

By: Buckingham, et al.

S.B. No. 703

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Department of Agriculture, the Prescribed Burning Board, and the Texas Boll Weevil Eradication Foundation and the abolishment of the Early Childhood Health and Nutrition Interagency Council.

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

SECTION 1. Section 11.003, Agriculture Code, is amended to read as follows:

Sec. 11.003. SUNSET PROVISION. The Department of Agriculture is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2033 ~~[2021]~~.

SECTION 2. Section 12.0175, Agriculture Code, is amended to read as follows:

Sec. 12.0175. "GO-TEXAN" ~~[GROWN OR PRODUCED IN TEXAS]~~ PROGRAM. (a) The department by rule shall ~~[may]~~ establish the "GO-TEXAN" program ~~[programs]~~ to promote and encourage the development and expansion of markets for Texas ~~[market]~~ agricultural products and other products grown, processed, or produced in the state.

(b) The department may charge a membership fee, as provided by department rule, for each participant in the "GO-TEXAN" ~~[a]~~ program.

(c) The department shall ~~[may]~~ adopt rules necessary to

1 administer the "GO-TEXAN" [a] program established under this
2 section, including rules:

3 (1) governing the use of any registered logo of the
4 department;

5 (2) providing membership eligibility requirements and
6 grounds for denial of membership;

7 (3) establishing membership categories or tiers; and

8 (4) specifying membership benefits.

9 (d) The department may revoke or cancel a certificate of
10 registration or license issued under the "GO-TEXAN" [a] program
11 established under this section if a participant fails to comply
12 with a rule adopted by the department.

13 (e) In this section, "Texas agricultural product" means an
14 agricultural, apicultural, horticultural, silvicultural,
15 viticultural, or vegetable product, either in its natural or
16 processed state, that has been produced, processed, or otherwise
17 had value added to the product in this state, including:

18 (1) feed for use by livestock or poultry;

19 (2) fish or other aquatic species;

20 (3) livestock, a livestock product, or a livestock
21 by-product;

22 (4) planting seed;

23 (5) poultry, a poultry product, or a poultry
24 by-product; or

25 (6) wildlife processed for food or by-products.

26 SECTION 3. Chapter 12, Agriculture Code, is amended by
27 adding Section 12.0204 to read as follows:

1 Sec. 12.0204. ADVISORY COMMITTEES. (a) The department by
2 rule may establish advisory committees to make recommendations to
3 the department on programs, rules, and policies administered by the
4 department.

5 (b) In establishing an advisory committee under this
6 section, the department shall adopt rules, including rules
7 regarding:

8 (1) the purpose, role, responsibility, goals, and
9 duration of the committee;

10 (2) the size of and quorum requirement for the
11 committee;

12 (3) qualifications for committee membership;

13 (4) appointment procedures for members;

14 (5) terms of service for members;

15 (6) training requirements for members;

16 (7) policies to avoid conflicts of interest by
17 committee members;

18 (8) a periodic review process to evaluate the
19 continuing need for the committee; and

20 (9) policies to ensure the committee does not violate
21 any provisions of Chapter 551, Government Code, applicable to the
22 department or the committee.

23 SECTION 4. Chapter 12, Agriculture Code, is amended by
24 adding Section 12.0205 to read as follows:

25 Sec. 12.0205. COORDINATION OF CONSUMER PROTECTION
26 ENFORCEMENT WITH OFFICE OF ATTORNEY GENERAL. (a) The department
27 and the office of the attorney general shall enter into a memorandum

1 of understanding to coordinate the enforcement of consumer
2 protection programs.

3 (b) The memorandum of understanding shall require the
4 department to communicate with the consumer protection division of
5 the office of the attorney general to identify and avoid potential
6 duplication of effort before taking final disciplinary or
7 enforcement action related to consumer protection.

8 SECTION 5. The heading to Section 12.026, Agriculture Code,
9 is amended to read as follows:

10 Sec. 12.026. PUBLIC INTEREST INFORMATION[~~, COMPLAINTS~~].

11 SECTION 6. Chapter 12, Agriculture Code, is amended by
12 adding Section 12.02601 to read as follows:

13 Sec. 12.02601. COMPLAINTS. (a) The department shall
14 maintain a system to promptly and efficiently act on complaints
15 filed with the department. The department shall maintain
16 information about parties to the complaint, the subject matter of
17 the complaint, a summary of the results of the review or
18 investigation of the complaint, and its disposition.

19 (b) The department shall make information available
20 describing its procedures for complaint investigation and
21 resolution.

22 (c) The department shall periodically notify the complaint
23 parties of the status of the complaint until final disposition
24 unless the notice would jeopardize an investigation.

25 SECTION 7. Sections 12.042(a), (b), (c), (e), and (i),
26 Agriculture Code, are amended to read as follows:

27 (a) The department shall establish a home-delivered meal

1 grant program to benefit homebound elderly persons and persons with
2 disabilities [~~disabled people~~] in this state. The program must be
3 designed to help defray the costs of providing home-delivered meals
4 that are not fully funded by the Health and Human [~~Department of~~
5 ~~Aging and Disability~~] Services Commission or an area agency on
6 aging.

7 (b) From funds appropriated for that purpose, the
8 department shall make grants to qualifying organizations that
9 provide home-delivered meals to [~~the~~] homebound elderly persons and
10 persons with disabilities [~~disabled~~]. The department may use not
11 more than five percent of those appropriated funds for the
12 administration of the grant program.

13 (c) An organization applying to the department for a grant
14 under this section must:

15 (1) be a governmental agency or a nonprofit private
16 organization that is exempt from taxation under Section 501(a),
17 Internal Revenue Code of 1986, as an organization described by
18 Section 501(c)(3) of that code, that is a direct provider of
19 home-delivered meals to [~~the~~] elderly persons or persons with
20 disabilities in this state;

21 (2) if it is a nonprofit private organization, have a
22 volunteer board of directors;

23 (3) practice nondiscrimination;

24 (4) have an accounting system or fiscal agent approved
25 by the county in which it provides meals;

26 (5) have a system to prevent the duplication of
27 services to the organization's clients; and

1 (6) agree to use funds received under this section
2 only to supplement and extend existing services related directly to
3 home-delivered meal services.

