

1-1 By: Campbell (Senate Sponsor - Estes) H.B. No. 2133
1-2 (In the Senate - Received from the House April 28, 2003;
1-3 May 1, 2003, read first time and referred to Committee on
1-4 Administration; May 6, 2003, reported favorably, as amended, by
1-5 the following vote: Yeas 7, Nays 0; May 6, 2003, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Hinojosa

1-7 Amend H.B. No. 2133, as engrossed from the House, by adding a new
1-8 SECTION 6 and renumbering subsequent SECTIONS accordingly:

1-9 SECTION 6. Subsection (a), Section 103.005, Agriculture
1-10 Code, is amended to read as follows:

1-11 (a) A person who deals with a license holder under
1-12 Chapter 101 in the purchasing, handling, selling, and accounting
1-13 for sales of perishable commodities [~~vegetables or citrus fruit~~]
1-14 and who is aggrieved by an action of the license holder as a result
1-15 of a violation of terms or conditions of a contract made by the
1-16 license holder for the sale of Texas-grown produce may initiate a
1-17 claim against the fund by filing with the department:

- 1-18 (1) a sworn complaint against the license holder; and
1-19 (2) a filing fee, as provided by department rule.

1-20 A BILL TO BE ENTITLED
1-21 AN ACT

1-22 relating to agriculture and the powers and duties of the Department
1-23 of Agriculture.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 12.034, Agriculture Code, is amended to
1-26 read as follows:

1-27 Sec. 12.034. REFUND OR WAIVER OF FEES. The department by
1-28 rule may provide for:

1-29 (1) the full or partial refund of a fee collected by
1-30 the department;

1-31 (2) the waiver of a licensing, registration, or
1-32 certification fee collected by the department, including any
1-33 related late fee; and

1-34 (3) the waiver of an inspection fee.

1-35 SECTION 2. Section 14.041, Agriculture Code, is amended by
1-36 amending Subsections (a) and (b) and adding Subsection (d) to read
1-37 as follows:

1-38 (a) Except as provided by Subsections [~~Subsection~~] (c) and
1-39 (d), an applicant for a license must file or have on file with the
1-40 department a certificate of insurance evidencing that:

1-41 (1) the applicant has an effective policy of insurance
1-42 issued by an insurance company authorized to do business in this
1-43 state or, with the approval of the department, by an eligible
1-44 surplus lines insurer that meets the requirements of Article
1-45 1.14-2, Insurance Code, and rules adopted by the commissioner under
1-46 that article; and

1-47 (2) the policy insures, in the name of the applicant,
1-48 all depositor grain that is or may be in the public grain warehouse
1-49 for its full market value against loss by or due to water or other
1-50 fluid resulting from an insured peril, excluding flood and other
1-51 rising waters resulting from natural causes, malicious mischief,
1-52 vandalism, [~~theft, intentional waste or destruction,~~] smoke, fire,
1-53 internal explosion, lightning, hail, windstorm, hurricane, or
1-54 tornado.

1-55 (b) If water or other fluid resulting from an insured peril,
1-56 excluding flood and other rising waters resulting from natural
1-57 causes, malicious mischief, vandalism, [~~theft, intentional waste~~
1-58 or ~~destruction,~~] smoke, fire, internal explosion, lightning, hail,
1-59 windstorm, hurricane, or tornado destroys or damages grain in a
1-60 public grain warehouse, the warehouse operator shall, on demand by
1-61 the depositor and presentation of a receipt or other evidence of
1-62 ownership, make settlement with the depositor of the grain. The

2-1 amount of the settlement shall be the average price paid for grain
2-2 of the same grade and quality on the date of the loss at the location
2-3 of the warehouse, minus the warehouse operator's charges and
2-4 advances. If a settlement is not made before the 31st day following
2-5 the date of demand, the depositor is entitled to seek recovery from
2-6 the insurance company.

2-7 (d) An applicant for a license shall insure depositor grain
2-8 for its full market value against loss by or due to fire or
2-9 windstorm if the grain is in temporary or emergency storage. The
2-10 certificate required under Subsection (a) must evidence that the
2-11 applicant has an effective policy of insurance under this
2-12 subsection before the applicant may store depositor grain in
2-13 temporary or emergency storage.

2-14 SECTION 3. Section 18.071, Agriculture Code, is amended to
2-15 read as follows:

2-16 Sec. 18.071. AGRICULTURAL CERTIFICATION. The department
2-17 may establish [~~voluntary~~] certification programs under this
2-18 subchapter relating to the protection, sale, advertising,
2-19 marketing, or related production processes in this state.

2-20 SECTION 4. Sections 71.051(a) and (c), Agriculture Code,
2-21 are amended to read as follows:

2-22 (a) Except as otherwise provided by department rule, a [A]
2-23 person may not ship a nursery product or florist item into this
2-24 state without first obtaining [~~filing with the department~~] a
2-25 certificate of inspection issued by the proper authority of the
2-26 state from which the shipment originates.

2-27 (c) Except as otherwise provided by department rule, each
2-28 [~~Each~~] car, box, bale, or package of a nursery product or florist
2-29 item shipped into this state shall bear a tag printed with a copy of
2-30 the certificate of inspection from the originating state.

2-31 SECTION 5. Section 71.051, Agriculture Code, as amended by
2-32 this Act, applies only to an item shipped into this state that
2-33 enters the state on or after September 1, 2003.

2-34 SECTION 6. This Act takes effect September 1, 2003.

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