

By: Buckingham, et al.

S.B. No. 703

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the continuation and functions of the Department of
3 Agriculture, the Prescribed Burning Board, and the Texas Boll
4 Weevil Eradication Foundation and the abolishment of the Early
5 Childhood Health and Nutrition Interagency Council.

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

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

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

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

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

20 (b) The department may charge a membership fee, as provided
21 by department rule, for each participant in the "Go Texan" [~~a~~]
22 program.

23 (c) The department shall [~~may~~] adopt rules necessary to
24 administer the "Go Texan" [~~a~~] program established under this

1 section, including rules:

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

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

6 (3) establishing membership categories or tiers; and

7 (4) specifying membership benefits.

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

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

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

18 (2) fish or other aquatic species;

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

21 (4) planting seed;

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

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

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

27 Sec. 12.0204. ADVISORY COMMITTEES. (a) The department by

1 rule may establish advisory committees to make recommendations to
2 the department on programs, rules, and policies administered by the
3 department.

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

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

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

11 (3) qualifications for committee membership;

12 (4) appointment procedures for members;

13 (5) terms of service for members;

14 (6) training requirements for members;

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

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

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

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

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

1 consumer protection programs.

2 (b) The memorandum of understanding shall require the
3 department to communicate with the consumer protection division of
4 the office of the attorney general before taking final disciplinary
5 or enforcement action related to consumer protection.

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

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

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

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

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

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

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

25 (a) The department shall establish a home-delivered meal
26 grant program to benefit homebound elderly persons and persons with
27 disabilities [~~disabled people~~] in this state. The program must be

1 designed to help defray the costs of providing home-delivered meals
2 that are not fully funded by the Health and Human [~~Department of~~
3 ~~Aging and Disability~~] Services Commission or an area agency on
4 aging.

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

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

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

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

21 (3) practice nondiscrimination;

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

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

26 (6) agree to use funds received under this section
27 only to supplement and extend existing services related directly to

1 home-delivered meal services.

2 (e) The department shall require an organization seeking a
3 grant to file an application in a form approved by the department.
4 The application must be notarized and signed by the organization's
5 executive director and board chair, if applicable, be postmarked
6 not later than November 1, and must include:

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

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

10 (3) the name of the county in relation to which the
11 organization is applying;

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

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

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

22 (7) appropriate documentation demonstrating that the
23 organization:

24 (A) is a qualifying governmental agency or
25 nonprofit private organization;

26 (B) has been awarded a grant by the county in
27 relation to which the organization is applying, as required by

1 Subsection (d); and

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

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

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

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

21 SECTION 8. Subchapter A, Chapter 12A, Agriculture Code, is
22 amended by adding Sections 12A.004 and 12A.005 to read as follows:

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

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

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

3 (c) The department shall collect and maintain information
4 that accurately shows the department's inspection and enforcement
5 activities. Each annual plan must include a report of the
6 information collected by the department that shows the department's
7 inspection and enforcement activities over time.

8 (d) The information described by Subsection (c) must
9 include data regarding violations of statutes or department rules,
10 including:

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

12 (A) violations the department found to have
13 occurred;

14 (B) violations the department referred for
15 enforcement to the section of the department responsible for
16 enforcement; and

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

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

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

23 (e) The department shall publish each annual plan on the
24 department's Internet website not later than July 1 of the year
25 preceding the state fiscal year in which the department implements
26 the plan.

27 Sec. 12A.005. CRIMINAL HISTORY EVALUATION. The department

1 shall perform the duties of a licensing authority under Chapter 53,
2 Occupations Code, for each license issued by the department under
3 this code or other law, including issuing guidelines under Section
4 53.025, Occupations Code.

5 SECTION 9. Section 19.005, Agriculture Code, is reenacted
6 and amended to read as follows:

7 Sec. 19.005. ADVISORY COUNCIL. (a) The commissioner shall
8 appoint the advisory council. The advisory council is composed of
9 seven members, including:

- 10 (1) one member representing the department;
- 11 (2) one member representing The Texas A&M
12 University-Kingsville Citrus Center at Weslaco;
- 13 (3) two members representing the citrus nursery
14 industry;
- 15 (4) two members representing citrus growers; and
- 16 (5) one member having specialized knowledge in citrus
17 diseases and pests.

