

CHAPTER 768

H.B. No. 2242

AN ACT

relating to regulation of certain herbicides; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 75, Agriculture Code, is amended to read as follows:

CHAPTER 75. HERBICIDE REGULATION

Sec. 75.001. PURPOSE. The purpose of this chapter is to regulate the *distribution [sale]*, use, and transportation of *certain herbicides to prevent a hazard to desirable vegetation*.

Sec. 75.002. DEFINITIONS. In this chapter:

(1) "Application of a herbicide" means the spreading of a herbicide on real property having a continuous boundary line.

(2) "Commercial applicator [~~Custom applicer~~]" means a person who applies a herbicide to land *belonging to another person [or plants]* for hire.

(3) "Distribute" means to offer for sale, hold for sale, sell, barter, or supply.

(4) "Equipment" means a device used to apply a herbicide.

Sec. 75.003. *REGULATED HERBICIDES.* (a) *After a public hearing on the issue, and in accordance with Subsection (b) of this section, the department by rule may adopt a list of regulated herbicides for the state or for one or more designated areas in the state [This chapter applies to the following herbicides:*

~~[(1) 2, 4-Dichlorophenoxyacetic Acid (2, 4-D);~~

~~[(2) 2, 4, 5-Trichlorophenoxyacetic Acid (2, 4, 5-T);~~

~~[(3) 2-Methyl-4-Chlorophenoxyacetic Acid (MCPA);~~

~~[(4) 2-(2, 4, 5-Trichlorophenoxy) propionic Acid (silvex);~~

~~[(5) Polychlorinated benzoic acids; and~~

~~[(6) derivatives and formulations of substances listed by Subdivisions (1)-(5) of this subsection].~~

~~(b) The department may include a herbicide on the list of regulated herbicides if the department determines that, if used as directed or in accordance with widespread and commonly recognized practice, the herbicide requires additional restrictions to [To] prevent a hazard to desirable vegetation through drift or other uncontrolled application[, the department may, after a public hearing, determine that this chapter applies to a substance, in addition to those listed by Subsection (a) of this section, that is used to control plants growing where they are not wanted].~~

Sec. 75.004. *DEALER'S LICENSE.* (a) *A [Except as provided by Subsection (b) of this section, a] person may not [sell, wholesale,] distribute[, offer or expose for sale, exchange, barter, or give away in this state,] a regulated herbicide [in a container having a net capacity of more than 16 fluid ounces] unless the person has a [first obtains a] dealer's license from the department.*

(b) A person must obtain a license for each location in the state that is used for distribution. If the person does not have a place of business in this state, the person may obtain one license for all out-of-state locations, but must designate an agent for service of process in this state before the department may issue the license [is not required to be licensed if the container described by Subsection (a) of this section:

~~[(1) has a net capacity that does not exceed one gallon;~~

~~[(2) contains a substance with a concentration of herbicide not exceeding 10 percent by volume; and~~

~~[(3) bears a label stating that its contents are for lawn use only].~~

~~(c) A person must apply for a dealer's license under this section on a form prescribed by the department [Except as provided by this subsection, an application for a dealer's license must be accompanied by a dealer's license fee for each warehouse or branch of the applicant's business. If the applicant's principal office keeps and reports satisfactory records for all subsidiary branches, the applicant shall pay one license fee].~~

~~(d) The department by rule shall set the fee for a dealer's license in an amount not to exceed \$100.~~

~~(e) A dealer's license expires December 31 [January 1] of each year.~~

~~(f) A person who fails to submit a renewal fee on or before the expiration date of the license must pay, in addition to the renewal fee, the late fee provided by Section 12.024 of this code.~~

Sec. 75.005. *RECORD OF DISTRIBUTION [SALE].* (a) *A person required to obtain a dealer's license by Section 75.004 of this code shall record each distribution of a regulated [sale of a] herbicide [that is sold in a container having a net capacity of more than 16 fluid ounces] and shall keep a copy of the record for at least two years after the date of the distribution [sale].*

(b) The department shall adopt rules that prescribe the information to be stated in the records required by this section.

(c) The department may require that a copy of the records required by this section be submitted periodically to the department. The copies submitted to the department are public information.