4 (e) The department shall require an organization seeking a
5 grant to file an application in a form approved by the department.
6 The application must be [~~notarized and~~] signed or electronically
7 acknowledged by the organization's executive director [~~and board~~
8 ~~chair, if applicable~~], be postmarked or electronically submitted
9 not later than November 1, and must include:

10 (1) the organization's name and address;

11 (2) the names and titles of the organization's
12 executive director and board chair, if applicable;

13 (3) the name of the county in relation to which the
14 organization is applying;

15 (4) the number of residents at least 60 years of age
16 who reside in that county, according to the most recent federal
17 decennial census;

18 (5) the amount of the grant awarded by that county as
19 required by Subsection (d);

20 (6) the number of meals the organization delivered to
21 elderly persons or [~~disabled~~] persons with disabilities in that
22 county during the preceding state fiscal year that were not fully
23 funded [~~for~~] by the Health and Human [~~Department of Aging and~~
24 ~~Disability~~] Services Commission or an area agency on aging;

25 (7) appropriate documentation demonstrating that the
26 organization:

27 (A) is a qualifying governmental agency or

1 nonprofit private organization;

2 (B) has been awarded a grant by the county in
3 relation to which the organization is applying, as required by
4 Subsection (d); and

5 (C) has delivered the number of meals reported
6 under Subdivision (6);

7 (8) the organization's most recent financial statement
8 or audited financial report; and

9 (9) a list of the organization's board and officers.

10 (i) Not later than February 1 of each year, the department
11 shall make a grant to each qualifying organization that has
12 submitted an approved application under this section. Subject to
13 Subsections (d) and (h), the department shall make grants in an
14 amount equal to one dollar for each meal that the organization
15 delivered to homebound elderly persons or ~~[disabled]~~ persons with
16 disabilities in the county in the preceding state fiscal year that
17 was not fully funded ~~[for]~~ by the Health and Human ~~[Department of~~
18 ~~Aging and Disability]~~ Services Commission or an area agency on
19 aging. If more than one qualifying organization delivers meals in a
20 county, the department shall reduce the grants proportionally to
21 each qualifying organization in that county so that the total
22 amount of the grants to the organizations does not exceed the amount
23 described by Subsection (h).

24 SECTION 8. Chapter 12, Agriculture Code, is amended by
25 adding Section 12.051 to read as follows:

26 Sec. 12.051. FARMER MENTAL HEALTH AND SUICIDE PREVENTION
27 PROGRAM. (a) The department shall establish a farmer mental health

1 and suicide prevention program to raise awareness among farmers of
2 issues relating to mental health and suicide prevention.

3 (b) As part of the program, the department shall:

4 (1) promote suicide prevention among farmers through a
5 public awareness campaign;

6 (2) provide a toll-free telephone hotline for farmer
7 mental health assistance;

8 (3) develop a mental wellness plan for farmers
9 affected by a disaster; and

10 (4) coordinate suicide prevention activities with
11 other state agencies, including the Department of State Health
12 Services.

13 SECTION 9. Subchapter A, Chapter 12A, Agriculture Code, is
14 amended by adding Sections 12A.004 and 12A.005 to read as follows:

15 Sec. 12A.004. INSPECTION AND ENFORCEMENT STRATEGIC PLAN.

16 (a) The department shall develop and publish an annual plan for
17 each state fiscal year to use the inspection and enforcement
18 resources of the department strategically to ensure public safety
19 and protect agriculture and consumers in this state.

20 (b) The department shall seek input from stakeholders when
21 developing each annual plan.

22 (c) The department shall collect and maintain information
23 that accurately shows the department's inspection and enforcement
24 activities. Each annual plan must include a report of the
25 information collected by the department that shows the department's
26 inspection and enforcement activities over time.

27 (d) The information described by Subsection (c) must

1 include data regarding violations of statutes or department rules,
2 including:

3 (1) the number, type, and severity of:

4 (A) violations the department found to have
5 occurred;

6 (B) violations the department referred for
7 enforcement to the section of the department responsible for
8 enforcement; and

9 (C) violations for which the department imposed a
10 penalty or took other enforcement action;

11 (2) the number of major violations for which the
12 department imposed a penalty or took other enforcement action; and

13 (3) the number of repeat major violations, categorized
14 by license type, if applicable.

15 (e) The department shall publish each annual plan on the
16 department's Internet website not later than July 1 of the year
17 preceding the state fiscal year in which the department implements
18 the plan.

19 Sec. 12A.005. CRIMINAL HISTORY EVALUATION. The department
20 shall perform the duties of a licensing authority under Chapter 53,
21 Occupations Code, for each license issued by the department under
22 this code or other law, including issuing guidelines under Section
23 53.025, Occupations Code.

24 SECTION 10. Section 19.005, Agriculture Code, is reenacted
25 and amended to read as follows:

26 Sec. 19.005. ADVISORY COUNCIL. (a) The commissioner shall
27 appoint the advisory council. The advisory council is composed of

1 seven members, including:

- 2 (1) one member representing the department;
- 3 (2) one member representing The Texas A&M
4 University-Kingsville Citrus Center at Weslaco;
- 5 (3) two members representing the citrus nursery
6 industry;
- 7 (4) two members representing citrus growers; and
- 8 (5) one member having specialized knowledge in citrus
9 diseases and pests.

10 (b) A member serves a two-year term and may be reappointed.

11 (c) Members of the advisory council are not eligible for
12 reimbursement of expenses arising from service on the advisory
13 council.

14 (d) Chapter 2110, Government Code, does not apply to the
15 duration of the advisory council.

16 SECTION 11. Section 41.154, Agriculture Code, is amended to
17 read as follows:

18 Sec. 41.154. ANNUAL REPORT. The council shall deliver to
19 the commissioner [~~and the appropriate oversight committee in the~~
20 ~~senate and house of representatives~~] an annual report giving
21 details of its efforts to carry out the purposes of this subchapter.