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

19 (c) Members of the advisory council are not eligible for
20 reimbursement of expenses arising from service on the advisory
21 council.

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

24 SECTION 10. Section 41.154, Agriculture Code, is amended to
25 read as follows:

26 Sec. 41.154. ANNUAL REPORT. The council shall deliver to
27 the commissioner [~~and the appropriate oversight committee in the~~

1 ~~senate and house of representatives]~~ an annual report giving
2 details of its efforts to carry out the purposes of this subchapter.

3 SECTION 11. Section 45.005(c), Agriculture Code, is amended
4 to read as follows:

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

9 SECTION 12. Section 46.005, Agriculture Code, is amended to
10 read as follows:

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

14 (1) developing procedures for acceptance and
15 administration of funds received to administer the program,
16 including appropriations, gifts, license plate revenue, and
17 matching funds;

18 (2) developing application and selection procedures
19 including procedures for soliciting and accepting applications
20 [~~and screening applications for review by the "Go Texan" Partner
21 Program Advisory Board~~];

22 (3) developing a general promotional campaign for
23 Texas agricultural products and advertising campaigns for specific
24 Texas agricultural products based on project requests submitted by
25 successful applicants;

26 (4) developing advertising programs and promotional
27 materials for use by program participants and establishing

1 guidelines on advertising activities by participants;

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

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

7 SECTION 13. Section 46.011, Agriculture Code, is amended to
8 read as follows:

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

13 (1) the factors to be considered in evaluating
14 projects; and

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

16 SECTION 14. Section 47.052(b), Agriculture Code, is amended
17 to read as follows:

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

21 SECTION 15. Section 50B.0025, Agriculture Code, is amended
22 to read as follows:

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

26 (1) a [the] schedule and plan of action designed to
27 implement and further the objectives of this chapter and Chapter

1 110, Alcoholic Beverage Code; and

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

7 SECTION 16. Sections 62.002(a) and (b), Agriculture Code,
8 are amended to read as follows:

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

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

14 (2) one individual, appointed by the president of
15 Texas Tech University, from the Department of Plant and Soil
16 Sciences, Texas Tech University;

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

20 (4) one individual, appointed by the commissioner, who
21 sells Texas Foundation, Registered, or Certified seed or plants;
22 and

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

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

27 (b) An individual appointed from a state university [~~or the~~

1 ~~department]~~ serves on the board as an ex officio member. A member
2 serves for a term of two years and until a successor has qualified.
3 Members serve without compensation but are entitled to
4 reimbursement by the state for actual expenses incurred in the
5 performance of their duties.

6 SECTION 17. Section 62.005(a), Agriculture Code, is amended
7 to read as follows:

8 (a) A person who wants to produce a certified class of seed
9 or plant for which the board has established standards of genetic
10 purity and identity may apply to the board for licensing as a
11 Foundation, Registered, or Certified producer of seed or plants.
12 To be licensed as a producer, a person must satisfy the board that:

13 (1) ~~[he or she is of good character and has a~~
14 ~~reputation for honesty;~~

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

18 (2) ~~[(3)]~~ he or she has met any other board
19 requirements as to knowledge of the production or maintenance of
20 seed or plants for the certification generations for which he or she
21 applies to be licensed.

22 SECTION 18. Section 74.0031(d), Agriculture Code, is
23 amended to read as follows:

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

1 SECTION 19. Sections 74.0032(b) and (c), Agriculture Code,
2 are amended to read as follows:

3 (b) If adverse weather conditions or other good cause
4 exists, the Texas Boll Weevil Eradication Foundation
5 [~~administrative committee that governs the applicable pest~~
6 ~~management zone~~] may request that the department grant an extension
7 of the cotton stalk destruction deadline for any specified part of
8 the pest management zone or for the entire pest management zone. A
9 request under this subsection must be made within the period
10 specified by department rule. A field is not subject to a hostable
11 cotton fee if the department grants an extension of the deadline.
12 The Texas Boll Weevil Eradication Foundation shall submit to the
13 department an estimate of the amount by which an extension under
14 this subsection will increase the cost of administering the boll
15 weevil eradication program.

