 (2) be accompanied by any other document or form  
8 required by the department; and

9 (3) include the registration fee required under  
10 Section 13.1151. [The department shall establish a system of  
11 annual registration and may provide for staggered year-round  
12 registration.]

13 (c) A registration under this section is valid for one year  
14 unless a different period is established by department rule. The  
15 registration must be renewed at or before the end of each  
16 registration period and the application for renewal must include  
17 the renewal fee required by department rule.

18 (d) If a person fails to register or renew a registration as  
19 required by this section and pay the fee required under Section  
20 13.1151, the department may assess a late fee against the person,  
21 prohibit the operation of the weighing or measuring device, or both  
22 assess the fee and prohibit the operation of the device.

23 [~~(d) The department shall adopt rules for the~~  
24 ~~administration of this section and Section 13.1151 of this code.]~~

25 SECTION 3.18. Section 13.111, Agriculture Code, is amended  
26 to read as follows:

27 Sec. 13.111. REPAIR OR DESTRUCTION OF INCORRECT COMMERCIAL

1 WEIGHING OR MEASURING DEVICES. (a) If, in the judgment of the  
2 department, a commercial weighing or measuring device found to be  
3 incorrect is not capable of being repaired, the department may  
4 condemn, seize, and destroy the device.

5 (b) If, in the judgment of the department, an incorrect  
6 commercial weighing or measuring device is capable of being  
7 repaired, the department shall place on the device a tag or other  
8 mark with the words "Out of Order." The owner or user of the  
9 commercial weighing or measuring device may [~~have it repaired~~  
10 ~~within 30 days, but may~~] not use [~~or dispose of~~] it until it is  
11 reinspected and released for use by the department or inspected and  
12 released for use in any other manner authorized by department rule.

13 (c) The owner, operator, or user of a commercial weighing or  
14 measuring device may not destroy, replace, or otherwise dispose of  
15 a device declared to be incorrect or condemned under this section  
16 except as provided by department rule.

17 SECTION 3.19. Section 13.113, Agriculture Code, is amended  
18 by amending Subsections (a), (d), and (e) and adding Subsections  
19 (f), (g), and (h) to read as follows:

20 (a) The standards of weights and measures maintained by the  
21 department [~~received from the United States~~] and certified by the  
22 National Institute of Standards and Technology or a metrology  
23 laboratory certified by the National Institute of Standards and  
24 Technology are the state's standards by which all state and local  
25 standards of weights and measures are tried, authenticated, proved,  
26 and certified.

27 (d) At the request of a city, the department shall furnish

1 the city with copies of the state's standards or test and approve  
2 other standards acquired by the city. The city shall reimburse the  
3 state for the actual cost of the standards furnished, plus the costs  
4 of freight and certification. All standards furnished to or tested  
5 for a city shall be true and correct and~~[,]~~ certified by the  
6 department~~[, and stamped with the letter "C"]~~. The copies used by a  
7 city may be of any suitable material or construction that the city  
8 requests, subject to approval by the department.

9 (e) The department, or a metrology laboratory certified by  
10 the National Institute of Standards and Technology and approved by  
11 the department, shall inspect and correct the standards used by a  
12 department inspector, other department employee, or individual or  
13 business licensed by the department to perform device maintenance  
14 activities under Subchapter I [~~private maintenance, repairs, or~~  
15 ~~calibration of weighing or measuring devices at least once every~~  
16 ~~year~~].

17 (f) The department may adopt rules to regulate the frequency  
18 and place of inspection and correction of the standards used by an  
19 individual or business licensed by the department to perform device  
20 maintenance activities under Subchapter I.

21 (g) The department may inspect any standard used by an  
22 individual or business licensed by the department to perform device  
23 maintenance activities described by Subchapter I if the department  
24 has reason to believe a standard is no longer in compliance with  
25 this chapter.

26 (h) The department shall keep a record of the inspection and  
27 character of standards [~~weights and measures~~] inspected under this

1 section [~~subsection~~].

2 SECTION 3.20. Section 13.114, Agriculture Code, is amended  
3 to read as follows:

4 Sec. 13.114. TOLERANCES. [~~(a)~~] The department shall  
5 establish specifications and tolerances [~~and specifications~~] for  
6 commercial weighing or measuring devices used in this state. The  
7 specifications and tolerances [~~and specifications~~] shall be  
8 similar to those recommended by the National Institute of Standards  
9 and Technology.

10 [~~(b) A person commits an offense if the person fails or~~  
11 ~~refuses to comply with the tolerances and specifications~~  
12 ~~established under this section.~~]

13 SECTION 3.21. Section 13.115(a), Agriculture Code, is  
14 amended to read as follows:

15 (a) The department may [~~shall~~] collect a fee [~~in accordance~~  
16 ~~with this section~~] for each test of a weighing or measuring device  
17 required by this subchapter or performed on request of the owner.