22 SECTION 12. Section 45.005(c), Agriculture Code, is amended
23 to read as follows:

24 (c) The program may undertake agricultural research and
25 development projects of mutual benefit that are located in Texas,
26 Israel, or any other location considered advisable by the
27 department [~~or suggested by the advisory committee~~].

1 SECTION 13. Section 46.005, Agriculture Code, is amended to
2 read as follows:

3 Sec. 46.005. DEPARTMENT POWERS AND DUTIES. The department
4 shall administer the "Go Texan" Partner Program. The duties of the
5 department in administering the program include:

6 (1) developing procedures for acceptance and
7 administration of funds received to administer the program,
8 including appropriations, gifts, license plate revenue, and
9 matching funds;

10 (2) developing application and selection procedures
11 including procedures for soliciting and accepting applications
12 [~~and screening applications for review by the "Go Texan" Partner
13 Program Advisory Board~~];

14 (3) developing a general promotional campaign for
15 Texas agricultural products and advertising campaigns for specific
16 Texas agricultural products based on project requests submitted by
17 successful applicants;

18 (4) developing advertising programs and promotional
19 materials for use by program participants and establishing
20 guidelines on advertising activities by participants;

21 (5) contracting with media representatives for the
22 purpose of dispersing promotional materials; and

23 (6) receiving matching funds from program
24 participants and donations or grants from any source, and
25 establishing internal reporting requirements for use of funds.

26 SECTION 14. Section 46.011, Agriculture Code, is amended to
27 read as follows:

1 Sec. 46.011. CRITERIA FOR ALLOCATION OF FUNDS. The
2 department shall by rule [~~and with the advice of the board~~]
3 establish criteria for allocation of funds to participant projects.
4 Rules adopted under this section must include:

5 (1) the factors to be considered in evaluating
6 projects; and

7 (2) a maximum funding amount for each project.

8 SECTION 15. Section 47.052(b), Agriculture Code, is amended
9 to read as follows:

10 (b) The commissioner [~~, in consultation with the advisory~~
11 ~~committee established under Section 47.053,~~] shall adopt rules as
12 necessary to implement the program.

13 SECTION 16. Section 50B.0025, Agriculture Code, is amended
14 to read as follows:

15 Sec. 50B.0025. ANNUAL PLAN AND BUDGET. Not later than
16 November 1 of each year, the commissioner shall prepare for the
17 current fiscal year:

18 (1) a [the] schedule and plan of action designed to
19 implement and further the objectives of this chapter and Chapter
20 110, Alcoholic Beverage Code; and

21 (2) a budget and prioritized spending plan for
22 expenditures of the wine industry development fund [described by
23 ~~Section 50B.002(g), considering the recommendations of the~~
24 ~~committee under that section and following them to the extent the~~
25 ~~commissioner considers appropriate].~~

26 SECTION 17. Sections 62.002(a) and (b), Agriculture Code,
27 are amended to read as follows:

1 (a) The State Seed and Plant Board is an agency of the state.
2 The board is composed of:

3 (1) one individual, appointed by the president of
4 Texas A&M University, from the Soils and Crop Sciences Department,
5 Texas Agricultural Experiment Station, Texas A&M University;

6 (2) one individual, appointed by the president of
7 Texas Tech University, from the Department of Plant and Soil
8 Sciences, Texas Tech University;

9 (3) one individual, appointed by the commissioner,
10 licensed as a Texas Foundation, Registered, or Certified seed or
11 plant producer who is not employed by a public institution;

12 (4) one individual, appointed by the commissioner, who
13 sells Texas Foundation, Registered, or Certified seed or plants;
14 and

15 (5) one individual, appointed by the commissioner,
16 actively engaged in farming but not a producer or seller of Texas
17 Foundation, Registered, or Certified seed or plants~~[, and~~

18 ~~[(6) the head of the seed division of the department].~~

19 (b) An individual appointed from a state university ~~[or the~~
20 ~~department]~~ serves on the board as an ex officio member. A member
21 serves for a term of two years and until a successor has qualified.
22 Members serve without compensation but are entitled to
23 reimbursement by the state for actual expenses incurred in the
24 performance of their duties.

25 SECTION 18. Section 62.005(a), Agriculture Code, is amended
26 to read as follows:

27 (a) A person who wants to produce a certified class of seed

1 or plant for which the board has established standards of genetic
2 purity and identity may apply to the board for licensing as a
3 Foundation, Registered, or Certified producer of seed or plants.
4 To be licensed as a producer, a person must satisfy the board that:

5 (1) ~~[he or she is of good character and has a~~
6 ~~reputation for honesty,~~

7 ~~[(2)]~~ his or her facilities meet board requirements
8 for producing and maintaining seed or plants for the certification
9 generations desired; and

10 (2) ~~[(3)]~~ he or she has met any other board
11 requirements as to knowledge of the production or maintenance of
12 seed or plants for the certification generations for which he or she
13 applies to be licensed.

14 SECTION 19. Section 74.0031(d), Agriculture Code, is
15 amended to read as follows:

16 (d) The department shall set a cotton stalk destruction
17 deadline for each pest management zone, with consideration given to
18 the recommendations of the foundation ~~[and the applicable~~
19 ~~administrative committee submitted under Subsection (b)]~~.

20 SECTION 20. Sections 74.0032(b) and (c), Agriculture Code,
21 are amended to read as follows:

22 (b) If adverse weather conditions or other good cause
23 exists, the Texas Boll Weevil Eradication Foundation
24 ~~[administrative committee that governs the applicable pest~~
25 ~~management zone]~~ may request that the department grant an extension
26 of the cotton stalk destruction deadline for any specified part of
27 the pest management zone or for the entire pest management zone. A

1 request under this subsection must be made within the period
2 specified by department rule. A field is not subject to a hostable
3 cotton fee if the department grants an extension of the deadline.
4 The Texas Boll Weevil Eradication Foundation shall submit to the
5 department an estimate of the amount by which an extension under
6 this subsection will increase the cost of administering the boll
7 weevil eradication program.

