

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

By: Carona

S.R. No. 1174

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 80th Legislature, Regular Session, 2007, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on Senate Bill No. 1154 (registration and regulation of metal recycling entities; providing penalties) to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to change the text of SECTION 2 of the bill by adding new Subdivision (3), Section 1956.002, Occupations Code, to read as follows:

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

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

Senate Rule 12.03(4) is suspended to permit the committee

to change the text of SECTION 2 of the bill by adding new Subsections (b-1), (c), (d), and (e), Section 1956.003, Occupations Code, to read as follows:

(b-1) A municipality or political subdivision of this state, other than a county, may not increase the local license or permit fee imposed on a metal recycling facility to an amount that exceeds 25 percent of the fee charged by the municipality or political subdivision on January 1, 2007. This subsection expires January 1, 2010.

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

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

(e) A county may increase the local license or permit fee imposed on a metal recycling facility one additional time before the second anniversary of the date of the initial fee increase.

The fee increase must be based on the average cost charged by municipalities statewide.

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

Senate Rule 12.03(4) is suspended to permit the committee to change the text of SECTION 2 of the bill by adding new Subchapters A-1 and A-2, Chapter 1956, Occupations Code, to read as follows:

SUBCHAPTER A-1. POWERS AND DUTIES

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

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

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

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

(2) adopting forms required by this chapter.

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

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

(2) issuance of a certificate of registration;

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

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

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

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

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

Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM.

(a) The department shall establish a statewide electronic reporting system to track the sales of regulated metal reported to the department under Section 1956.036.

(b) The department shall post a summary of the reports

provided to the department under Section 1956.036 on the department's Internet website. The summary must include by county or region the frequency with which a person presents regulated materials for sale to a metal recycling entity. The summary may not identify any person to which the metal recycling entity sells the regulated materials.

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

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

[Sections 1956.016-1956.020 reserved for expansion]

SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

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

Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

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

- (1) applies and pays a registration fee; and
- (2) presents any relevant evidence relating to the

applicant's qualifications as required by commission rule.

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

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

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

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

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

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

(b) A person who is otherwise eligible to renew a certificate of registration may renew an unexpired certificate

by paying the required renewal fee to the department before the expiration date of the certificate.

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

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

(e) A person whose certificate of registration has been expired for one year or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for an original certificate.

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

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

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

SUBCHAPTER D. DISCIPLINARY PROCEDURES

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY

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

- (1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;
- (2) sells, barter, or offers to sell or barter a certificate of registration;
- (3) violates a rule adopted under this chapter; or
- (4) violates Section 1956.021.

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

- (1) a person who engages in a practice that violates this chapter; and
- (2) a complaint filed with the department against a person registered under this chapter.

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

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

[Sections 1956.154-1956.200 reserved for expansion]

SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a) The department, the attorney general, or the district, county, or



city attorney for the county or municipality in which an alleged violation of this chapter occurs may, on receipt of a verified complaint, bring an appropriate administrative or judicial proceeding to enforce this chapter or a rule adopted under this chapter.

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

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

(b) The amount of the penalty shall be based on:  
(1) the seriousness of the violation;  
(2) the history of previous violations;  
(3) the amount necessary to deter a future violation; and

(4) any other matter that justice may require.

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

Sec. 1956.203. CRIMINAL PENALTY FOR CERTAIN SOLICITATION. (a) A person commits an offense if the person

solicits the purchase of regulated material at a location other than a business location at which the material is produced as a by-product in the ordinary course of that business.

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

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

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

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

Explanation: The repeal of a definition applicable to a subchapter is necessary to conform to the addition of a definition applicable to the entire subchapter.

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

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

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

Act.

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

Senate Rule 12.03(4) is suspended to permit the committee to add the following:

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

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

---

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 26, 2007.

---

Secretary of the Senate