

Suspending limitations on conference committee
jurisdiction, S.B. No. 1154 (Carona/Phillips)

By: Phillips

H.R. No. 2679

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 80th Legislature, Regular Session, 2007, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill 1154 (registration and
6 regulation of metal recycling entities; providing penalties) to
7 consider and take action on the following matter:

8 House Rule 13, Sections 9(a)(3) and (4), are suspended to
9 permit the committee to change the text of SECTION 2 of the bill by
10 adding new Subdivision (3), Section 1956.002, Occupations Code, to
11 read as follows:

12 (3) the transport or hauling of recyclable materials
13 to or from the metal recycling entity.

14 Explanation: The addition of the subdivision is necessary
15 to provide that the chapter does not apply to the transport or
16 hauling of recyclable materials to or from the metal recycling
17 entity.

18 House Rule 13, Section 9(a)(4), is suspended to permit the
19 committee to change the text of SECTION 2 of the bill by adding new
20 Subsections (b-1), (c), (d), and (e), Section 1956.003, Occupations
21 Code, to read as follows:

22 (b-1) A municipality or political subdivision of this
23 state, other than a county, may not increase the local license or
24 permit fee imposed on a metal recycling facility to an amount that

1 exceeds 25 percent of the fee charged by the municipality or
2 political subdivision on January 1, 2007. This subsection expires
3 January 1, 2010.

4 (c) A county, municipality, or political subdivision of
5 this state that issues a license or permit to a business as
6 authorized under Subsection (b) shall submit to the department in
7 the manner required by the department information on each business
8 that is issued a license or permit.

9 (d) A municipality or political subdivision of this state,
10 other than a county, may not increase the local license or permit
11 fee imposed on a metal recycling facility unless the increase is
12 approved by the local governing body. A request for an increase in
13 the local license or permit fee must be based on the costs
14 associated with law enforcement and administration of the licensing
15 or permitting program. The municipality or political subdivision
16 must submit a report to the department on the law enforcement and
17 administrative costs associated with the fee increase.

18 (e) A county may increase the local license or permit fee
19 imposed on a metal recycling facility one additional time before
20 the second anniversary of the date of the initial fee increase. The
21 fee increase must be based on the average cost charged by
22 municipalities statewide.

23 Explanation: The addition of the provisions to the bill is
24 necessary to authorize and regulate local metal recycling entity
25 licenses and permits.

26 House Rule 13, Section 9(a)(4), is suspended to permit the
27 committee to change the text of SECTION 2 of the bill by adding new

1 Subchapters A-1 and A-2, Chapter 1956, Occupations Code, to read as
2 follows:

3 SUBCHAPTER A-1. POWERS AND DUTIES

4 Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department
5 shall administer this chapter.

6 Sec. 1956.012. DEPARTMENT STAFF. The department may employ
7 administrative and clerical staff as necessary to carry out this
8 chapter.

9 Sec. 1956.013. RULES. The commission may adopt rules to
10 administer this chapter, including rules:

11 (1) establishing minimum requirements for
12 registration under this chapter; and

13 (2) adopting forms required by this chapter.

14 Sec. 1956.014. FEES; REPORTS. (a) The commission by rule
15 shall prescribe fees in reasonable amounts sufficient to cover the
16 costs of administering this chapter, including fees for:

17 (1) an initial application for a certificate of
18 registration;

19 (2) issuance of a certificate of registration;

20 (3) issuance of a renewal certificate of registration;

21 and

22 (4) issuance of a duplicate certificate of
23 registration or duplicate renewal certificate of registration.

24 (b) The commission may not impose a fee for issuance of a
25 certificate of registration that exceeds \$250 annually. The
26 department shall report annually to the legislature, not later than
27 December 1, any costs associated with administering this chapter

1 that are not covered by the fees assessed under this chapter.

2 (c) The department annually shall submit to both houses of
3 the legislature a report on the number of metal recycling entities
4 who have complied with the registration requirements under this
5 chapter and the total number of metal recycling entities identified
6 statewide. The report must include the information on metal
7 recycling entities submitted to the department by municipalities,
8 counties, and other political subdivisions of this state.

