

BILL ANALYSIS

Senate Research Center

H.B. 2407
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Natural Resources
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Engrossed

DIGEST

Currently, farmers turn to the state Produce Recovery Fund (fund) for assistance when a dispute over payment arises between farmers and produce dealers. The fund was established in 1977 to fill the role of an insurance program for farmers who are not paid by licensed produce dealers. Last year the fund paid about \$140,000 to 19 claimants. H.B. 2407 clarifies terms regarding certain produce, clarifies licensing and regulation regarding perishable commodities, increases amounts allowed to be paid for claims, and repeals existing regulation regarding citrus fruit dealers.

PURPOSE

As proposed, H.B. 2407 sets forth provisions regarding the handling and marketing of vegetables and fruit and the payment of claims from the Produce Recovery Fund.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Agriculture in SECTION 7 (Section 101.006(b), Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 101, Agriculture Code, as follows:

CHAPTER 101. New heading: HANDLING AND MARKETING OF PERISHABLE
COMMODITIES

SECTION 2. Amends Section 101.001, Agriculture Code, to define “perishable commodity,” redefine “handle,” “packer,” “producer,” and “warehouseman,” and delete the definition of “vegetable.”

SECTION 3. Amends Section 101.002, Agriculture Code, as follows:

Sec. 101.002. New heading: PERISHABLE COMMODITIES. Provides that this chapter applies to perishable commodities, rather than vegetables. Makes conforming changes.

SECTION 4. Amends Section 101.003, Agriculture Code, to redescribe entities to which this section does not apply. Deletes existing Subsection (c), and makes conforming changes.

SECTION 5. Amends Section 101.004, Agriculture Code, as follows:

Sec. 101.004. New heading: LICENSE OR REGISTRATION CATEGORIES. Deletes existing Subsection (a), regarding requirements of a licensee or registrant, and makes conforming changes.

SECTION 6. Amends Section 101.005, Agriculture Code, to require an applicant to provide certain information and certify that the information is correct. Requires applicants to answer questions regarding prior licensure by the United States Department of Agriculture. Creates a violation and justification for denying an application. Makes conforming changes.

SECTION 7. Amends Section 101.006, Agriculture Code, to authorize the Department of Agriculture (department) to create rules for registration fees. Deletes text regarding a specific license fee, and provisions regarding a license applicant.

SECTION 8. Amends Sections 101.007(a) and (c), Agriculture Code, to delete a specification that certain action must be performed immediately, and makes conforming and nonsubstantive changes.

SECTION 9. Amends Section 101.010(a), Agriculture Code, to make a conforming change.

SECTION 10. Amends Section 101.011, Agriculture Code, to delete text regarding attempts to assign an identification card.

SECTION 11. Amends Sections 101.013(a) and (c), Agriculture Code, to require certain payment from a licensee, rather than a dealer. Makes conforming changes.

SECTION 12. Amends Section 101.014, Agriculture Code, to make conforming changes.

SECTION 13. Amends Section 101.015, Agriculture Code, to delete text regarding an exception to this section, to make conforming changes.

SECTION 14. Amends Chapter 101, Agriculture Code, by adding Section 101.0151, as follows:

Sec. 101.0151. BUYING OR SELLING BY WEIGHT. Requires a licensee who buys or sells perishable commodities by weight to have the commodities weighed on scales that meet state requirements.

SECTION 15. Amends Section 101.016, Agriculture Code, to require certain entities to keep certain records for at least three years from the transaction date. Sets forth requirements for the licensee, packer, handler, or warehouseman. Authorizes the department to investigate, without notice, suspected violators of this chapter. Makes conforming and nonsubstantive changes.

SECTION 16. Amends Section 101.017, Agriculture Code, to require a licensee, except for a retailer, to maintain certain records for each sale. Requires a licensee to maintain certain information for at least three years after the date of sale. Deletes text regarding a record of sale, and makes conforming and nonsubstantive changes.

SECTION 17. Amends Section 101.018, Agriculture Code, by amending Subsection (b) and adding Subsection (d), to create a violation for failure to provide access to records for examination, and make conforming changes.

SECTION 18. Amends Section 101.019, Agriculture Code, to make a conforming change.

SECTION 19. Amends Section 101.020(a), Agriculture Code, to create offenses regarding failure to obtain a license, failure to weigh items properly, and failure to prepare, maintain, and provide records properly. Deletes text regarding this code, and makes conforming changes.

SECTION 20. Amends Sections 103.002(a)-(c), Agriculture Code, to provide that the Produce Recovery Fund is special trust fund for the payment of claims against license holders, rather than commission merchants. Deletes text regarding fees collected under certain sections of this code.

SECTION 21. Amends Section 103.003(a), Agriculture Code, to make conforming changes.

SECTION 22. Amends Section 103.005(a), Agriculture Code, to make a conforming change.

SECTION 23. Amends Sections 103.008(a)-(e), Agriculture Code, to increase dollar amounts and percents regarding certain payments. Prohibits the department from paying a claim against a cash dealer registered, rather than licensed under Chapter 101, Agriculture Code, and deletes a reference to Chapter 102 of this code. Prohibits certain payments from exceeding two times the average amount of money deposited during the previous fiscal years. Prohibits the payment of claims from causing the balance of the Produce Recovery Fund from falling below \$100,000.

SECTION 24. Amends Section 103.009(c), Agriculture Code, to make a conforming change.

SECTION 25. Reenacts and amends Section 103.011, Agriculture Code, and deletes text regarding a retailer, and a person who is required to pay a fee. Makes conforming and nonsubstantive changes.

SECTION 26. Amends Section 103.013(a), Agriculture Code, to make a conforming change.

SECTION 27. Repealer: Chapter 102A, Agriculture Code (Regulation of Citrus Fruit Dealers).

SECTION 28. (a) Effective date: September 1, 1999.

(b) Makes application of amendments to Section 101.005, Agriculture Code, prospective.

(c) Makes application of amendments to Section 103.008, Agriculture Code, prospective.

SECTION 29. Emergency clause