8 (c) If the Texas Boll Weevil Eradication Foundation
9 [~~applicable administrative committee~~] does not request an
10 extension, or if the department denies a request for an extension of
11 the cotton stalk destruction deadline for a specified part of a pest
12 management zone, a cotton grower may apply for an individual
13 extension of the deadline. A request under this subsection must be
14 made within the period specified by department rule.

15 SECTION 21. Section 74.004(a), Agriculture Code, is amended
16 to read as follows:

17 (a) The [~~On petition of the administrative committee of a~~
18 ~~pest management zone, the~~] department may establish regulated
19 areas, dates, and appropriate methods of destruction of stalks,
20 other parts, and products of host plants for cotton pests,
21 including requirements for destruction of foliage, fruiting
22 structures, and root systems of host plants after the harvest
23 deadline.

24 SECTION 22. Section 74.0041, Agriculture Code, is amended
25 to read as follows:

26 Sec. 74.0041. REGULATION OF PLANTING DATES. The [~~On~~
27 ~~petition of the administrative committee of a pest management zone,~~

1 ~~the~~] department may establish uniform planting dates for host
2 plants.

3 SECTION 23. Subchapter D, Chapter 74, Agriculture Code, is
4 amended by adding Section 74.1091 to read as follows:

5 Sec. 74.1091. SEPARATION OF RESPONSIBILITIES. The board
6 shall develop and implement policies that clearly separate the
7 policy-making responsibilities of the board and the management
8 responsibilities of the chief executive officer and staff of the
9 foundation.

10 SECTION 24. Section 74.127(a), Agriculture Code, is amended
11 to read as follows:

12 (a) The board of directors of the official cotton growers'
13 boll weevil eradication foundation is subject to Chapter 325,
14 Government Code (Texas Sunset Act). Unless continued in existence
15 as provided by that chapter, the board is abolished [~~and this~~
16 ~~subchapter expires~~] September 1, 2033 [~~2021~~].

17 SECTION 25. Subchapter D, Chapter 74, Agriculture Code, is
18 amended by adding Section 74.132 to read as follows:

19 Sec. 74.132. COMPLAINTS. (a) The foundation shall
20 maintain a system to promptly and efficiently act on complaints
21 filed with the foundation. The foundation shall maintain
22 information about parties to the complaint, the subject matter of
23 the complaint, a summary of the results of the review or
24 investigation of the complaint, and its disposition.

25 (b) The foundation shall make information available
26 describing its procedures for complaint investigation and
27 resolution.

1 (c) The foundation shall periodically notify the complaint
2 parties of the status of the complaint until final disposition
3 unless the notice would jeopardize an investigation.

4 SECTION 26. The heading to Section 134.002, Agriculture
5 Code, is amended to read as follows:

6 Sec. 134.002. SUPPORT OF AQUACULTURE [~~PROGRAM~~].

7 SECTION 27. Section 134.004, Agriculture Code, is amended
8 to read as follows:

9 Sec. 134.004. CONTRACTS. The department, the Texas
10 [~~Natural Resource Conservation~~] Commission on Environmental
11 Quality, the Texas Animal Health Commission, and the Parks and
12 Wildlife Department may contract with state, federal, or private
13 entities for assistance in carrying out the purposes of this
14 chapter.

15 SECTION 28. The heading to Subchapter B, Chapter 134,
16 Agriculture Code, is amended to read as follows:

17 SUBCHAPTER B. AQUACULTURE REQUIREMENTS [~~LICENSE~~]

18 SECTION 29. Section 134.013, Agriculture Code, is amended
19 to read as follows:

20 Sec. 134.013. ADDITIONAL REQUIREMENTS FOR SHRIMP
21 PRODUCTION WITHIN THE COASTAL ZONE. (a) A commercial aquaculture
22 facility located within the coastal zone and engaged in the
23 production of shrimp must:

24 (1) [~~must~~] obtain a site-specific wastewater
25 discharge permit from the Texas [~~Natural Resource Conservation~~]
26 Commission on Environmental Quality before the facility may
27 discharge wastewater if the facility will discharge wastewater or

1 another substance into waters in the state;

2 (2) [~~must~~] provide the report described in Subsection
3 (b) to the Texas Commission on Environmental Quality [~~and is~~
4 ~~subject to the review described in Section 134.031(c) if the~~
5 ~~aquaculture facility applies for a site-specific discharge~~
6 ~~permit~~];

7 (3) [~~must~~] obtain an amendment to its site-specific
8 discharge permit from the Texas [~~Natural Resource Conservation~~
9 Commission on Environmental Quality before the facility may
10 increase the amount of discharge or change the nature of the
11 discharge above levels allowed by the wastewater discharge permit
12 issued by the Texas [~~Natural Resource Conservation~~] Commission on
13 Environmental Quality, except as otherwise provided by Section
14 26.0191, Water Code; and

15 (4) [~~must~~] provide the report described by Subsection
16 (b) [~~and is subject to the review described in Section 134.031(c)~~]
17 before the facility may increase the amount of discharge, or change
18 the nature of the discharge above levels allowed by the wastewater
19 discharge permit issued by the Texas [~~Natural Resource~~
20 ~~Conservation~~] Commission on Environmental Quality, except as
21 otherwise provided by Section 26.0191, Water Code.

22 (b) Before issuing a permit [~~license~~] to a new aquaculture
23 facility designed for the commercial production of shrimp that will
24 discharge wastewater into waters in the state within the coastal
25 zone, the Texas Commission on Environmental Quality [~~department~~]
26 shall require the applicant to provide a report describing the
27 existing environmental conditions at the proposed site, including

1 aquatic habitat and the conditions of the waters in the state into
2 which a discharge is proposed. The report must provide an
3 assessment of any potential impacts of wastewater discharges on
4 sensitive aquatic habitats in the area of the proposed site,
5 significant impacts related to the construction or operation of the
6 facility, and any mitigation actions proposed by the applicant.

