

BILL ANALYSIS

Senate Research Center
84R11181 AJZ-F

S.B. 1909
By: Perry
Agriculture, Water & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Prior to the revision by H.B. 1494, 83rd Legislature, Regular Session, 2013, Sections 13.037(a) and 13.120(b), Agriculture Code, used a strict liability standard in enforcing administrative actions. The strict liability standard is traditionally used to protect public health and safety and often serves as a consumer protection standard. The inadvertent insertion of “knowingly” unintentionally created an administrative standard requiring a culpable mental state inconsistent with the historical strict liability enforcement of the weights and measures provisions. Creating this new standard placed a higher burden on the Texas Department of Agriculture by substantially limiting the department’s ability to protect consumers from businesses failing to maintain weighing or measuring devices. In order to restore the department’s ability to fully protect the consumer from businesses failing to maintain their weighing or measuring devices, it is necessary to remove the term “knowingly” from Sections 13.037(a) and 13.120(b), Agriculture Code. Removal of “knowingly” as the culpable mental state restores the Agriculture Code to the pre-2013 strict liability standard for administrative enforcement.

S.B.1909 removes the term “knowingly” from Sections 13.037(a) and 13.120(b), Agriculture Code, thereby restoring the department's previous strict liability standard.

As proposed, S.B. 1909 amends current law relating to the sale or use of an incorrect weighing or measuring device; amending provisions subject to a criminal penalty.

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(a), Agriculture Code, to provide that person commits an offense if the person or the person's servant or agent uses, rather than knowingly uses, an incorrect weighing or measuring device in buying or selling a commodity, computing a charge for services rendered on the basis of weight or measure, or determining the weight or measure of a commodity, if a charge is made for the determination.

SECTION 2. Amends Section 13.120(b), Agriculture Code, to make a conforming change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.