

**SUBJECT:** Retail food store regulation study, regulating weights and measures

**COMMITTEE:** State Affairs — committee substitute recommended

**VOTE:** 10 ayes — Wolens, S. Turner, Brimer, Carter, Counts, Danburg, hunter, Longoria, McCall, Ramsay

0 nays

5 absent — Alvarado, Craddick, Hilbert, D. Jones, Stiles

**SENATE VOTE:** On final passage, April 24, Local and Uncontested Calendar — 29-0

**WITNESSES:** None

**DIGEST:** CSSB 1355 would establish an inter-agency task force coordinating the regulation of retail food stores; increase privatization of testing of weighing or measuring devices; transfer regulation of drug weighing from the Department of Agriculture (TDA) to the State Board of Pharmacy (TSBP); allow an agreement between TDA and the Department of Health (TDH) on regulating aquatic products; and transfer regulation of motor fuels weighing from the Comptroller's Office to TDA.

**Inter-agency task force.** CSSB 1355 would establish a fourteen-member interagency task force to advise and assist the comptroller in coordinating state regulation of retail food stores. The task force members would include one representative from: TDA, Texas Department of Commerce (TDOC), TDH, Texas Parks and Wildlife Department (TPWD), the comptroller's office, Texas Alcoholic Beverage Commission (TABC), Texas Retailer's Association, Texas Food Industry Association, Texas Petroleum Marketers Association, Consumer's Union, one representative of rural and one of urban local health department selected by the governor, and one representative of rural and one of urban consumers appointed by the comptroller. The Task force would be required to study regulations and state agency procedures and report its findings to the Legislature.

**Privatization.** CSSB 1355 would require, effective September 1, 1999, TDA and TSBP to privatize at least 50 percent of all inspections or tests required by law for the accuracy and weighing of measuring devices. Effective September 1, 2001, 75 percent of all such tests and inspections would have to be privatized. The privatization requirement would not prevent a TDA or TSBP employee from performing an inspection or test. TDC would be required to disseminate business opportunity information on the privatization of inspection and testing of weights and measures.

**Drug weights and measures.** CSSB 1355 would transfer from TDA to TSBP the authority for regulating weights and measures sold for the compounding of drugs.

**Aquatic products.** CSSB 1355 would require TDA to initiate negotiations with TDH to consolidate the license and permit requirements of aquatic products sold in retail food stores. Under the terms of the agreement, TDH would be required to collect information identifying retail food stores selling aquatic products and perform routine inspections regarding the source of such products.

**Motor fuels.** CSSB 1355 would transfer the enforcement of certain motor fuels regulations from the Comptroller's Office to TDA. TDA would be responsible for:

- posting notice of sales of motor fuel and alcohol mixtures;
- posting and certification of automotive fuel ratings;
- documenting motor fuel mixture sales;
- requiring dealers to retain delivery documents — CSSB 1355 would reduce from four years to one the length of time a dealer would be required to retain such documents; and
- delivering documents to the federal government as required by law for the purposes of prosecuting a person for violation of federal law relating to the sale of motor fuels.

CSSB 1355 would allow TDA to impose an administrative penalty of not more than \$500 for each day and each violation of the rules relating to motor fuels retailers. Administrative penalties would have to follow requirements of due process, notice, hearings and judicial review imposed

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on other administrative penalties. The civil penalty available would be increase from the current level of \$25-\$200 to \$200-\$10,000.

CSSB 1355 would take effect September 1, 1997.

NOTES:

The committee substitute added additional consumer members to the inter-agency task force, required the privatization of inspections by TSBP, and removed any changes to the inspection and testing of eggs found in the Senate-passed version.