7 (c) The applicant must provide the report required under
8 Subsection (b) to the [~~Texas Natural Resource Conservation~~
9 ~~Commission and the~~] Parks and Wildlife Department. The Texas
10 [~~Natural Resource Conservation~~] Commission on Environmental
11 Quality may not issue a wastewater discharge permit to a new
12 aquaculture facility designed for the commercial production of
13 shrimp and located within the coastal zone without consideration of
14 the report described by Subsection (b).

15 (d) In coordination with [~~the department and~~] the Parks and
16 Wildlife Department, the Texas [~~Natural Resource Conservation~~]
17 Commission on Environmental Quality shall establish guidelines
18 relating to the report required by Subsection (b) that:

19 (1) give public notice as to what the reporting
20 requirements include; and

21 (2) minimize duplication of reporting requirements
22 and other requirements related to the application for a wastewater
23 discharge permit.

24 SECTION 30. Section [134.016](#)(a), Agriculture Code, is
25 amended to read as follows:

26 (a) The operator [~~holder~~] of a commercial [~~an~~] aquaculture
27 facility [~~license~~] shall maintain a record of sales of cultured

1 species for at least [~~a period of time of not less than~~] one year.
2 The record is open for inspection by designated employees of the
3 Parks and Wildlife Department [~~and the department~~] during normal
4 business hours.

5 SECTION 31. Section 134.017, Agriculture Code, is amended
6 to read as follows:

7 Sec. 134.017. CULTURE AND SALE OF CULTURED SPECIES.
8 Cultured species of any kind, size, or number may be raised,
9 possessed, transported, and sold anywhere, at any time, to any
10 person, for any purpose by the operator [~~holder~~] of a commercial
11 [~~an~~] aquaculture facility [~~license~~] unless prohibited by the Parks
12 and Wildlife Code or regulation.

13 SECTION 32. Section 134.018, Agriculture Code, is amended
14 to read as follows:

15 Sec. 134.018. [~~LICENSE NOT REQUIRED FOR~~] SALE OF CERTAIN
16 FISH. (a) This section applies to [~~An aquaculture license is not~~
17 ~~required for~~] the sale of fish:

18 (1) that are not on the Parks and Wildlife Department's
19 list of exotic fish, shellfish, and aquatic plants;

20 (2) collected from a private facility on private land
21 by a person who operates a commercial [~~holds an~~] aquaculture
22 facility [~~license~~];

23 (3) by the owner of the private facility from which the
24 fish were collected;

25 (4) to manage the fish population in the private
26 facility; and

27 (5) to a person who operates a commercial [~~holds an~~]

1 aquaculture facility [~~license~~].

2 (b) Not later than the 30th day after the sale of fish under
3 this section, a [~~the~~] buyer who operates a commercial [~~holds an~~]
4 aquaculture facility [~~license~~] shall submit a copy of the invoice
5 for the sale to the Parks and Wildlife Department. The seller and
6 the buyer shall maintain a record of the sale for not less than one
7 year. The record must contain at least:

8 (1) the invoice number;

9 (2) the date of the sale;

10 (3) the name and address of the seller;

11 (4) the physical location of the facility from which
12 the fish were collected;

13 (5) the buyer's name and [~~7~~] address [~~7~~] and the name and
14 address of the buyer's commercial aquaculture facility [~~license~~
15 ~~number of the buyer~~]; and

16 (6) the number of fish sold.

17 (c) Sections 66.020 and 66.111, Parks and Wildlife Code, do
18 not apply to a sale under this section.

19 SECTION 33. Section 134.023(b), Agriculture Code, is
20 amended to read as follows:

21 (b) A person who violates Section [~~134.019 or~~] 134.020
22 commits an offense that is a Class B misdemeanor.

23 SECTION 34. Sections 134.031(a), (b), (c), (d), (e), (f),
24 and (g), Agriculture Code, are amended to read as follows:

25 (a) The [~~department, the~~] Texas [~~Natural Resource~~
26 ~~Conservation~~] Commission on Environmental Quality [~~7~~] and the Parks
27 and Wildlife Department shall enter into a memorandum of

1 understanding for the regulation of matters related to aquaculture.

2 (b) The Texas [~~Natural Resource Conservation~~] Commission on
3 Environmental Quality, after receiving an application for a
4 wastewater discharge authorization from an aquaculture facility,
5 shall provide a copy of the application to the [~~department and the~~
6 Parks and Wildlife Department.

7 (c) The [~~department, the~~] Texas [~~Natural Resource~~
8 ~~Conservation~~] Commission on Environmental Quality[~~7~~] and the Parks
9 and Wildlife Department shall [~~each appoint one member of a~~
10 ~~three-member application review committee to review the wastewater~~
11 ~~discharge authorization application to~~] ensure that the proposed
12 discharge will not adversely affect a bay, an estuary, or other
13 waters in the state.

14 (d) The Parks and Wildlife Department, in consultation with
15 the Texas [~~Natural Resource Conservation~~] Commission on
16 Environmental Quality, may establish general guidelines that
17 identify sensitive aquatic habitat within the coastal zone. The
18 general guidelines must include factors such as the presence of sea
19 grass beds, depth of receiving waters, and amount of tidal
20 exchange.

21 (e) If the Parks and Wildlife Department establishes the
22 guidelines described in Subsection (d), the Parks and Wildlife
23 Department must provide the guidelines to the Texas [~~Natural~~
24 ~~Resource Conservation~~] Commission on Environmental Quality [~~and~~
25 ~~the department~~].

26 (f) If the Parks and Wildlife Department has established the
27 guidelines described in Subsection (d), the Texas [~~Natural Resource~~

1 ~~Conservation~~] Commission on Environmental Quality must consider
2 the guidelines when reviewing wastewater discharge authorization
3 applications for new aquaculture facilities located within the
4 coastal zone, or expansion of existing facilities located within
5 the coastal zone if the expansion will increase the amount of
6 discharge, or change the nature of the discharge, above levels
7 allowed by the wastewater discharge permit.