16 (c) If the Texas Boll Weevil Eradication Foundation
17 [~~applicable administrative committee~~] does not request an
18 extension, or if the department denies a request for an extension of
19 the cotton stalk destruction deadline for a specified part of a pest
20 management zone, a cotton grower may apply for an individual
21 extension of the deadline. A request under this subsection must be
22 made within the period specified by department rule.

23 SECTION 20. Section 74.004(a), Agriculture Code, is amended
24 to read as follows:

25 (a) The [~~On petition of the administrative committee of a~~
26 ~~pest management zone, the~~] department may establish regulated
27 areas, dates, and appropriate methods of destruction of stalks,

1 other parts, and products of host plants for cotton pests,
2 including requirements for destruction of foliage, fruiting
3 structures, and root systems of host plants after the harvest
4 deadline.

5 SECTION 21. Section 74.0041, Agriculture Code, is amended
6 to read as follows:

7 Sec. 74.0041. REGULATION OF PLANTING DATES. The [~~On~~
8 ~~petition of the administrative committee of a pest management zone,~~
9 ~~the~~] department may establish uniform planting dates for host
10 plants.

11 SECTION 22. Subchapter D, Chapter 74, Agriculture Code, is
12 amended by adding Section 74.1091 to read as follows:

13 Sec. 74.1091. SEPARATION OF RESPONSIBILITIES. The board
14 shall develop and implement policies that clearly separate the
15 policy-making responsibilities of the board and the management
16 responsibilities of the chief executive officer and staff of the
17 foundation.

18 SECTION 23. Section 74.127(a), Agriculture Code, is amended
19 to read as follows:

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

25 SECTION 24. Subchapter D, Chapter 74, Agriculture Code, is
26 amended by adding Section 74.132 to read as follows:

27 Sec. 74.132. COMPLAINTS. (a) The foundation shall

1 maintain a system to promptly and efficiently act on complaints
2 filed with the foundation. The foundation shall maintain
3 information about parties to the complaint, the subject matter of
4 the complaint, a summary of the results of the review or
5 investigation of the complaint, and its disposition.

6 (b) The foundation shall make information available
7 describing its procedures for complaint investigation and
8 resolution.

9 (c) The foundation shall periodically notify the complaint
10 parties of the status of the complaint until final disposition
11 unless the notice would jeopardize an investigation.

12 SECTION 25. The heading to Section 134.002, Agriculture
13 Code, is amended to read as follows:

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

15 SECTION 26. Section 134.004, Agriculture Code, is amended
16 to read as follows:

17 Sec. 134.004. CONTRACTS. The department, the Texas
18 [~~Natural Resource Conservation~~] Commission on Environmental
19 Quality, the Texas Animal Health Commission, and the Parks and
20 Wildlife Department may contract with state, federal, or private
21 entities for assistance in carrying out the purposes of this
22 chapter.

23 SECTION 27. The heading to Subchapter B, Chapter 134,
24 Agriculture Code, is amended to read as follows:

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

26 SECTION 28. Section 134.013, Agriculture Code, is amended
27 to read as follows:

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

5 (1) [~~must~~] obtain a site-specific wastewater
6 discharge permit from the Texas [~~Natural Resource Conservation~~]
7 Commission on Environmental Quality before the facility may
8 discharge wastewater if the facility will discharge wastewater or
9 another substance into waters in the state;

