

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

1 the United States;

2 (B) a United States military identification
3 card; or

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

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

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

11 (1) a person whose business:

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

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

16 (2) transactions involving in-shell pecans for
17 personal consumption totaling less than 50 pounds during any
18 12-month period; or

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

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

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

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

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

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

7 (2) \$400.

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

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

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

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

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

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

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

26 (2) submit to the department:

27 (A) an application on a form prescribed by the

1 department;

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

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

6 (c) A license issued under this chapter is valid for a
7 12-month period, beginning and ending on dates specified by the
8 department.

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

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

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

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

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

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

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

27 (2) ensure that a record required by Subdivision (1)

1 is available for inspection by the department or a peace officer not
2 later than 48 hours after the transaction; and

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

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

8 (1) location and date of the purchase;

9 (2) name and address of the seller;

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 2. Not later than December 1, 2019, the Department
9 of Agriculture shall adopt rules necessary to implement Chapter
10 105, Agriculture Code, as added by this Act.

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

13 (b) Sections 105.006, 105.007, 105.009, 105.010, and
14 105.012, Agriculture Code, as added by this Act, take effect
15 January 1, 2020.