8 (g) In developing the guidelines under Subsection (d)
9 applicable to aquaculture facilities engaged in the production of
10 shrimp in the coastal zone, the Parks and Wildlife Department, in
11 consultation with the Texas ~~[Natural Resource Conservation]~~
12 Commission on Environmental Quality, shall consider the best
13 management practices that the facilities developed under the
14 direction of the Texas ~~[Natural Resource Conservation]~~ Commission
15 on Environmental Quality.

16 SECTION 35. Section 110.002(b), Alcoholic Beverage Code, is
17 amended to read as follows:

18 (b) The commissioner ~~[, in consultation with the advisory~~
19 ~~committee established under Section 50B.002, Agriculture Code,]~~
20 shall adopt rules as necessary to implement the program.

21 SECTION 36. Section 153.046, Natural Resources Code, is
22 amended to read as follows:

23 Sec. 153.046. DUTIES. The board by rule shall establish:

- 24 (1) ~~[establish]~~ standards for prescribed burning;
25 (2) ~~[develop]~~ a comprehensive training curriculum for
26 certified and insured prescribed burn managers;
27 (3) ~~[establish]~~ standards for certification,

1 recertification, and training for certified and insured prescribed
2 burn managers;

3 (4) [~~establish~~] minimum education and professional
4 requirements for instructors for the approved curriculum; and

5 (5) [~~establish~~] insurance requirements for certified
6 and insured prescribed burn managers in amounts not less than those
7 required by Section 153.082.

8 SECTION 37. Section 153.048, Natural Resources Code, is
9 amended by adding Subsection (f) to read as follows:

10 (f) The board may waive any prerequisite to obtaining
11 certification for an applicant after reviewing the applicant's
12 credentials and determining that the applicant holds a valid
13 certification from another state that has certification
14 requirements substantially equivalent to those of this state.

15 SECTION 38. Subchapter B, Chapter 153, Natural Resources
16 Code, is amended by adding Section 153.049 to read as follows:

17 Sec. 153.049. CRIMINAL HISTORY EVALUATION. The board shall
18 perform the duties of a licensing authority under Chapter 53,
19 Occupations Code, for each certification issued by the board under
20 this chapter or other law, including issuing guidelines under
21 Section 53.025, Occupations Code.

22 SECTION 39. Section 153.101, Natural Resources Code, is
23 amended to read as follows:

24 Sec. 153.101. COMPLAINTS. The department shall receive and
25 process complaints concerning certified and insured prescribed
26 burn managers in the manner described by Sections [~~Section~~] 12.026
27 and 12.02601, Agriculture Code, and rules adopted under those

1 sections [~~that section~~].

2 SECTION 40. Section 153.102(b), Natural Resources Code, is
3 amended to read as follows:

4 (b) The board [~~department~~] by rule shall adopt a schedule of
5 the disciplinary sanctions that the department shall [~~may~~] impose
6 under this chapter. In adopting the schedule of sanctions, the
7 board [~~department~~] shall ensure that the severity of the sanction
8 imposed is appropriate to the type of violation or conduct that is
9 the basis for disciplinary action.

10 SECTION 41. Section 43.551, Parks and Wildlife Code, is
11 amended to read as follows:

12 Sec. 43.551. PERMIT FOR THE TAKING OF BROOD STOCK BY
13 COMMERCIAL AQUACULTURE FACILITIES [~~FISH FARMERS~~]. The department
14 may issue a permit to an operator of a commercial aquaculture
15 facility as defined by Section 134.001, Agriculture Code, [~~a~~
16 ~~licensed fish farmer~~] that authorizes the operator [~~fish farmer~~] to
17 take a specified quantity of fish brood stock from specified public
18 water.

19 SECTION 42. Section 43.553(a), Parks and Wildlife Code, is
20 amended to read as follows:

21 (a) A [~~The~~] permit under this subchapter may allow the
22 operator of a commercial aquaculture facility [~~fish farmer~~] to take
23 a specified quantity of fish brood stock reasonably necessary for
24 the operation of the aquaculture facility [~~fish farm~~] but limited
25 to the extent necessary to protect the availability of fish in
26 public water.

27 SECTION 43. Section 43.554, Parks and Wildlife Code, is

1 amended to read as follows:

2 Sec. 43.554. FEES. The commission shall charge the
3 operator of a commercial aquaculture facility [~~a fish farmer~~] a fee
4 equal to the value of the fish authorized to be taken under this
5 subchapter.

6 SECTION 44. Section 47.009(c), Parks and Wildlife Code, is
7 amended to read as follows:

8 (c) An operator of [~~A person who has an aquaculture license~~
9 ~~for~~] a Texas commercial aquaculture facility as defined by [~~under~~]
10 Section 134.001 [~~134.011~~], Agriculture Code, is not required to
11 obtain or possess a wholesale fish dealer's license if the
12 operator's [~~person's~~] business activities with regard to the sale
13 of aquatic products involve aquatic products raised on the
14 operator's commercial [~~person's~~] aquaculture facility only.

15 SECTION 45. Section 47.0091, Parks and Wildlife Code, is
16 amended to read as follows:

17 Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESAL
18 FISH DEALERS. No wholesale fish dealer may purchase for resale or
19 receive for sale, barter, exchange, or any other commercial purpose
20 any aquatic product from any person or entity in this state unless
21 the dealer [~~he~~] purchases the product from the operator of a
22 commercial aquaculture facility as defined by Section 134.001,
23 Agriculture Code, or the holder of:

- 24 (1) a general commercial fisherman's license;
25 (2) a commercial oyster fisherman's license;
26 (3) a commercial oyster boat license;
27 (4) a wholesale fish dealer's license;

- 1 (5) ~~[a fish farmer's license,~~
- 2 ~~(6)]~~ a commercial shrimp boat license;
- 3 (6) ~~(7)]~~ a commercial oyster boat captain's license;
- 4 (7) ~~(8)]~~ a commercial shrimp boat captain's license;
- 5 (8) ~~(9)]~~ a commercial crab fisherman's license;
- 6 (9) ~~(10)]~~ a commercial finfish fisherman's license;
- 7 (10) ~~(11)]~~ a commercial gulf shrimp unloading
- 8 license; or
- 9 (11) ~~(12)]~~ a cultivated oyster mariculture permit.

