

BILL ANALYSIS

Senate Research Center

H.B. 2704
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Agriculture, Water & Rural Affairs
5/21/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, recently enacted legislation unintentionally created an administrative standard requiring a culpable mental state in the commission of certain offenses, which the parties contend is inconsistent with the historical practice of strict liability enforcement when implementing statutory provisions relating to weights and measures. According to the parties, that standard now places a higher burden on the Department of Agriculture (TDA) by requiring TDA to prove a culpable mental state, substantially limiting the TDA's ability to protect consumers from businesses failing to maintain weighing or measuring devices or intentionally tampering with weighing or measuring devices. H.B. 2704 seeks to restore the TDA's ability to fully protect the consumer from businesses failing to maintain or intentionally tampering with their weighing or measuring devices by amending the applicable law.

H.B. 2704 amends current law relating to the sale, use, or possession of an incorrect weighing or measuring device and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.037, Agriculture Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Prohibits a person from using an incorrect weighing or measuring device in performing certain actions.

Deletes existing text providing that a person commits an offense if the person or the person's servant or agent knowingly uses an incorrect weighing or measuring device in performing certain actions.

(c) Provides that a person commits an offense if the person or the person's servant or agent knowingly violates Subsection (a).

SECTION 2. Amends Section 13.120, Agriculture Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits a person from:

(1) offering or exposing for sale, hiring, or awarding or selling an incorrect weighing or measuring device;

(2) possessing an incorrect weighing or measuring device; or

(3) selling, offering for sale, using, or possessing for the purpose of sale or use a device or instrument to be used to falsify or intended to falsify a weight or measure.

Deletes existing text providing that a person commits an offense if the person or the person's servant or agent knowingly: offers or exposes for sale, hire, or award or sells an incorrect weighing or measuring device; possesses an incorrect weighing or measuring device; or sells, offers for sale, uses or possesses for the purpose of sale or use a device or instrument to be used to falsify or intended to falsify a weight or measure.

(c) Provides that a person commits an offense if the person or the person's servant or agent knowingly violates Subsection (b).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.