(d) *The department may revoke a dealer's license if the licensee fails to submit a copy of a record as required under Subsection (c) of this section.*

Sec. 75.0055. DENIAL, REVOCATION, MODIFICATION, OR SUSPENSION OF LICENSE. (a) *The department may deny an application for a dealer's license if the applicant fails to comply with this chapter.* The department shall revoke, modify, or suspend a license, assess an administrative penalty, [~~suspend an administrative penalty for good cause,~~] place on probation a person whose license has been suspended, or reprimand a licensee for a violation of *this chapter* [~~Section 75.005 of this code~~] or a rule adopted by the department under *this chapter* [~~that section~~].

(b) If a license suspension is probated, the department may require the person to:

- (1) report regularly to the department on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the department; or

(3) continue or renew professional education until the person attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(c) If the department proposes to *deny a person's application for a license or revoke, modify, or suspend a person's license*, the person is entitled to a hearing before a hearing officer designated by the department. The decision of the department is appealable in the same manner as provided for contested cases under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 75.006. PERMIT[; FEE]. (a) *Except as provided by Subsection (b) of this section, during a period in which the commissioners court of a county has determined, as provided by Section 75.021(a) of this code, the existence in the county of a crop or vegetation of value that is susceptible to being adversely affected by the application of a regulated herbicide, a person must obtain a permit from the department before applying the regulated herbicide in the county* [~~Except as provided by this section, a person may not apply a herbicide to any land or plants unless the person first obtains a permit to apply a herbicide from the department~~].

(b) *The department may exempt from the permit requirement under Subsection (a) of this section a county or portion of a county during a period the department determines a crop or vegetation of value susceptible to being adversely affected from application of a regulated herbicide does not exist in the county or portion of the county* [~~An application for a permit to apply a herbicide must be accompanied by a permit fee set by the department in an amount not to exceed 10 cents an acre for the area to which the herbicide is to be applied~~].

(c) [~~A permit is not required if during any one year the person applies a herbicide to a total acreage of 10 acres or less.~~

[(4)] The department by rule may exempt from the permit [~~and fee~~] requirement of this section:

(1) a particular type of application of a *regulated herbicide, including an application for structural pest control purposes by an applicator licensed by the Texas Structural Pest Control Board or a nurseryman licensed by the department in turf weed control for structural pest control applications*; or

(2) a governmental body.

(d) [(e)] If the department finds that a type of application of a *regulated herbicide* does not create a hazard in a particular area, the department by rule shall exempt that area from the permit [~~and fee~~] requirement of this section.

(e) [(f)] A permit to apply a *regulated herbicide* [~~and payment of the permit fee~~] is not required for experimental work with a *regulated herbicide* by the department, a recognized college or university, the United States Department of Agriculture, a governmental body, or a public organization if the entity gives written notice of the work to the department and does the work in accordance with rules adopted by the department. The department may exempt those entities from any other requirement of this chapter or rule adopted under this chapter.

Sec. 75.007. INSPECTION BEFORE ISSUING PERMIT. Before issuing a permit to spray a *regulated* herbicide, the department is entitled to enter and inspect the area to be sprayed and the area surrounding it.

Sec. 75.008. TYPES OF PERMITS. The department may issue:

- (1) an individual permit to apply a *regulated* herbicide; or
- (2) a blanket permit.

Sec. 75.009. POWDER OR DRY HERBICIDES. ~~[(a)]~~ The department may not issue a permit to apply a powder or dry-type *regulated* herbicide unless:

- (1) all particles of the herbicide can pass through a U.S. standard 10-mesh sieve; and
- (2) not more than one percent of the particles can pass through a U.S. standard 60-mesh sieve.

~~[(b) The holder of a permit to apply a powder or dry-type herbicide may not apply a powder or dry-type herbicide that does not meet the requirements of Subsection (a) of this section.]~~

Sec. 75.010. TERM OF PERMIT. ~~[(a)]~~ A permit to apply a *regulated* herbicide expires:

- (1) when the herbicide has been applied to the area described by the permit;
- (2) when all acreage for which the permit was granted has been treated; or
- (3) if the acreage is not treated, on the 180th day after the day on which the permit was issued.

~~[(b) If a herbicide is not applied to acreage for which a permit was issued, the person to whom the permit was issued, after filing a request for a refund, shall receive a refund equal to the amount of fees paid for acreage not treated.]~~

Sec. 75.011. REFUSAL, AMENDMENT, OR REVOCATION OF PERMIT. The department may amend, revoke, or refuse to grant a permit to apply a *regulated* herbicide.