18 SECTION 3.22. Section 13.117, Agriculture Code, is amended  
19 to read as follows:

20 Sec. 13.117. REFUSING TO ALLOW TEST OF WEIGHING OR  
21 MEASURING DEVICE. A person commits an offense if the person  
22 [~~neglects or~~] refuses to allow a weighing or measuring device under  
23 the person's control or in the person's possession to be inspected,  
24 tested, or examined by the department, and the inspection, test, or  
25 examination is required or authorized by this chapter.

26 SECTION 3.23. Section 13.119, Agriculture Code, is amended  
27 to read as follows:





1           (2) "Service company" means a person who holds a  
2 service company license issued by the department under this  
3 subchapter.

4           (3) "Service technician" means an individual who holds  
5 a service technician license issued by the department under this  
6 subchapter.

7           Sec. 13.452. DEVICE MAINTENANCE ACTIVITIES. A person  
8 performs device maintenance activities if the person or the  
9 person's employee:

10           (1) places a commercial weighing or measuring device  
11 in service;

12           (2) installs, calibrates, or repairs a commercial  
13 weighing or measuring device; or

14           (3) removes an out-of-order tag, stop-sale order,  
15 security seal, lock, condemnation notice, or other form of use  
16 prohibition placed on a weighing or measuring device by the  
17 department.

18           Sec. 13.453. POWERS AND DUTIES OF DEPARTMENT. (a) To  
19 verify compliance with licensing requirements, trade practices,  
20 department rules, and this chapter, the department may periodically  
21 or in response to a complaint or previous violation inspect an  
22 applicant's or license holder's:

23           (1) facilities;

24           (2) inspecting and testing equipment and procedures;

25           (3) repair and calibration equipment, standards, and  
26 procedures;

27           (4) transportation equipment; and

1           (5) invoices, work orders, and other records related  
2 to device maintenance activities.

3           (b) The department may periodically or in response to a  
4 complaint or previous violation monitor and inspect or test  
5 weighing or measuring devices that have been inspected and tested  
6 by a license holder and any standards used by the license holder  
7 during an inspection or test.

8           (c) The department by rule may adopt additional  
9 requirements for the issuance of a license and for the denial of an  
10 application for a license or renewal of a license. Rules adopted by  
11 the department under this subsection must be designed to protect  
12 the public health, safety, and welfare and the proper inspection,  
13 testing, and operation of commercial weighing or measuring devices.

14           (d) The department may adopt other rules necessary for the  
15 regulation of device maintenance activities, for the proper  
16 operation of commercial weighing or measuring devices, and to  
17 protect the health, safety, and welfare of the public and license  
18 holders.

19           (e) The department may specify the date, time, and place for  
20 any inspection authorized by this section.

21           Sec. 13.454. EXEMPTIONS FROM LICENSE REQUIREMENTS. (a) A  
22 person is not required to hold a license issued under this  
23 subchapter if the person:

24           (1) is a department employee who is performing device  
25 maintenance activities in the scope of the person's duties for the  
26 department;

27           (2) is the owner or operator of a commercial weighing

1 or measuring device or an employee of the owner or operator of a  
2 commercial weighing or measuring device and the person:

3 (A) completely removes the commercial weighing  
4 or measuring device from the location at which the device was  
5 installed, including a device subject to an out-of-order tag,  
6 stop-sale order, security seal, lock, condemnation notice, or other  
7 item placed on the device by the department to prohibit use of the  
8 device; and

9 (B) notifies the department of the device's  
10 removal not later than the 10th day after the date the device was  
11 removed in the manner provided by department rule; or

12 (3) performs device maintenance activities only on a  
13 device that is:

14 (A) exempt from the registration requirements of  
15 Section 13.1011 under department rules;

16 (B) exempt from the inspection requirements of  
17 Section 13.101 under department rules; and

18 (C) not required to be inspected by other  
19 department rules.

20 (b) The department is not required to hold a license issued  
21 under this subchapter.

22 Sec. 13.455. SERVICE TECHNICIAN LICENSE REQUIRED. Unless  
23 the individual is exempt from the licensing requirement, an  
24 individual may not perform or offer to perform device maintenance  
25 activities unless the individual holds a service technician license  
26 issued by the department under this subchapter.

27 Sec. 13.456. SERVICE COMPANY LICENSE REQUIRED. (a) Unless

1 the person is exempt from the license requirement, a person may not  
2 employ an individual who performs or offers to perform device  
3 maintenance activities unless the person holds a service company  
4 license issued by the department under this subchapter.