10 SECTION 46. Section [47.010](#)(b), Parks and Wildlife Code, is
11 amended to read as follows:

12 (b) A resident who operates a ~~[holds a fish farm]~~ vehicle
13 used to transport cultured species from a private facility, as
14 those terms are defined by ~~[license under]~~ Section [134.001](#)
15 [\[134.012\]](#), Agriculture Code, and sells cultured species from the
16 vehicle is not required to obtain a license for the vehicle under
17 this section if the vehicle is used with regard to the sale or
18 transportation of only aquatic products raised on a ~~[licensed]~~
19 Texas commercial aquaculture facility belonging to the operator
20 ~~[owner]~~ of the vehicle.

21 SECTION 47. Section [47.011](#)(c), Parks and Wildlife Code, is
22 amended to read as follows:

23 (c) An operator of ~~[A person with an aquaculture license~~
24 ~~for]~~ a Texas commercial aquaculture facility as defined by ~~[under]~~
25 Section [134.001](#) ~~[134.011]~~, Agriculture Code, is not required to
26 obtain or possess a retail fish dealer's license if the operator's
27 ~~[person's]~~ business activities with regard to the sale of aquatic

1 products involve aquatic products raised on the operator's
2 commercial [~~person's~~] aquaculture facility only.

3 SECTION 48. Section 47.0111, Parks and Wildlife Code, is
4 amended to read as follows:

5 Sec. 47.0111. PURCHASE OF AQUATIC PRODUCTS BY RETAIL FISH
6 DEALERS. No retail fish dealer may purchase for resale or receive
7 for sale, barter, exchange, or any other commercial purposes any
8 aquatic products from any person or entity in this state unless the
9 dealer [~~he~~] purchases the product from the operator of a commercial
10 aquaculture facility as defined by Section 134.001, Agriculture
11 Code, or the holder of:

- 12 (1) a wholesale fish dealer's license; or
13 (2) a general commercial fisherman's license, a
14 commercial shrimp boat license, a commercial shrimp boat captain's
15 license, a commercial gulf shrimp unloading license, a commercial
16 crab fisherman's license, or a commercial finfish fisherman's
17 license when the retail fish dealer has given written notification
18 to the director or the director's [~~his~~] designee of the dealer's
19 intent to purchase aquatic products from the holder of a general
20 commercial fisherman's license, a commercial shrimp boat license, a
21 commercial shrimp boat captain's license, a commercial crab
22 fisherman's license, or a commercial finfish fisherman's license[+
23 ~~or~~
24 ~~[(3) a fish farmer's license].~~

25 SECTION 49. Section 47.012, Parks and Wildlife Code, is
26 amended to read as follows:

27 Sec. 47.012. PURCHASE OF AQUATIC PRODUCTS BY RESTAURANT

1 OWNER, OPERATOR, OR EMPLOYEE. No restaurant owner, operator, or
2 employee may purchase for consumption by the restaurant's patrons
3 on the restaurant's premises any aquatic product from any person or
4 entity in this state unless the person purchases the aquatic
5 product from the operator of a commercial aquaculture facility as
6 defined by Section 134.001, Agriculture Code, or the holder of:

- 7 (1) a wholesale fish dealer's license;
- 8 (2) a general commercial fisherman's license;
- 9 (3) ~~[a fish farmer's license;~~
- 10 ~~[(4)]~~ a commercial shrimp boat license;
- 11 (4) ~~[(5)]~~ a commercial shrimp boat captain's license;
- 12 (5) ~~[(6)]~~ a commercial crab fisherman's license;
- 13 (6) ~~[(7)]~~ a commercial finfish fisherman's license; or
- 14 (7) ~~[(8)]~~ a commercial gulf shrimp unloading license.

15 SECTION 50. Section 47.013(c), Parks and Wildlife Code, is
16 amended to read as follows:

17 (c) A resident who operates ~~[owns]~~ a vehicle used to
18 transport cultured species from a private facility, as those terms
19 are defined by ~~[licensed under]~~ Section 134.001 ~~[134.012]~~,
20 Agriculture Code, and sells cultured species from the vehicle is
21 not required to obtain a license for the vehicle under this section
22 when the vehicle is used with regard to the sale or transportation
23 of only aquatic products raised on a ~~[licensed]~~ Texas commercial
24 aquaculture facility belonging to the operator ~~[owner]~~ of the
25 vehicle.

26 SECTION 51. Section 47.014(c), Parks and Wildlife Code, is
27 amended to read as follows:

1 (c) An operator of [~~A person who has an aquaculture license~~
2 ~~for~~] a Texas commercial aquaculture facility as defined by [~~under~~]
3 Section 134.001 [~~134.011~~], Agriculture Code, is not required to
4 obtain or possess a bait dealer's license if the operator's
5 [~~person's~~] business activities with regard to the sale of aquatic
6 products for bait involve only aquatic products raised on the
7 operator's commercial [~~person's~~] aquaculture facility.

8 SECTION 52. Sections 66.007(d) and (f), Parks and Wildlife
9 Code, are amended to read as follows:

10 (d) An operator of a commercial aquaculture facility as
11 defined by Section 134.001, Agriculture Code, [~~A fish farmer~~] may
12 import, possess, or sell harmful or potentially harmful exotic fish
13 species as provided by Section 134.020, Agriculture Code.

14 (f) An operator of a commercial aquaculture facility as
15 defined by Section 134.001, Agriculture Code, [~~A fish farmer~~] may
16 not import, possess, propagate, or transport exotic shellfish
17 unless the operator [~~fish farmer~~] furnishes evidence required by
18 the department showing that the shellfish are free of disease.