9 (d) Not later than March 1, 2008, the department shall
10 submit to both houses of the legislature a report on the actual
11 costs incurred by the department in administering this chapter.
12 This subsection expires January 1, 2009.

13 Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM. (a)
14 The department shall establish a statewide electronic reporting
15 system to track the sales of regulated metal reported to the
16 department under Section 1956.036.

17 (b) The department shall post a summary of the reports
18 provided to the department under Section 1956.036 on the
19 department's Internet website. The summary must include by county
20 or region the frequency with which a person presents regulated
21 materials for sale to a metal recycling entity. The summary may not
22 identify any person to which the metal recycling entity sells the
23 regulated materials.

24 (c) Subsection (b) does not apply to regulated material sold
25 by a utility company, municipality, manufacturer, railroad,
26 cemetery, cable or satellite entity, or other business entity that
27 routinely has access to regulated metal.

1 (d) The department shall maintain the confidentiality of
2 information provided under this section that relates to the
3 financial condition or business affairs of a metal recycling entity
4 or that is otherwise commercially sensitive. The confidential
5 information is not subject to disclosure under Chapter 552,
6 Government Code.

7 [Sections 1956.016-1956.020 reserved for expansion]

8 SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

9 Sec. 1956.021. REGISTRATION REQUIRED. A person may not act
10 as a metal recycling entity or represent to the public that the
11 person is a metal recycling entity unless the person is registered
12 under this chapter.

13 Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

14 (a) The department shall issue a certificate of registration to an
15 applicant who:

16 (1) applies and pays a registration fee; and

17 (2) presents any relevant evidence relating to the
18 applicant's qualifications as required by commission rule.

19 (b) The commission by rule may establish qualifications for
20 the holder of a certificate of registration under this chapter,
21 which may include accepting copies of a license or permit issued by
22 a county or municipality authorizing a metal recycling entity to
23 conduct business in that county or municipality.

24 Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of
25 registration is valid for two years after the date of issuance.

26 (b) The department shall adopt a system under which
27 certificates of registration expire and are renewed on various

1 dates.

2 (c) Not later than the 45th day before the date a person's
3 certificate of registration is scheduled to expire, the department
4 shall send written notice of the impending expiration to the person
5 at the person's last known address according to the records of the
6 department.

7 (d) A person whose certificate of registration has expired
8 may not make a representation for which a certificate of
9 registration is required under Section 1956.021 or perform
10 collections services until the certificate has been renewed.

11 Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a
12 certificate of registration, a person must submit an application
13 for renewal in the manner prescribed by the department.

14 (b) A person who is otherwise eligible to renew a
15 certificate of registration may renew an unexpired certificate by
16 paying the required renewal fee to the department before the
17 expiration date of the certificate.

18 (c) A person whose certificate of registration has been
19 expired for 90 days or less may renew the certificate by paying to
20 the department a renewal fee that is equal to 1-1/2 times the
21 normally required renewal fee.

22 (d) A person whose certificate of registration has been
23 expired for more than 90 days but less than one year may renew the
24 certificate by paying to the department a renewal fee that is equal
25 to two times the normally required renewal fee.

26 (e) A person whose certificate of registration has been
27 expired for one year or more may not renew the certificate. The

1 person may obtain a new certificate of registration by complying
2 with the requirements and procedures, including the examination
3 requirements, for an original certificate.

4 Explanation: The addition of the subchapters is necessary
5 to authorize the Texas Department of Public Safety and Public
6 Safety Commission to administer the chapter, employ staff, adopt
7 rules, prescribe fees, issue reports, establish a statewide
8 electronic reporting system, and register metal recycling
9 entities.

10 House Rule 13, Section 9(a)(4), is suspended to permit the
11 committee to add the following:

12 SECTION 4. Chapter 1956, Occupations Code, is amended by
13 adding Subchapters D and E to read as follows:

14 SUBCHAPTER D. DISCIPLINARY PROCEDURES

15 Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

16 The department shall deny an application for a certificate of
17 registration, suspend or revoke a certificate of registration, or
18 reprimand a person who is registered under this chapter if the
19 person:

20 (1) obtains a certificate of registration by means of
21 fraud, misrepresentation, or concealment of a material fact;

22 (2) sells, barter, or offers to sell or barter a
23 certificate of registration;

24 (3) violates a rule adopted under this chapter; or

25 (4) violates Section 1956.021.

