

BILL ANALYSIS

C.S.H.B. 2012
By: Hardcastle
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Department of Agriculture's (TDA) Organic Certification Program began as a voluntary certification program in June 1988. The program allows Texas farmers to diversify their operations to capture a larger share of a growing premium market and helps to ensure the authenticity of organic food and fiber. Organic certification by the state provides credibility and impartiality in the organic certification process.

The U.S. Department of Agriculture's (USDA) National Organic Standards, effective April 21, 2001, establishes a uniform standard for organic agricultural products across the United States. These federal rules now preempt the Texas Organic Standards. The National Organic Standards allow for exemptions and exclusions from the certification requirement for certain businesses such as small farms and retailers. Businesses that are exempt or excluded from certification under the National Organic Standards can no longer be required to be certified under a state program.

TDA is now accredited as an organic certification agent under the new USDA National Organic Program, with the condition that the agency make additional modifications to our regulations to be in full compliance with the National Organic Standards. The Texas Organic Statute must be amended in order to allow TDA's Organic Program to adopt regulations that will be in compliance with the federal regulations.

RULEMAKING AUTHORITY

It is the Committee's opinion that rulemaking authority is expressly granted to the Department of Agriculture in the following SECTIONS:

SECTION 2 (Sec. 18.002) (Agriculture Code) authorizes TDA to adopt rules to create and administer an organic standards program and may adopt standards related to organic agriculture products.

SECTION 3 (Sec. 18.003) (Agriculture Code) authorizes TDA to adopt rules requiring certified organic entities to submit an annual report.

SECTION 5 (Sec. 18.004) (Agriculture Code) authorizes TDA to adopt rules establishing an organic registration program.

SECTION 6 (Sec. 18.006) (Agriculture Code) authorizes TDA to adopt rules requiring a fee for certifications and registrations.

SECTION 8 (Sec. 18.0075) (Agriculture Code) authorizes TDA to adopt rules for administrative procedures of penalties.

SECTION 11 (Sec 18.011) (Agriculture Code) authorizes TDA, by rule, to exempt certain information from disclosure as necessary to comply with the national organic production program.

ANALYSIS

C.S.H.B. 2012 authorizes the Texas Department of Agriculture (TDA) to adopt rules to create and administer an organic standards program and may adopt standards related to organic agriculture products. The bill provides that a program must be consistent with the National Organics Program and authorizes TDA, by agreement with USDA, to certify organic entities and enforce state and federal standards.

The bill authorizes TDA to certify organic producers, processors, distributors and handlers and that those entities may apply for certification by submitting an application, an organic plan, and a fee. The bill authorizes TDA to require an annual report and an annual fee.

SECTION 4 renames heading “REGISTRATION PROGRAM”.

The bill authorizes TDA to establish a registration program for organic producers, processors, distributors, handlers, and advertisers. The bill authorizes TDA to establish fees and late fees for organic certification and/or registration.

The bill authorizes TDA to adopt administrative procedures for the assessment of penalties for violations. It requires written notice of the department’s intent to assess a penalty and provides a timeline for violator response. In the absence of department administrative procedures, Chapter 2001, Government Code, applies to the assessment of penalties or sanctions. The bill changes civil penalty from a maximum of \$500 to a maximum \$10,000 to conform with the National Organic Program penalty. The bill authorizes the department to stop sale of a product in violation of department rules. The bill provides that information collected, assembled or maintained by TDA is public information, unless nondisclosure complies with the National Organic Program. The bill repeals outdated state organic program provisions.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2012 modifies the original by changing the title of Section 18.004, Agriculture Code, to “Registration Program” and retaining subsection (a) of the Section. The substitute adds a new Section authorizing TDA to establish a registration program for organic producers, processors, distributors, handlers, and advertisers. The substitute clarifies that TDA may establish differing fee amounts for each authorized fee. The substitute adds a subsection providing that in the absence of adopted administrative procedures for penalties, Chapter 12 and Chapter 2001, Government Code, apply to the assessment of administrative penalties or license sanctions.

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