19 SECTION 53. Section 66.020(b), Parks and Wildlife Code, is
20 amended to read as follows:

21 (b) This section applies to the possession, transportation,
22 sale, or purchase of any fish described by Subsection (a) [~~of this~~
23 ~~section~~] without regard to where the fish was taken, caught, or
24 raised, but does not apply to:

25 (1) the transportation or possession of fish taken,
26 caught, or raised outside this state and transported by common
27 carrier without being unloaded from outside this state to a point of

1 delivery outside this state;

2 (2) fish raised by being continuously fed a prepared
3 feed and sold by an operator of a Texas commercial aquaculture
4 facility, [~~licensed Texas fish farmer if marked and identified~~] as
5 defined by Section 134.001 [~~required under Chapter 134~~],
6 Agriculture Code; or

7 (3) the lawful importation by the holder of a Texas
8 finfish import license into this state from another state or
9 foreign country of farm-raised red drum, bass of the genus
10 Micropterus, crappie, flathead catfish, striped bass, white bass,
11 or a hybrid of any of those fish that have been continuously fed a
12 prepared feed as a primary food source or lawfully taken, caught, or
13 raised blue marlin, jewfish, longbill spearfish, muskellunge,
14 northern pike, sailfish, sauger, snook, spotted sea trout, tarpon,
15 walleye, white marlin, yellow bass, or a hybrid of any of those
16 fish, if the fish are transported or sold when not alive and are
17 tagged, invoiced, packaged, and labeled under regulations of the
18 commission and if the license holder complies with any requirements
19 the commission may establish by proclamation that the fish enter
20 the stream of commerce for sale in this state in a condition
21 allowing ready identification of the species, including a
22 requirement that the fish come into the state with the head and tail
23 intact and tagged and a requirement that an invoice accompany all
24 imported fish regulated by this section through each sales
25 transaction, including transactions at the place of the final sale
26 to the consumer.

27 SECTION 54. Section 66.111(b), Parks and Wildlife Code, is

1 amended to read as follows:

2 (b) Subsection (a) [~~of this section~~] does not apply to:

3 (1) a fish, other than a bass of the genus *Micropterus*,
4 reared in private water by an operator of a commercial aquaculture
5 facility, as defined by Section 134.001, Agriculture Code [~~under a~~
6 ~~fish farmer's license~~];

7 (2) a fish possessed legally outside this state and
8 transported into this state;

9 (3) bass of the genus *Micropterus* reared in private
10 water by an operator of a commercial aquaculture facility, as
11 defined by Section 134.001, Agriculture Code, [~~under a fish~~
12 ~~farmer's license~~] and marketed for the purpose of stocking the
13 water of this state;

14 (4) nongame fish regulated under Chapter 67 of this
15 code; or

16 (5) channel catfish of more than 14 inches in length or
17 blue catfish of more than 14 inches in length taken from the public
18 fresh water of Angelina, Bowie, Camp, Cass, Chambers, Franklin,
19 Freestone, Gregg, Hardin, Harris, Harrison, Jasper, Jefferson,
20 Lamar, Leon, Liberty, Madison, Marion, Montgomery, Morris,
21 Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Red River,
22 Sabine, San Augustine, San Jacinto, Shelby, Titus, Trinity, Tyler,
23 Upshur, or Walker County, the public fresh water of the Neches or
24 Trinity River in Houston County, the public fresh water of the
25 Colorado River in Bastrop, Colorado, Fayette, Matagorda, or Wharton
26 County, or the public fresh water of Falcon Lake in Starr or Zapata
27 County.

1 SECTION 55. The following provisions are repealed:

2 (1) Section 12.0178, Agriculture Code;

3 (2) Sections 12.026(c) and (d), Agriculture Code;

4 (3) Sections 15.006, 45.009, and 46.010, Agriculture
5 Code;

6 (4) Section 47.051(1), Agriculture Code;

7 (5) Sections 47.053, 49.006, and 50B.002, Agriculture
8 Code;

9 (6) Sections 74.003(d), 74.0031(a), 74.120(d), and
10 102.167(e), Agriculture Code;

11 (7) Section 134.003, Agriculture Code;

12 (8) Section 134.005(b), Agriculture Code;

13 (9) Sections 134.006, 134.011, 134.012, 134.014,
14 134.015, and 134.019, Agriculture Code;

15 (10) Chapter 42, Agriculture Code;

16 (11) Subchapter P, Chapter 487, Government Code;

17 (12) Subchapter R, Chapter 487, Government Code; and

18 (13) Chapter 116, Health and Safety Code.

19 SECTION 56. (a) On the effective date of this Act, a
20 license issued under former Section 134.011 or 134.012, Agriculture
21 Code, expires.

22 (b) As soon as practicable after the effective date of this
23 Act, the Department of Agriculture shall repeal all rules relating
24 to a license issued under former Section 134.011 or 134.012,
25 Agriculture Code.

26 (c) The repeal by this Act of Sections 134.011 and 134.012,
27 Agriculture Code, does not affect the validity of a proceeding

1 pending before a court or other governmental entity on the
2 effective date of this Act.

3 SECTION 57. Not later than January 1, 2022, the
4 commissioner of agriculture shall appoint the members of the citrus
5 budwood advisory council under Section 19.005, Agriculture Code, as
6 reenacted and amended by this Act. The advisory council is
7 re-created on the date the commissioner of agriculture makes the
8 appointments required by this section, notwithstanding any
9 previous abolishment under Section 2110.008, Government Code.

10 SECTION 58. The changes in law made by this Act apply only
11 to an offense committed on or after the effective date of this Act.
12 An offense committed before the effective date of this Act is
13 governed by the law in effect when the offense was committed, and
14 the former law is continued in effect for that purpose. For
15 purposes of this section, an offense was committed before the
16 effective date of this Act if any element of the offense occurred
17 before that date.

18 SECTION 59. This Act takes effect September 1, 2021.