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

15 (3) [~~must~~] obtain an amendment to its site-specific
16 discharge permit from the Texas [~~Natural Resource Conservation~~]
17 Commission on Environmental Quality before the facility may
18 increase the amount of discharge or change the nature of the
19 discharge above levels allowed by the wastewater discharge permit
20 issued by the Texas [~~Natural Resource Conservation~~] Commission on
21 Environmental Quality, except as otherwise provided by Section
22 26.0191, Water Code; and

23 (4) [~~must~~] provide the report described by Subsection
24 (b) [~~and is subject to the review described in Section 134.031(c)~~]
25 before the facility may increase the amount of discharge, or change
26 the nature of the discharge above levels allowed by the wastewater
27 discharge permit issued by the Texas [~~Natural Resource~~

1 ~~Conservation~~] Commission on Environmental Quality, except as
2 otherwise provided by Section 26.0191, Water Code.

3 (b) Before issuing a permit [~~license~~] to a new aquaculture
4 facility designed for the commercial production of shrimp that will
5 discharge wastewater into waters in the state within the coastal
6 zone, the Texas Commission on Environmental Quality [~~department~~]
7 shall require the applicant to provide a report describing the
8 existing environmental conditions at the proposed site, including
9 aquatic habitat and the conditions of the waters in the state into
10 which a discharge is proposed. The report must provide an
11 assessment of any potential impacts of wastewater discharges on
12 sensitive aquatic habitats in the area of the proposed site,
13 significant impacts related to the construction or operation of the
14 facility, and any mitigation actions proposed by the applicant.

15 (c) The applicant must provide the report required under
16 Subsection (b) to the [~~Texas Natural Resource Conservation~~
17 ~~Commission and the~~] Parks and Wildlife Department. The Texas
18 [~~Natural Resource Conservation~~] Commission on Environmental
19 Quality may not issue a wastewater discharge permit to a new
20 aquaculture facility designed for the commercial production of
21 shrimp and located within the coastal zone without consideration of
22 the report described by Subsection (b).

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

27 (1) give public notice as to what the reporting

1 requirements include; and

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

5 SECTION 29. Section 134.016(a), Agriculture Code, is
6 amended to read as follows:

7 (a) The operator [~~holder~~] of a commercial [~~an~~] aquaculture
8 facility [~~license~~] shall maintain a record of sales of cultured
9 species for at least [~~a period of time of not less than~~] one year.
10 The record is open for inspection by designated employees of the
11 Parks and Wildlife Department [~~and the department~~] during normal
12 business hours.

13 SECTION 30. Section 134.017, Agriculture Code, is amended
14 to read as follows:

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

21 SECTION 31. Section 134.018, Agriculture Code, is amended
22 to read as follows:

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

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

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

4 (3) by the owner of the private facility from which the
5 fish were collected;

6 (4) to manage the fish population in the private
7 facility; and

8 (5) to a person who operates a commercial [~~holds an~~]
9 aquaculture facility [~~license~~].

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

16 (1) the invoice number;

17 (2) the date of the sale;

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

19 (4) the physical location of the facility from which
20 the fish were collected;

21 (5) the buyer's name and [~~the~~] address[~~es~~] and the name
22 and address of the buyer's commercial aquaculture facility [~~license~~
23 ~~number of the buyer~~]; and

24 (6) the number of fish sold.

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

27 SECTION 32. Section 134.023(b), Agriculture Code, is

1 amended to read as follows:

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

4 SECTION 33. Sections 134.031(a), (b), (c), (d), (e), (f),
5 and (g), Agriculture Code, are amended to read as follows:

6 (a) The [~~department, the~~] Texas [~~Natural Resource~~
7 ~~Conservation~~] Commission on Environmental Quality[~~7~~] and the Parks
8 and Wildlife Department shall enter into a memorandum of
9 understanding for the regulation of matters related to aquaculture.

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

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

22 (d) The Parks and Wildlife Department, in consultation with
23 the Texas [~~Natural Resource Conservation~~] Commission on
24 Environmental Quality, may establish general guidelines that
25 identify sensitive aquatic habitat within the coastal zone. The
26 general guidelines must include factors such as the presence of sea
27 grass beds, depth of receiving waters, and amount of tidal

1 exchange.