5 (b) Unless the individual is exempt from the licensing  
6 requirement, an individual may not perform or offer to perform  
7 device maintenance activities as a sole proprietor unless the  
8 individual holds a service technician license and a service company  
9 license issued by the department under this subchapter.

10 Sec. 13.457. APPLICATION FOR LICENSE. An applicant for a  
11 license under this subchapter must submit to the department:

- 12 (1) an application form prescribed by the department;  
13 (2) any other documents required by the department;  
14 and  
15 (3) a fee in an amount set by the department.

16 Sec. 13.458. SERVICE TECHNICIAN LICENSE REQUIREMENTS. (a)  
17 The department shall issue a license to each qualified applicant  
18 who applies for a service technician license.

19 (b) The department by rule may require an applicant for the  
20 issuance or renewal of a service technician license to meet one or  
21 more of the following requirements:

- 22 (1) provide to the department proof that the applicant  
23 has completed an academic, trade, or professional course of  
24 instruction approved by the department;  
25 (2) pass a written test; or  
26 (3) pass a practical skills test.

27 Sec. 13.459. SERVICE COMPANY LICENSE REQUIREMENTS. (a) The

1 department shall issue a license to each qualified applicant who  
2 applies for a service company license.

3 (b) An applicant for the issuance or renewal of a license  
4 under this section must:

5 (1) submit to the department a certificate of  
6 insurance evidencing that the applicant has an insurance policy  
7 that meets the requirements of Section 13.460 effective for the  
8 period for which the license is to be issued or renewed; and

9 (2) meet any other requirements provided by department  
10 rule.

11 Sec. 13.460. INSURANCE POLICY REQUIRED FOR SERVICE COMPANY.  
12 A service company shall maintain at all times while the service  
13 company performs device maintenance activities a current effective  
14 operations liability insurance policy issued by an insurance  
15 company authorized to do business in this state or by a surplus  
16 lines insurer that meets the requirements of Chapter 981, Insurance  
17 Code, and rules adopted by the commissioner of insurance in an  
18 amount set by the department and based on the type of licensed  
19 activities to be performed.

20 Sec. 13.461. TERM OF LICENSE. A license issued under this  
21 subchapter is valid for one year unless a different term is  
22 established by department rule.

23 Sec. 13.462. LICENSE RENEWAL. A person licensed under this  
24 subchapter must periodically renew the person's license. The  
25 license expires unless the license holder submits an application  
26 for renewal accompanied by the renewal fee set by the department or  
27 by the late fee set by the department and meets the requirements for

1 renewal.

2 Sec. 13.463. PRACTICE BY LICENSE HOLDER. (a) A license  
3 holder shall perform device maintenance activities in compliance  
4 with department rules.

5 (b) A license holder may use only equipment approved by the  
6 department, as provided by department rules, when performing device  
7 maintenance activities.

8 Sec. 13.464. CRIMINAL PENALTY. (a) A person commits an  
9 offense if the person violates Section 13.455 or 13.456 or causes  
10 another person to violate Section 13.455 or 13.456.

11 (b) An offense under Subsection (a) is a Class B  
12 misdemeanor, unless the person has been previously convicted of an  
13 offense under this section, in which case the offense is a Class A  
14 misdemeanor.

15 SECTION 3.27. The following provisions of the Agriculture  
16 Code are repealed:

- 17 (1) Section 13.1012; and  
18 (2) Section 13.115(g).

19 SECTION 3.28. (a) The following provisions of the  
20 Agriculture Code are repealed:

- 21 (1) Subchapter F, Chapter 13;  
22 (2) Subchapter G, Chapter 13; and  
23 (3) Subchapter H, Chapter 13.

24 (b) This section takes effect March 1, 2014.

25 SECTION 3.29. The changes in law made by this article to  
26 Sections 13.007, 13.021, 13.027, 13.031, 13.033, 13.034, 13.035,  
27 13.036, 13.037, 13.038, 13.041, 13.114, 13.117, 13.119, 13.120,

1 13.122, 13.308, 13.358, and 13.407, Agriculture Code, apply only to  
2 an offense or violation committed on or after the effective date of  
3 the relevant change in law. An offense or violation committed  
4 before the effective date of the change in law is governed by the  
5 law in effect on the date the offense or violation was committed,  
6 and the former law is continued in effect for that purpose. For  
7 purposes of this section, an offense or violation was committed  
8 before the effective date of the change in law if any element of the  
9 offense or violation occurred before that date.

10 SECTION 3.30. Not later than December 1, 2013, the  
11 Department of Agriculture shall adopt rules necessary to implement  
12 Subchapter I, Chapter 13, Agriculture Code, as added by this  
13 article.