Sec. 75.012. APPLICATION OF *REGULATED* HERBICIDE. (a) If a person applies a *regulated* herbicide, the person shall act in accordance with rules adopted by the department, including rules adopted under Subchapter E, Chapter 76, of this code regulating application of pesticides that the department adapts to apply to *regulated* herbicides.

(b) If a *regulated* herbicide is applied by a *commercial applicator* ~~[custom applicator]~~, the person in control of the crop or land to which the *regulated* herbicide is applied ~~[for whom the application of a herbicide is made]~~ and the *commercial applicator* ~~[custom applicator]~~ shall jointly be responsible for ensuring that ~~[supervise]~~ the application is in compliance with this chapter and the rules adopted by the department ~~[under Subsection (a) of this section]~~.

(c) ~~[Regardless of whether a permit for the application of a herbicide is required under this chapter, each person before spraying a herbicide on land or plants, other than a lawn, shall:~~

~~[(1) give notice of intent to spray; and~~

~~[(2) submit a record of the spraying in accordance with rules of the department.~~

~~[(d)]~~ If the department finds that an application of a *regulated* herbicide is hazardous to crops or valuable plants in an area, the department may prohibit the application of a *regulated* herbicide in that area for the period during which the hazard exists.

Sec. 75.013. *APPLICATOR'S* ~~[APPLIERS']~~ RECORDS. (a) Except as provided by Subsection (d) of this section, each person who applies a *regulated* herbicide shall record each application of a *regulated* herbicide that he or she makes and shall keep a copy of the records for at least two years after the date the application was made.

(b) The department shall adopt rules that prescribe the information to be stated in the records required by this section.

(c) ~~[To be eligible to hold a valid permit to apply a herbicide, a person must submit to the department, within a period prescribed by rule of the department, the record of each application of a herbicide made by the person.]~~ The department may require all persons who apply a *regulated* herbicide to submit periodically to the department a copy of the records required by this section.

(d) A person, other than a *commercial applicator* [~~custom applicler~~], who applies a *regulated* herbicide to a lawn is not required to make and keep the records required by Subsection (a) of this section for that application of a herbicide.

Sec. 75.014. *PROOF OF FINANCIAL RESPONSIBILITY* [~~CROP DAMAGE PROTECTION~~]. (a) Except as otherwise provided by this section, each *applicant for a commercial applicator's license* [~~custom applicler~~] shall file with the department:

(1) [~~deposit with the department~~] a [~~surety~~] bond *executed by the applicant as principal and by a corporate surety licensed to do business in Texas as surety* [~~approved by the department in the amount of \$20,000 plus \$2,000 for each piece of spraying equipment licensed for use by the custom applicler~~]; or

(2) [~~subscribe for and hold~~] a *liability insurance policy or certification of a policy protecting people who may suffer adverse effects as a result of the applicant's operations* [~~of crop damage insurance approved by the department with coverage in the amount described by Subdivision (1) of this subsection~~].

(b) If an *applicant* [~~a custom applicler~~] cannot reasonably obtain insurance coverage or a bond as specified by Subsection (a) of this section, the department shall accept a certificate of deposit or a letter of credit that meets the requirements of Subsection (c)(1) and rules adopted under Subsection (e) of this section.

(c) If the State Board of Insurance determines after giving notice to the department that the *liability* [~~crop damage~~] *insurance policy* required by Subsection (a)(2) of this section is not generally and reasonably available to *commercial applicators* [~~custom appliclers~~], then in lieu of the requirements of Subsection (a) of this section, *the applicant* [~~a custom applicler~~] may:

(1) tender from a state or federal financial institution whose deposits are insured by the Federal Deposit Insurance Corporation [~~or by the Federal Savings and Loan Insurance Corporation~~] a certificate of deposit or letter of credit in the amounts prescribed by Subsection (f) [(a)] of this section, made payable to the department and issued for the purpose of *protecting people who may suffer adverse effects as a result of the operations of the commercial applicator* [~~crop damage protection~~];

(2) *file a property damage and personal injury* [~~subscribe for and hold crop damage~~] *insurance policy or certification of the insurance* that is generally and reasonably available as determined by the State Board of Insurance; or

(3) comply with other proof of financial responsibility requirements adopted by rule of the department under this chapter.

(d) *The proof of financial responsibility required by this section is not required to cover adverse effects to agricultural crops, plants, or land being worked on by the commercial applicator* [~~A custom applicler shall increase the amount of crop damage coverage by \$2,000 for each piece of spraying equipment used by the custom applicler~~].

