86R2310 BEF-D

By:  González of El Paso H.B. No. 32

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of certain pecan buyers in certain counties; requiring an occupational license; authorizing a fee; creating a criminal offense.

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

SECTION 1.  Subtitle D, Title 5, Agriculture Code, is amended by adding Chapter 105 to read as follows:

CHAPTER 105. PECAN BUYERS IN CERTAIN COUNTIES

Sec. 105.001.  DEFINITIONS. In this chapter:

(1)  "Buyer" means a person engaged in the business of purchasing in-shell pecans from a pecan producer. The term includes an accumulator, buying station, cleaning plant, sheller, dealer, or broker.

(2)  "Buying location" means a physical location where a buyer accepts in-shell pecans or, if the purchase of in-shell pecans is brokered, a physical location where records relating to the purchase of in-shell pecans are maintained.

(3)  "In-shell pecan" means a pecan nut with its shell attached.

(4)  "Peace officer" means a person described by Article 2.12, Code of Criminal Procedure.

(5)  "Pecan producer" means a person who grows pecans.

(6)  "Personal identification document" means:

(A)  a valid driver's license issued by a state in the United States;

(B)  a United States military identification card; or

(C)  a United States passport or a passport issued by a foreign government recognized by the United States.

(7)  "Western county" means one of the five westernmost counties in this state in which pecans are produced, measured at the westernmost part of the county.

Sec. 105.002.  EXEMPTIONS. (a) This chapter does not apply to:

(1)  a person whose business:

(A)  is a grocery store, retail store, gas station, or other similar operation; and

(B)  conducts in-shell pecan transactions totaling less than 100 pounds during any 12-month period;

(2)  transactions involving in-shell pecans for personal consumption totaling less than 50 pounds during any 12-month period; or

(3)  brokers or other individuals, as approved by the department, who are engaged in in-shell pecan transactions but do not physically receive pecan shipments within a western county.

(b)  The commissioner by rule may grant additional exemptions from this chapter for transactions involving a minimal risk of fraud or theft.

Sec. 105.003.  LICENSING AND INSPECTION PROGRAM. The department shall establish a licensing and inspection program for buyers in western counties.

Sec. 105.004.  RULES. The department shall adopt rules to implement this chapter.

Sec. 105.005.  FEE. The department shall establish by rule an annual license fee in an amount not to exceed the lesser of:

(1)  the amount necessary to administer and enforce this chapter; or

(2)  $400.

Sec. 105.006.  INSPECTION. The department or a peace officer may inspect a buying location in a western county and documents related to the buying and selling of in-shell pecans in a western county to determine compliance with this chapter or a rule adopted under this chapter.

Sec. 105.007.  LICENSE REQUIRED. A person may not:

(1)  purchase in a western county in-shell pecans as a buyer unless the person holds a license issued by the department under this chapter; or

(2)  operate a buying location in a western county unless the person holds a license issued by the department under this chapter covering the buying location.

Sec. 105.008.  APPLICATION FOR, TERM OF, AND RENEWAL OF LICENSE. (a) The department shall issue a license to an applicant who meets the requirements of this chapter.

(b)  An applicant for a license under this chapter must:

(1)  complete a pecan weevil education program prescribed by the department; and

(2)  submit to the department:

(A)  an application on a form prescribed by the department;

(B)  any other documents required by the department; and

(C)  a fee in an amount established by the department in accordance with Section 105.005.

(c)  A license issued under this chapter is valid for a 12-month period, beginning and ending on dates specified by the department.

(d)  The department shall renew a license on submission by the license holder of a completed application and a renewal fee, as established by department rule in accordance with Section 105.005, unless the department determines that the license holder has violated this chapter or a rule adopted under this chapter.

Sec. 105.009.  DUTIES OF BUYER. A buyer shall:

(1)  comply with the provisions of this chapter and rules adopted under this chapter;

(2)  comply with state and federal requirements related to the movement of in-shell pecans; and

(3)  ensure that all of the buyer's employees involved in the purchasing, receiving, or shipping of in-shell pecans in a western county are trained on the provisions of this chapter and rules adopted under this chapter.

Sec. 105.010.  RECORDS. (a) A buyer shall:

(1)  maintain accurate and legible written records in a form approved by the department of each purchase in a western county of in-shell pecans made in the course of the buyer's business;

(2)  ensure that a record required by Subdivision (1) is available for inspection by the department or a peace officer not later than 48 hours after the transaction; and

(3)  retain a record required by Subdivision (1) until at least the second anniversary of the date of the transaction.

(b)  If a license holder purchases in a western county in-shell pecans from a person who is not licensed under this chapter, the purchase record must include the:

(1)  location and date of the purchase;

(2)  name and address of the seller;

(3)  street address or physical location of the tree or farm from which the in-shell pecans originated;

(4)  identification number specified on the personal identification document of the seller;

(5)  license plate number, make, and model of the seller's motor vehicle; and

(6)  total weight of the in-shell pecans purchased.

(c)  If a license holder purchases in a western county in-shell pecans from another license holder, the purchase record must include the:

(1)  name, address, and telephone number of the seller;

(2)  date of origin of the in-shell pecans; and

(3)  total weight of the in-shell pecans purchased.

Sec. 105.011.  REVOCATION OF LICENSE. The department may revoke a license issued under this chapter for a violation of this chapter or a rule adopted under this chapter.

Sec. 105.012.  CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly:

(1)  violates this chapter; or

(2)  fails to comply with a notice, order, or rule of the department under this chapter.

(b)  An offense under this section is a misdemeanor punishable by a fine of $250.

(c)  A person commits a separate offense for each day the person acts in violation of this section.

SECTION 2.  Not later than December 1, 2019, the Department of Agriculture shall adopt rules necessary to implement Chapter 105, Agriculture Code, as added by this Act.

SECTION 3.  (a) Except as otherwise provided by this section, this Act takes effect September 1, 2019.

(b)  Sections 105.006, 105.007, 105.009, 105.010, and 105.012, Agriculture Code, as added by this Act, take effect January 1, 2020.