2 (e) If the Parks and Wildlife Department establishes the
3 guidelines described in Subsection (d), the Parks and Wildlife
4 Department must provide the guidelines to the Texas [~~Natural~~
5 ~~Resource Conservation~~] Commission on Environmental Quality [~~and~~
6 ~~the department~~].

7 (f) If the Parks and Wildlife Department has established the
8 guidelines described in Subsection (d), the Texas [~~Natural Resource~~
9 ~~Conservation~~] Commission on Environmental Quality must consider
10 the guidelines when reviewing wastewater discharge authorization
11 applications for new aquaculture facilities located within the
12 coastal zone, or expansion of existing facilities located within
13 the coastal zone if the expansion will increase the amount of
14 discharge, or change the nature of the discharge, above levels
15 allowed by the wastewater discharge permit.

16 (g) In developing the guidelines under Subsection (d)
17 applicable to aquaculture facilities engaged in the production of
18 shrimp in the coastal zone, the Parks and Wildlife Department, in
19 consultation with the Texas [~~Natural Resource Conservation~~]
20 Commission on Environmental Quality, shall consider the best
21 management practices that the facilities developed under the
22 direction of the Texas [~~Natural Resource Conservation~~] Commission
23 on Environmental Quality.

24 SECTION 34. Section 110.002(b), Alcoholic Beverage Code, is
25 amended to read as follows:

26 (b) The commissioner [~~, in consultation with the advisory~~
27 ~~committee established under Section 50B.002, Agriculture Code,~~]

1 shall adopt rules as necessary to implement the program.

2 SECTION 35. Section 153.046, Natural Resources Code, is
3 amended to read as follows:

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

5 (1) [~~establish~~] standards for prescribed burning;

6 (2) [~~develop~~] a comprehensive training curriculum for
7 certified and insured prescribed burn managers;

8 (3) [~~establish~~] standards for certification,
9 recertification, and training for certified and insured prescribed
10 burn managers;

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

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

16 SECTION 36. Section 153.048, Natural Resources Code, is
17 amended by adding Subsection (f) to read as follows:

18 (f) The board may waive any prerequisite to obtaining
19 certification for an applicant after reviewing the applicant's
20 credentials and determining that the applicant holds a valid
21 certification from another state that has certification
22 requirements substantially equivalent to those of this state.

23 SECTION 37. Section 153.101, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 153.101. COMPLAINTS. The department shall receive and
26 process complaints concerning certified and insured prescribed
27 burn managers in the manner described by Sections [~~Section~~] 12.026

1 and 12.02601, Agriculture Code, and rules adopted under those
2 sections [~~that section~~].

3 SECTION 38. Section 153.102(b), Natural Resources Code, is
4 amended to read as follows:

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

11 SECTION 39. Section 43.551, Parks and Wildlife Code, is
12 amended to read as follows:

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

20 SECTION 40. Section 43.553(a), Parks and Wildlife Code, is
21 amended to read as follows:

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

1 SECTION 41. Section 43.554, Parks and Wildlife Code, is
2 amended to read as follows:

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

7 SECTION 42. Section 47.009(c), Parks and Wildlife Code, is
8 amended to read as follows:

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

16 SECTION 43. Section 47.0091, Parks and Wildlife Code, is
17 amended to read as follows:

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

- 25 (1) a general commercial fisherman's license;
26 (2) a commercial oyster fisherman's license;
27 (3) a commercial oyster boat license;

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

11 SECTION 44. Section 47.010(b), Parks and Wildlife Code, is
12 amended to read as follows:

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

22 SECTION 45. Section 47.011(c), Parks and Wildlife Code, is
23 amended to read as follows:

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

1 operator's [~~person's~~] business activities with regard to the sale
2 of aquatic products involve aquatic products raised on the
3 operator's commercial [~~person's~~] aquaculture facility only.