(e) *The proof* [~~A surety bond, certificate of deposit, letter of credit, or other type~~] *of financial responsibility required by this section* [~~security~~] must be *approved by the department* and conditioned on compliance with this chapter and rules adopted under this chapter.

(f) *Except as otherwise provided by this section, the amount of financial responsibility may not be less than \$100,000 for property damage and may not be less than \$100,000 for bodily injury. The commissioner by rule may require different amounts of coverage for different classifications of operations under this chapter. During the entire period for which a license is issued, the coverage must be maintained at not less than the amount set by the commissioner or the State Board of Insurance, as applicable* [~~Failure to perform the conditions of a bond, certificate of deposit, letter of credit, or other type of financial security that results in injury to any crop or valuable plants is grounds for forfeiture of the financial security to the person owning the crop or plants in a suit brought by the department or an interested party~~].

(g) *At least 10 days before any reduction requested by a licensee or a cancellation of a bond or liability insurance policy, the party taking the action shall notify the commissioner. If the party does not give that notice, the liability of the surety or insurer is limited to the amount of the bond or liability insurance policy* [~~Except as otherwise provided by this~~

~~section, the department shall prescribe by rule requirements of crop damage insurance policies, surety bonds, certificates of deposit, letters of credit, or other types of financial security. The department may adopt rules governing the conditions and handling of certificates of deposit and letters of credit, but may not disburse funds or release a certificate or letter except by consent of the custom applicator or pursuant to court order].~~

~~(h) Except as provided by this subsection, the commissioner may accept a bond or liability insurance policy in the amount required by this section that has a deductible clause in an amount of not more than \$1,000 for the total amount of the bond or liability insurance policy required by this section. If the applicant has not satisfied the deductible amount in a prior legal claim, the commissioner may not accept a bond or policy with a deductible clause unless the applicant furnishes to the department a surety bond that satisfies the amount of the deductible as to all claims that may arise as a result of the applicant's operation [The furnishing of a surety bond, crop damage insurance, or other proof of financial responsibility does not limit any civil or criminal liability incurred because of the negligent or unlawful use of a herbicide].~~

~~(i) If notified that the security furnished under this section has become insufficient or otherwise unsatisfactory, a commercial applicator immediately shall file a new bond, liability insurance policy, or other proof of financial responsibility as authorized by rule of the department. An individual holding a commercial applicator's license may not operate as a commercial applicator after receiving notice that the security is insufficient or defective until the commercial applicator files new proof of financial responsibility. Failure to file a bond, liability insurance policy, or other proof of authorized financial responsibility or failure to maintain the security in the required amount is a ground for suspension or revocation of a commercial applicator license.~~

~~(j) The commissioner by rule may prescribe acceptable proof of financial responsibility and appropriate procedures to carry out the purposes of this section. The commissioner may adopt rules governing the conditions and handling of certificates of deposit and letters of credit but may not disburse funds or release a certificate or letter except with the consent of the commercial applicator or pursuant to court order.~~

~~Sec. 75.015. REGULATED HERBICIDE COMPLAINT REPORT [NOTICE OF EFFECTS OF HERBICIDE; INSPECTION]. (a) A person claiming adverse effects from application of a regulated herbicide may file with the department a written complaint report. To be eligible for consideration by the department, the complaint report must be filed before the 31st day after the date of the alleged application or, if a growing crop is alleged to have been adversely affected, before the earlier of the date that 25 percent of the crop has been harvested or the 31st day. The complaint report must contain the name of the person, if known, allegedly responsible for the application of the regulated herbicide and the name of the owner or lessee of the land on which the crop is grown and to which adverse effects are alleged to have occurred. The department shall prepare a form to be furnished to persons for use in filing complaint reports. The form may contain other information, within the person's knowledge, that is required by the commissioner [The department shall:~~

~~[(1) inspect all crops reported to it as being affected by a herbicide;~~

~~[(2) inspect the area surrounding the crops to find possible sources of drift; and~~

~~[(3) report all findings concerning the affected crops].~~

~~(b) As soon as practicable after receiving a complaint report, the department shall notify the licensee, the owner or lessee of the land on which the alleged application occurred, and any other person who may be charged with responsibility for the adverse effects claimed. The department shall furnish copies of the report to those people on request [If a person's crops or plants are affected by drift of a hormone-type herbicide, the person shall notify the department of the effect. The person shall give notice before the crop is harvested or the plants are destroyed, whichever occurs first].~~

