

1-1 By: Estes S.B. No. 1141  
1-2 (In the Senate - Filed March 11, 2003; March 17, 2003, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 April 22, 2003, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 11, Nays 0; April 22, 2003,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1141 By: Estes

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to agriculture and the powers and duties of the Department  
1-11 of Agriculture.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 12.034, Agriculture Code, is amended to  
1-14 read as follows:

1-15 Sec. 12.034. REFUND OR WAIVER OF FEES. The department by  
1-16 rule may provide for:

1-17 (1) the full or partial refund of a fee collected by  
1-18 the department;

1-19 (2) the waiver of a licensing, registration, or  
1-20 certification fee collected by the department, including any  
1-21 related late fee; and

1-22 (3) the waiver of an inspection fee.

1-23 SECTION 2. Section 14.041, Agriculture Code, is amended by  
1-24 amending Subsections (a) and (b) and adding Subsection (d) to read  
1-25 as follows:

1-26 (a) Except as provided by Subsections [~~Subsection~~] (c) and  
1-27 (d), an applicant for a license must file or have on file with the  
1-28 department a certificate of insurance evidencing that:

1-29 (1) the applicant has an effective policy of insurance  
1-30 issued by an insurance company authorized to do business in this  
1-31 state or, with the approval of the department, by an eligible  
1-32 surplus lines insurer that meets the requirements of Article  
1-33 1.14-2, Insurance Code, and rules adopted by the commissioner under  
1-34 that article; and

1-35 (2) the policy insures, in the name of the applicant,  
1-36 all depositor grain that is or may be in the public grain warehouse  
1-37 for its full market value against loss by or due to water or other  
1-38 fluid resulting from an insured peril, excluding flood and other  
1-39 rising waters resulting from natural causes, malicious mischief,  
1-40 vandalism, [~~theft, intentional waste or destruction,~~] smoke, fire,  
1-41 internal explosion, lightning, hail, windstorm, hurricane, or  
1-42 tornado.

1-43 (b) If water or other fluid resulting from an insured peril,  
1-44 excluding flood and other rising waters resulting from natural  
1-45 causes, malicious mischief, vandalism, [~~theft, intentional waste~~  
1-46 ~~or destruction,~~] smoke, fire, internal explosion, lightning, hail,  
1-47 windstorm, hurricane, or tornado destroys or damages grain in a  
1-48 public grain warehouse, the warehouse operator shall, on demand by  
1-49 the depositor and presentation of a receipt or other evidence of  
1-50 ownership, make settlement with the depositor of the grain. The  
1-51 amount of the settlement shall be the average price paid for grain  
1-52 of the same grade and quality on the date of the loss at the location  
1-53 of the warehouse, minus the warehouse operator's charges and  
1-54 advances. If a settlement is not made before the 31st day following  
1-55 the date of demand, the depositor is entitled to seek recovery from  
1-56 the insurance company.

1-57 (d) An applicant for a license shall insure depositor grain  
1-58 for its full market value against loss by or due to fire or  
1-59 windstorm if the grain is in temporary or emergency storage. The  
1-60 certificate required under Subsection (a) must evidence that the  
1-61 applicant has an effective policy of insurance under this  
1-62 subsection before the applicant may store depositor grain in  
1-63 temporary or emergency storage.

2-1 SECTION 3. Section 18.071, Agriculture Code, is amended to  
2-2 read as follows:

2-3 Sec. 18.071. AGRICULTURAL CERTIFICATION. The department  
2-4 may establish [~~voluntary~~] certification programs under this  
2-5 subchapter relating to the protection, sale, advertising,  
2-6 marketing, or related production processes in this state.

2-7 SECTION 4. Subsections (a) and (c), Section 71.051,  
2-8 Agriculture Code, are amended to read as follows:

2-9 (a) Except as otherwise provided by department rule, a [A]  
2-10 person may not ship a nursery product or florist item into this  
2-11 state without first obtaining [~~filing with the department~~] a  
2-12 certificate of inspection issued by the proper authority of the  
2-13 state from which the shipment originates.

2-14 (c) Except as otherwise provided by department rule, each  
2-15 [~~Each~~] car, box, bale, or package of a nursery product or florist  
2-16 item shipped into this state shall bear a tag printed with a copy of  
2-17 the certificate of inspection from the originating state.

2-18 SECTION 5. Subsection (a), Section 103.005, Agriculture  
2-19 Code, is amended to read as follows:

2-20 (a) A person who deals with a license holder under Chapter  
2-21 101 in the purchasing, handling, selling, and accounting for sales  
2-22 of perishable commodities [~~vegetables or citrus fruit~~] and who is  
2-23 aggrieved by an action of the license holder as a result of a  
2-24 violation of terms or conditions of a contract made by the license  
2-25 holder for the sale of Texas-grown produce may initiate a claim  
2-26 against the fund by filing with the department:

- 2-27 (1) a sworn complaint against the license holder; and
- 2-28 (2) a filing fee, as provided by department rule.

2-29 SECTION 6. Section 71.051, Agriculture Code, as amended by  
2-30 this Act, applies only to an item shipped into this state that  
2-31 enters the state on or after September 1, 2003.

2-32 SECTION 7. This Act takes effect September 1, 2003.

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