

By: Landtroop

H.B. No. 1361

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of public grain warehouse operators.

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

SECTION 1. Section 14.066(a), Agriculture Code, is amended to read as follows:

(a) A department action or order affecting a warehouse operator under this chapter [~~, other than by rulemaking, assessment of an administrative penalty, or imposition of a license sanction, including a suspension under Section 14.083(c),~~] is appealable in accordance with this section unless the action involves:

(1) rulemaking;

(2) the assessment of an administrative penalty;

(3) the imposition of a license sanction; or

(4) any other action for which a specific administrative or judicial remedy is available under:

(A) this chapter;

(B) Chapter 12; or

(C) Chapter 2001, Government Code.

SECTION 2. Section 14.082, Agriculture Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) If the department determines that a warehouse operator does not possess sufficient grain to cover outstanding receipts and outstanding scale weight tickets issued or assumed by the warehouse

1 operator, or if a warehouse operator refuses or is unable to submit
2 records or property for lawful inspection or the department is
3 unable to conduct an inspection of the warehouse due to the
4 condition of the warehouse or grain stored in the warehouse, the
5 department may seal the warehouse to prevent delivery or receipt of
6 grain except as authorized by the department, suspend the warehouse
7 operator's license, and give notice to the warehouse operator
8 requiring the warehouse operator to:

9 (1) submit records or property for inspection;

10 (2) correct any condition interfering with the
11 department's inspection of a warehouse or grain; or

12 (3) cover a shortage of a particular type of grain by:

13 (A) [~~(1)~~] storing to the credit of or delivering
14 to each depositor affected by the shortage grain of the same type
15 and quality that is stored at any of the warehouse operator's
16 licensed warehouses in this state and that has been designated as
17 company-owned grain by the warehouse operator;

18 (B) [~~(2)~~] purchasing and storing to the credit of
19 or delivering to each depositor affected by the shortage grain of
20 the same type and quality;

21 (C) [~~(3)~~] selling company-owned grain of a
22 different type and paying to each depositor affected by the
23 shortage, on a pro rata basis, the market value of the depositor's
24 grain as determined on the day the shortage was discovered by the
25 department; or

26 (D) [~~(4)~~] using any combination of the remedies
27 described by Paragraphs (A)-(C) [~~Subdivisions (1)-(3)~~] or another

1 fair and reasonable method for meeting the shortage approved by the
2 department.

3 (g) A suspension issued under this section remains in effect
4 until lifted by the department through written notice to the
5 warehouse operator or following an appeal under Section 14.066.

6 SECTION 3. Section 14.083, Agriculture Code, is amended by
7 amending Subsection (c) and adding Subsection (f) to read as
8 follows:

9 (c) In addition to or in lieu of a suspension authorized by
10 this chapter, if [~~If~~] the department considers it necessary, the
11 department may without a hearing suspend a license and prohibit the
12 movement of grain into or out of a warehouse [~~without a hearing~~] for
13 not more than 30 days. For good cause shown, the department may
14 extend a suspension issued under this subsection for one or more
15 additional periods of up to 30 days each but not to cumulatively
16 exceed 90 [~~30~~] days in one licensing period.

17 (f) A suspension issued under Subsection (c) remains in
18 effect until the suspension:

19 (1) is lifted by the department through written notice
20 to the warehouse operator;

21 (2) is lifted by the department following an appeal
22 under Section 14.066; or

23 (3) expires by operation of law in accordance with:

24 (A) the department's notice of suspension; or

25 (B) the ending of the period specified by
26 Subsection (c).

27 SECTION 4. Section 14.082(f), Agriculture Code, is

1 repealed.

2 SECTION 5. This Act takes effect September 1, 2011.