

By: Kolkhorst

H.B. No. 2927

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to requiring the licensing of resellers of certified seed;  
3 imposing a criminal penalty.

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

5 SECTION 1. Section 62.001, Agriculture Code, is amended by  
6 adding Subdivision (4) to read as follows:

7 (4) "Reseller" means a person who purchases certified  
8 seed in bulk for the purpose of reselling fractional amounts of the  
9 seed in bulk.

10 SECTION 2. Chapter 62, Agriculture Code, is amended by  
11 adding Section 62.0051 to read as follows:

12 Sec. 62.0051. LICENSING OF RESELLERS OF CERTIFIED SEED. (a)  
13 A person who wants to resell certified seed in bulk must apply to  
14 the board for licensing as a reseller. To be licensed as a  
15 reseller, a person must satisfy the board that:

16 (1) the person is of good character and has a  
17 reputation for honesty; and

18 (2) the person's facilities meet board requirements  
19 for maintaining certified seed.

20 (b) To ensure the maintenance of genetic purity and identity  
21 in certified seed, the board may:

22 (1) adopt rules governing the handling of certified  
23 seed by resellers; and

24 (2) conduct inspections of reseller facilities.

1       (c) A license to resell certified seed is not transferable  
2 and expires each year on the anniversary of the date of issuance.

3       (d) A person licensed as a reseller is eligible to purchase  
4 certified seed in bulk for the purpose of reselling fractional  
5 amounts of the seed in bulk.

6       (e) An application for licensing as a reseller must be  
7 accompanied by a fee, as provided by department rule. Fees  
8 collected under this subsection must be used for the enforcement of  
9 this chapter.

10       SECTION 3. Section 62.010(a), Agriculture Code, is amended  
11 to read as follows:

12       (a) The department shall revoke, modify, or suspend the  
13 registration or license of a registered plant breeder or licensed  
14 producer of Foundation, Registered, or Certified seed or plants,  
15 place on probation a person whose registration or license has been  
16 suspended, or reprimand a registrant or licensee if the person  
17 makes exaggerated claims for products, fails to observe any rule  
18 governing the maintenance and production of a certified class of  
19 seed or plants that the person [~~he or she~~] is registered or licensed  
20 to produce or maintain, or violates another requirement of this  
21 chapter or a rule adopted by the board or the department under this  
22 chapter. The department shall revoke, modify, or suspend the  
23 license of a reseller, place on probation a person whose license to  
24 resell has been suspended, or reprimand a licensee if the person  
25 fails to observe any rule governing the handling or selling of  
26 certified seed or violates another requirement of this chapter or a  
27 rule adopted by the board or the department under this chapter.

1           SECTION 4. Section 62.011(a), Agriculture Code, is amended  
2 to read as follows:

3           (a) A person commits an offense if the person:

4                   (1) sells or offers for sale in this state seed or  
5 plants with labeling or packaging accompanying the seed or plants  
6 using the terms "from officially inspected fields," "state  
7 inspected," "approved seed," "approved plants," "approved sods,"  
8 "approved trees," "inspected fields," "foundation seed,"  
9 "certified plants," or terms having the same meaning, unless the  
10 seed or plants have been certified as Foundation, Registered, or  
11 Certified seed or plants;

12                   (2) acts as a reseller or [~~represents himself or~~  
13 ~~herself to be~~] a registered plant breeder or licensed producer of  
14 Foundation, Registered, or Certified seed or plants unless the  
15 person [~~he or she~~] has been registered or licensed under this  
16 chapter;

17                   (3) sells or offers for sale in this state Foundation,  
18 Registered, or Certified seed or plants that are not in compliance  
19 with this chapter or with the rules adopted under this chapter;

20                   (4) sells or offers for sale seed or plants  
21 represented to be certified in explicit oral or written statements  
22 or by misleading oral or written statements if the seed or plants  
23 have not been certified or have not been certified as being of the  
24 class of which they are represented;

25                   (5) violates Section 62.007(c) of this code; or

26                   (6) violates Section 62.009(c), (d), or (e) of this  
27 code.

1           SECTION 5. (a) Not later than October 1, 2005, the State  
2 Seed and Plant Board shall accept applications for a reseller  
3 license under Section 62.0051, Agriculture Code, as added by this  
4 Act.

5           (b) Section 62.011(a), Agriculture Code, as amended by this  
6 Act, applies only to an offense committed on or after January 1,  
7 2006. An offense committed before that date is governed by the law  
8 in effect when the offense was committed, and the former law is  
9 continued in effect for that purpose. For purposes of this  
10 subsection, an offense was committed before January 1, 2006, if any  
11 element of the offense was committed before that date.

12           SECTION 6. This Act takes effect September 1, 2005.