14 SECTION 3.31. Not later than January 1, 2014, the  
15 Department of Agriculture shall begin accepting applications for  
16 and issuing service technician licenses and service company  
17 licenses under Sections 13.458 and 13.459, Agriculture Code, as  
18 added by this article.

19 SECTION 3.32. Sections 13.455, 13.456, and 13.464,  
20 Agriculture Code, as added by this article, take effect March 1,  
21 2014.

22 ARTICLE 4. NOTICE OF COMMODITY PRODUCERS BOARD ELECTIONS

23 SECTION 4.01. Section 41.023(b), Agriculture Code, is  
24 amended to read as follows:

25 (b) The commissioner by rule shall prescribe the manner for  
26 providing public notice under Subsection (a) [~~of this section shall~~  
27 ~~be published in one or more newspapers published and distributed~~

1 ~~within the boundaries described in the petition. The notice shall~~  
2 ~~be published for not less than once a week for three consecutive~~  
3 ~~weeks, beginning at least 60 days before the date of the election.~~  
4 ~~In addition, at least 60 days before the date of the election the~~  
5 ~~certified organization shall give direct written notice to each~~  
6 ~~county agent in any county within the boundaries described in the~~  
7 ~~petition].~~

8 SECTION 4.02. The change in law made by this article to  
9 Section 41.023(b), Agriculture Code, applies only to an election  
10 ordered on or after the effective date of this Act. An election  
11 ordered before the effective date of this Act is governed by the law  
12 in effect when the election was ordered, and the former law is  
13 continued in effect for that purpose.

14 ARTICLE 5. REGULATION OF CITRUS PEST AND DISEASE MANAGEMENT

15 SECTION 5.01. Section 80.003(6), Agriculture Code, is  
16 amended to read as follows:

17 (6) "Citrus producer" means a person who grows citrus  
18 and receives or intends to receive income from the sale of citrus.  
19 The term includes an individual who as owner, landlord, tenant, or  
20 sharecropper is entitled to share in the citrus grown and available  
21 for marketing from a farm or to share in the proceeds from the sale  
22 of the citrus from the farm. The term includes a person who owns  
23 land that is primarily used to grow citrus and that is appraised  
24 based on agricultural use under Chapter 23, Tax Code, regardless of  
25 whether the person receives income from the sale of citrus, and  
26 there is an irrebuttable presumption that the person intends to  
27 receive income from the sale of citrus.



1 SECTION 5.02. Section 80.015(b), Agriculture Code, is  
2 amended to read as follows:

3 (b) The commissioner shall propose in a referendum the:

4 (1) maximum assessment to be paid by citrus producers  
5 [~~having production~~] in the pest management zone; and

6 (2) time for which the assessment will be made.

7 SECTION 5.03. Section 80.016(d), Agriculture Code, is  
8 amended to read as follows:

9 (d) A citrus producer [~~having citrus production~~] in a  
10 proposed or established pest management zone is entitled to:

11 (1) vote in a referendum concerning the pest  
12 management zone; and

13 (2) elect board members to represent the pest  
14 management zone.

15 SECTION 5.04. The changes in law made by this article to  
16 Sections 80.015(b) and 80.016(d), Agriculture Code, apply only to  
17 an election ordered on or after the effective date of this Act. An  
18 election ordered before the effective date of this Act is governed  
19 by the law in effect when the election was ordered, and the former  
20 law is continued in effect for that purpose.

21 ARTICLE 6. DISPOSITION OF LIVESTOCK EXPORT FACILITIES

22 SECTION 6.01. Section 2166.003, Government Code, is amended  
23 by adding Subsection (c) to read as follows:

24 (c) This chapter and Chapter 2175 do not apply to the  
25 disposition, sale, or transfer of a pen, shed, or ancillary  
26 building constructed by and for the Department of Agriculture for  
27 the processing of livestock before export.

1                                   ARTICLE 7. EFFECTIVE DATE

2                   SECTION 7.01. Except as otherwise provided by this Act,  
3 this Act takes effect September 1, 2013.

David Newburn  
President of the Senate

Joe Straus  
Speaker of the House

I certify that H.B. No. 1494 was passed by the House on April 26, 2013, by the following vote: Yeas 130, Nays 10, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1494 on May 21, 2013, by the following vote: Yeas 120, Nays 27, 2 present, not voting.

Robert Honey  
Chief Clerk of the House

I certify that H.B. No. 1494 was passed by the Senate, with amendments, on May 17, 2013, by the following vote: Yeas 28, Nays 1.

Patsy Spaw  
Secretary of the Senate

APPROVED: 14 JUNE '13

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10PM O'CLOCK

JUN 14 2013

[Signature]  
Secretary of State