

**SUBJECT:** Revising agricultural regulations

**COMMITTEE:** Agriculture and Livestock — committee substitute recommended

**VOTE:** 6 ayes — Swinford, McReynolds, Christian, Miller, Brown, Green  
0 nays  
3 absent — Hardcastle, Hupp, Kolkhorst

**WITNESSES:** For — Lynton Allred, Texas Petroleum Marketers and Convenience Store Association; Charles Leamons; James K. Presnal, Texas Nursery and Landscape Association; Ray Prewett, Texas Citrus Mutual  
Against — None  
On — Susan Combs, Texas Department of Agriculture

**DIGEST:** CSHB 2000 would make various changes affecting the authority of the Texas Department of Agriculture (TDA).

**Motor-fuels fee.** CSHB 2000 would move authority from the comptroller to the agriculture commissioner to impose fees determined necessary by the agriculture commissioner for testing or inspection of motor-fuel mixtures. The comptroller no longer could impose an additional fee, as determined by the agriculture commissioner, on distributors, suppliers, wholesalers, and jobbers. Instead, the fees would have to be collected from each dealer on a periodic basis determined by the agriculture commissioner.

CSHB 2000 would repeal current exemptions for these fees from Tax Code requirements for collection procedures, the cancellation or refusal of permits, and the enforcement of permit cancellations, suspensions, or refusals.

Signs required to be posted by motor-fuel dealers no longer would have to be obtained from the agriculture commissioner.

**TDA authority.** CSHB 2000 would authorize TDA to enter into cooperative agreements with private entities and with local, state, federal, and foreign governmental entities.

The bill would allow, rather than require, TDA to take certain actions against license holders who violate the Agriculture Code or a TDA rule. It would give TDA new authority to refuse to issue a license in these situations. TDA also could take action against license holders who failed to comply with a TDA order after being given appropriate notice and could require license holders whose license suspension was probated to maintain additional information in their records.

The bill would authorize TDA to issue a phytosanitary certificate after completing inspections for pests and fungus authorized under current law. It would add processed products and equipment exported from Texas to the list of items for which TDA can collect a phytosanitation inspection fee.

**Selling of organic products.** People ordered by TDA to stop selling agricultural products because they violated the state's organic standards no longer would be prohibited completely from selling the items, but would be prohibited from selling the items if they were labeled, marketed, advertised, or otherwise represented as organic.

**Commodity boards.** Instead of being categorized as state agencies for "all" purposes, commodity boards would be considered governmental units or bodies under state laws for tort claims, open government and ethics, and public information. The boards would be considered state agencies for indemnification purposes.

**Collection of statistics.** TDA no longer would have to collect certain agricultural statistics annually but would have to continue to collect and publish statistics that it considered beneficial in developing Texas' agricultural resources. State agency heads no longer would have to furnish information for the statistical reports, and TDA no longer could enter manufacturing establishments to gather the statistics. CSHB 2000 would repeal a requirement that TDA collect and publish statistics and information about the irrigation of rice and other crops.

**Nursery and florist items.** CSHB 2000 would include a person growing more than 50 percent of florist items being sold or leased in the definition of a nursery grower under the statutes for inspecting nursery products and florist items.

Current requirements that nurseries and other horticultural facilities be inspected at least every three years would not apply to physical locations maintained by registered florists or nursery owners who did not have an inventory of nursery products or florist items at the location.

**Miscellaneous provisions.** Inspectors employed by TDA to certify seeds and plants no longer would have to be nominated by the state's Seed and Plant Board. TDA, not the Seed and Plant Board, would have to prescribe the format of certified seed or plant labels.

People with registration certificates for cotton varieties no longer could have their seeds and plants certified by TDA. The bill would repeal requirements that the Seed and Plant Board adopt rules governing the registration for certification eligibility of newly developed varieties of cotton.

CSHB 2000 would repeal a prohibition on the importation of camellia plants and flowers that are not certified to be free from camellia flower blight and a requirement that the agriculture commissioner furnish county commissioners courts with formulas and instructions for preparing and using poisons to destroy certain animal pests.

The bill would require the Texas-Israel Exchange Fund Board to meet at least annually instead of at least twice annually.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS  
SAY:

**Motor-fuels fee.** Transferring authority for collecting the octane-testing fee from the comptroller to the agriculture commissioner and requiring dealers, instead of wholesalers, to pay the fees would increase the efficiency of tax collection and would require those who benefit from the program to pay the fee. Currently, wholesalers pay the fee based on their motor-fuel permits.

Since retailers are the beneficiaries of the testing program, it would be more appropriate for them to pay the fee and to have the fee based on retail hoses. It would be more efficient for the agriculture commissioner to collect the fee because TDA already collects another fee based on retail hoses.

These changes would not be burdensome or unfair to retailers who would pay the fee. Many retailers are also wholesalers, so they would pay the fee either way. The few stand-alone retailers usually are small establishments with only a few hoses. In these cases, the fee would amount to only a few dollars per hose. Also, wholesalers most likely already pass the fees along to these retailers.

**TDA authority.** CSHB 2000 would give TDA more flexibility by replacing some statutory authority for TDA to enter into cooperative agreements in specific situations with broad authority to do so and by giving the agency more options to deal with license holders.

**Selling of organic products.** CSHB 2000 would allow agricultural products that had failed to meet the requirements for organic produce to be sold as non-organic produce so the products would not go to waste. Under current law, these products cannot be sold at all. There is no reason to prevent their sale as long as they are not labeled as organic.

**Commodity boards.** CSHB 2000 would more be more specific than current law in describing commodity boards, ensuring that the boards would be subject to appropriate responsibilities and privileges. Commodity boards would be considered governmental entities entitled to governmental immunity and would be subject to the important requirements of open government, public information, and tort claims.

**Collection of statistics.** It is unnecessary to require TDA to collect and publish certain statistics annually because some statistics are published by other agencies or entities and some are not needed annually. Requiring TDA to do this as it considers beneficial for Texas agriculture would ensure that appropriate statistics were made known without imposing an undue burden on the agency.

**Nursery and florist items.** CSHB 2000 would clarify current law to ensure that people growing florist items would be considered nursery growers.

**Miscellaneous.** CSHB 2000 no longer would require TDA to certify cotton varieties because the U.S. Department of Agriculture already does this. It would repeal TDA's authority to deal specifically with diseased camellia plants because TDA already has general authority to quarantine plants when necessary.

OPPONENTS  
SAY:

**Motor-fuels fee.** CSHB 2000 could impose a new fee unfairly on retailers who are not also wholesalers. Many of these stand-alone retailers are small establishments that could feel the effect of any new fee.

NOTES:

The committee substitute changed the original bill by amending the language dealing with the comptroller's and agriculture commissioner's authority for motor-fuels fees.

The companion bill, SB 938 by Armbrister, passed the Senate on March 22 on the Local and Uncontested Calendar and was reported favorably, without amendment by the House Agriculture and Livestock Committee on March 29, making it eligible to be considered in lieu of HB 2000.