~~(c) The department may give a preliminary report to the parties directly involved in the incident. In a case in which adverse effects cannot be documented, the department shall give the information to the complaining party and cease the investigation. To assess any adverse effects, the complaining party shall permit the department and the licensee to observe, within reasonable hours, the land or nontarget organism alleged to have been~~

~~adversely affected [If notice is not given in accordance with Subsection (b) of this section, it is presumed that there was no effect of a hormone-type herbicide. This presumption is rebuttable].~~

(d) Failure to file a complaint report does not bar a civil or criminal action from being filed and maintained. If a person fails to file a report and is the only person claiming adverse effects from the particular use or application of a regulated herbicide, the department may, if in the public interest, refuse to hold a hearing for the denial, suspension, or revocation of a license issued under this chapter to the person alleged to have caused the adverse effects.

~~Sec. 75.016. [EQUIPMENT LICENSE; FEE. (a) A custom applicator may not use equipment to apply a herbicide unless the equipment first is inspected and licensed by the department.~~

~~[(b) The department shall inspect a piece of equipment before renewing an equipment license. If the equipment is used on an aircraft, the department shall inspect the equipment:~~

~~[(1) during each 30-day period while the equipment is installed on the aircraft and is in use; or~~

~~[(2) before the equipment is used, if removed from the aircraft and reinstalled after the 30th day after the day on which the equipment was last inspected.~~

~~[(c) At the time of inspection, a custom applicator shall pay an inspection fee of \$20 for each piece of equipment inspected.~~

~~[(d) An equipment license expires on January 1 of each year.~~

~~[Sec. 75.017.] REGULATION OF EQUIPMENT. The department by rule may:~~

~~(1) provide requirements for all equipment regardless of whether the equipment is required to be licensed; and~~

~~(2) regulate or prohibit the use of equipment that may be hazardous in an area of the state; and~~

~~[(3) define what constitutes an installation of equipment on an aircraft].~~

~~Sec. 75.017 [75.018]. RULES. (a) As soon as practicable [Before the 21st day] after receiving [the day on which the department receives, from an interested person,] a written request for a revision of a rule, an exemption from a requirement of this chapter, or a prohibition of the spraying of a regulated herbicide in an area, the department may [shall] hold a public hearing to consider the request.~~

~~(b) [Before the 10th day before the day on which a hearing required by this section is held, the department shall deliver notice of the hearing to each holder of a permit or license in the area affected by the hearing.~~

~~[(c)] The department may not hold more than one hearing to consider the condition of a particular area during a 90-day period unless the department determines that more frequent hearings are necessary.~~

~~(c) [(d)] The department may [shall] distribute in printed form all rules of the department adopted under this chapter and may [shall] deliver a copy of those rules to each applicant for a permit or license.~~

~~Sec. 75.018 [75.019]. ENFORCEMENT. (a) The department shall enforce this chapter and rules adopted under this chapter.~~

~~(b) If a county or district attorney refuses to act on behalf of the department in its enforcement of this chapter or a rule adopted under this chapter, the attorney general shall act on the department's behalf.~~

~~Sec. 75.019 [75.020]. EMPLOYEES. The department may employ inspectors and other employees necessary for the proper enforcement of this chapter and rules adopted under this chapter.~~

~~Sec. 75.020 [75.021]. COUNTY HERBICIDE INSPECTOR. (a) The commissioners court of each county may appoint and compensate persons to be herbicide inspectors for the area designated by the appointment.~~

(b) A county herbicide inspector shall cooperate with and work under the supervision of the department in enforcing this chapter and rules adopted under it.

(c) A county herbicide inspector has the powers of an employee of the department.

Sec. 75.021. COUNTY REGULATIONS. [~~75.022. APPLICATION OF CHAPTER. (a) Because there is no crop or vegetation of value susceptible to damage in the area, Sections 75.006–75.017 of this code do not apply to a county of this state, except Dawson County, that lies north or west of:~~

~~(1) the southern boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland counties;~~

~~(2) the eastern boundaries of Eastland, Stephens, and Young counties; and~~

~~(3) the southern and eastern boundaries of Clay County.~~

~~(b) Sections 75.006–75.017 of this code do not apply to: Bandera, Brewster, Brooks, Burnet, Cameron, Coleman, Coke, Concho, Crane, Crockett, Dimmit, Duval, Edwards, Frio, Gillespie, Glasscock, Hidalgo, Irion, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, LaSalle, Lampasas, Llano, McCulloch, McMullen, Mason, Maverick, Menard, Mills, Montague, Nueces, Panola, Pecos, Presidio, Reagan, Real, Runnels, San Saba, Schleicher, Starr, Sterling, Sutton, Terrell, Tom Green, Upton, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala counties.~~