26 Sec. 1956.152. INVESTIGATION. Within the limits of
27 available resources, the department may investigate:

1 (1) a person who engages in a practice that violates
2 this chapter; and

3 (2) a complaint filed with the department against a
4 person registered under this chapter.

5 Sec. 1956.153. HEARING. (a) A person whose application for
6 a certificate of registration is denied, whose certificate of
7 registration is suspended or revoked, or who is reprimanded is
8 entitled to a hearing before the department if the person submits to
9 the department a written request for the hearing.

10 (b) A hearing is governed by department rules for a
11 contested hearing and by Chapter 2001, Government Code.

12 [Sections 1956.154-1956.200 reserved for expansion]

13 SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

14 Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a)
15 The department, the attorney general, or the district, county, or
16 city attorney for the county or municipality in which an alleged
17 violation of this chapter occurs may, on receipt of a verified
18 complaint, bring an appropriate administrative or judicial
19 proceeding to enforce this chapter or a rule adopted under this
20 chapter.

21 (b) The attorney general or an attorney representing the
22 state may initiate an action for an injunction to prohibit a person
23 from violating this chapter or a rule adopted under this chapter.

24 Sec. 1956.202. CIVIL PENALTY. (a) A person who violates
25 this chapter or a rule adopted under this chapter is liable to this
26 state for a civil penalty of not more than \$1,000 for each
27 violation.

1 (b) The amount of the penalty shall be based on:

2 (1) the seriousness of the violation;

3 (2) the history of previous violations;

4 (3) the amount necessary to deter a future violation;

5 and

6 (4) any other matter that justice may require.

7 (c) The attorney general may sue to collect a civil penalty
8 under this section. In the suit the attorney general may recover,
9 on behalf of the state, the reasonable expenses incurred in
10 obtaining the penalty, including investigation and court costs,
11 reasonable attorney's fees, witness fees, and other expenses.

12 Sec. 1956.203. CRIMINAL PENALTY FOR CERTAIN SOLICITATION.

13 (a) A person commits an offense if the person solicits the purchase
14 of regulated material at a location other than a business location
15 at which the material is produced as a by-product in the ordinary
16 course of that business.

17 (b) An offense under this section is a Class B misdemeanor.

18 Explanation: The addition of the subchapters is necessary
19 to authorize the Texas Department of Public Safety to take
20 disciplinary action and to conduct an investigation and to provide
21 for the imposition of penalties and enforcement provisions.

22 House Rule 13, Section 9(a)(4), is suspended to permit the
23 committee to add the following:

24 SECTION 5. Subdivision (1), Section 1956.101, Occupations
25 Code, is repealed.

26 Explanation: The repeal of a definition applicable to a
27 subchapter is necessary to conform to the addition of a definition

1 applicable to the entire subchapter.

2 House Rule 13, Section 9(a)(4), is suspended to permit the
3 committee to add the following:

4 SECTION 6. (a) Not later than January 1, 2008, the Public
5 Safety Commission shall adopt the rules necessary to implement the
6 changes in law made by this Act to Chapter 1956, Occupations Code.

7 (b) Not later than April 1, 2008, the Department of Public
8 Safety of the State of Texas shall establish the statewide
9 reporting system to track the sales of regulated metal as required
10 under Chapter 1956, Occupations Code, as amended by this Act.

11 Explanation: The addition of SECTION 6 is necessary to
12 reflect the addition of SECTION 5 to the conference committee
13 report.

14 House Rule 13, Section 9(a)(4), is suspended to permit the
15 committee to add the following:

16 SECTION 7. Notwithstanding Section 1956.021, Occupations
17 Code, as added by this Act, a person is not required to hold a
18 certificate of registration as a metal recycling entity under
19 Chapter 1956, Occupations Code, as amended by this Act, before
20 April 1, 2008.

21 Explanation: The addition is necessary to reflect the
22 addition of the registration provisions to the conference committee
23 report.