4 SECTION 46. Section 47.0111, Parks and Wildlife Code, is
5 amended to read as follows:

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

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

26 SECTION 47. Section 47.012, Parks and Wildlife Code, is
27 amended to read as follows:

1 Sec. 47.012. PURCHASE OF AQUATIC PRODUCTS BY RESTAURANT
2 OWNER, OPERATOR, OR EMPLOYEE. No restaurant owner, operator, or
3 employee may purchase for consumption by the restaurant's patrons
4 on the restaurant's premises any aquatic product from any person or
5 entity in this state unless the person purchases the aquatic
6 product from the operator of a commercial aquaculture facility as
7 defined by Section 134.001, Agriculture Code, or the holder of:

- 8 (1) a wholesale fish dealer's license;
- 9 (2) a general commercial fisherman's license;
- 10 (3) ~~[a fish farmer's license;~~
- 11 ~~[(4)]~~ a commercial shrimp boat license;
- 12 (4) ~~[(5)]~~ a commercial shrimp boat captain's license;
- 13 (5) ~~[(6)]~~ a commercial crab fisherman's license;
- 14 (6) ~~[(7)]~~ a commercial finfish fisherman's license; or
- 15 (7) ~~[(8)]~~ a commercial gulf shrimp unloading license.

16 SECTION 48. Section 47.013(c), Parks and Wildlife Code, is
17 amended to read as follows:

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

27 SECTION 49. Section 47.014(c), Parks and Wildlife Code, is

1 amended to read as follows:

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

9 SECTION 50. Sections 66.007(d) and (f), Parks and Wildlife
10 Code, are amended to read as follows:

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

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

20 SECTION 51. Section 66.020(b), Parks and Wildlife Code, is
21 amended to read as follows:

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

26 (1) the transportation or possession of fish taken,
27 caught, or raised outside this state and transported by common

1 carrier without being unloaded from outside this state to a point of
2 delivery outside this state;

3 (2) fish raised by being continuously fed a prepared
4 feed and sold by an operator of a commercial aquaculture facility,
5 [~~licensed Texas fish farmer if marked and identified~~] as defined by
6 Section 134.001 [~~required under Chapter 134~~], 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 52. 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 53. The following provisions are repealed:

- 2 (1) Sections 12.0178, 12.026(c) and (d), 15.006,
3 45.009, 46.010, 47.051(1), 47.053, 49.006, 50B.002, 74.003(d),
4 74.0031(a), 74.120(d), 102.167(e), 134.003, 134.005(b), 134.006,
5 134.011, 134.012, 134.014, 134.015, and 134.019, Agriculture Code;
6 (2) Chapter 42, Agriculture Code;
7 (3) Subchapter P, Chapter 487, Government Code;
8 (4) Subchapter R, Chapter 487, Government Code; and
9 (5) Chapter 116, Health and Safety Code.

10 SECTION 54. (a) On the effective date of this Act, a
11 license issued under former Section 134.011 or 134.012, Agriculture
12 Code, expires.

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

17 (c) The repeal by this Act of Sections 134.011 and 134.012,
18 Agriculture Code, does not affect the validity of a proceeding
19 pending before a court or other governmental entity on the
20 effective date of this Act.

21 SECTION 55. Not later than January 1, 2022, the
22 commissioner of agriculture shall appoint the members of the citrus
23 budwood advisory council under Section 19.005, Agriculture Code, as
24 reenacted and amended by this Act. The advisory council is
25 re-created on the date the commissioner of agriculture makes the
26 appointments required by this section, notwithstanding any
27 previous abolishment under Section 2110.008, Government Code.

1 SECTION 56. The changes in law made by this Act apply only
2 to an offense committed on or after the effective date of this Act.
3 An offense committed before the effective date of this Act is
4 governed by the law in effect when the offense was committed, and
5 the former law is continued in effect for that purpose. For
6 purposes of this section, an offense was committed before the
7 effective date of this Act if any element of the offense occurred
8 before that date.

9 SECTION 57. This Act takes effect September 1, 2021.