~~(c) Sections 75.004–75.017 of this code do not apply to Caldwell and Gonzales counties.~~

[~~Sec. 75.023. REVOCATION AND REINSTATEMENT OF EXEMPTION.~~] (a) If the commissioners court of a county [~~exempted by Section 75.022 of this code~~] determines that a crop or vegetation of value that is susceptible to *being adversely affected by the application of a regulated herbicide* [~~damage~~] exists in the county or a portion of the county and evidences its determination by an appropriate order entered in the minutes of the court, Sections 75.006–75.016 [~~75.017~~] of this code become effective in that county or portion of the county *on January 1 of the year following entry of the order* [~~immediately on entry of the order~~].

(b) If the commissioners court of a county [~~, all or a part of which has been removed from the exemption of Section 75.022 of this code under Subsection (a) of this section,~~] determines that there is no longer a crop or vegetation susceptible to *being adversely affected by the application of a regulated herbicide* [~~to damage~~] in that county or portion of the county, the court may order that Sections 75.006–75.016 are no longer effective in the county or portion of the county. The commissioners court shall enter the order in the minutes of the court. The order takes effect on January 1 of the year following entry of the order [~~the exemption reinstated~~].

(c) *The department shall adopt rules concerning the use of a regulated herbicide in a county in which a commissioners court has entered an order under Subsection (a) of this section* [~~If the commissioners court of a county that is subject to this chapter determines that there is no crop or vegetation of value susceptible to damage in the county or a portion of the county, the court by order may exempt the county or that portion of the county from the application of Sections 75.006–75.017 of this code.~~].

(d) *On request by a commissioners court of a county in which Sections 75.006–75.016 of this code are in effect, and a determination by the department that an emergency exists, the department may suspend county regulations concerning the dates for application of regulated herbicides. Only an imminent threat to agricultural interests in a county that, if not immediately addressed, would create a significant economic loss to producers and ranchers in the county is an emergency for purposes of this subsection* [~~If a county or a portion of a county has been exempted under Subsection (c) of this section, the commissioners court may hold a hearing and enter an order revoking that exemption~~].

(e) Before an order may be entered under this section, the commissioners court shall hold a hearing to determine whether the order should be issued. The hearing may be held only once each year and only in the month of October, November, or December. Before the 10th day before the day on which the hearing is to be held, the commissioners court shall give notice of the hearing in at least one newspaper in the county.

(f) Before the 21st day after the day on which an order is entered, an interested person may appeal an order of a commissioners court issued under this section to district court to

test the reasonableness of the commissioners court's fact-finding. On appeal, the district court shall follow the rules governing judicial review of contested cases under Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and shall apply the substantial evidence rule. Appeals may be taken from the district court as in other civil cases.

(g) ~~[An order issued by the commissioners court under this section becomes effective January 1 of the year following the date of the hearing.]~~

~~[(h)]~~ The commissioners court shall notify the department of a change in the status of the ~~[exemption of a]~~ county or a portion of a county under this section.

Sec. 75.022 [75.024]. PENALTIES. (a) A person commits an offense if the person:

(1) applies a *regulated* herbicide without a permit in violation of Section 75.006 of this code;

(2) acts in violation of Section 75.004(a) of this code;

(3) has a permit to apply a powder or dry-type *regulated* herbicide and applies a herbicide that does not meet the requirements of Section 75.009 of this code;

(4) *violates a rule adopted under* ~~[operates unlicensed equipment in violation of]~~ Section 75.016 of this code;

(5) fails to keep or submit records in violation of Sections 75.005 and 75.013 of this code;
or

(6) violates or fails to comply with a rule adopted under this chapter.

(b) An offense under this section is a Class A misdemeanor.

(c) Section 76.1555 of this code, which provides for the assessment of administrative penalties, applies to a person who violates this chapter or a rule or order adopted by the department under this chapter.

(d) A penalty provided by this section does not affect the civil liability of a person convicted under this section.

SECTION 2. This Act takes effect September 1, 1993.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 2242 on May 26, 1993, by a non-record vote; passed by the Senate, with amendments, on May 23, 1993, by a viva-voce vote.

Approved June 18, 1993.

Effective Sept. 1, 1993.