

CHAPTER 323

S.B. No. 1208

AN ACT

relating to grading, packing, and inspecting horticultural products.

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

SECTION 1. Subchapter A, Chapter 91, Agriculture Code, is amended by amending Sections 91.001, 91.003, 91.004, and 91.005 and adding Section 91.0051 to read as follows:

Sec. 91.001. DEPARTMENT TO ADMINISTER. (a) The department shall administer this chapter and adopt rules necessary for its enforcement.

(b) The department *may employ an assistant commissioner and other personnel to supervise the operation of an inspection service to carry out a cooperative agreement under Section 91.005 of this code* [~~shall publish the rules and other information that will aid fruit growers, vegetable growers, and container manufacturers in complying with this chapter~~].

Sec. 91.003. INSPECTION SERVICE [INSPECTIONS]. (a) *To carry out a cooperative agreement entered into under Section 91.005 of this code, the department may supervise the operation of a joint state-federal inspection service* [~~The department shall appoint inspectors to inspect fruits and vegetables, other than potatoes, under this chapter~~]. *The terms of the cooperative agreement govern the operation of the inspection service, appointment of inspectors, and manner of conducting inspections, however no provision of the inspection service agreement may be in violation of state law.*

(b) *An individual appointed as an inspector or to work in another capacity with an inspection service under Subsection (a) of this section is performing work for the state under the supervision of the department and is a member of the employee class of the Employees Retirement System of Texas under Section 812.003, Government Code* [~~Inspections shall be performed at the various shipping or loading stations in this state when requested by the growers or the shippers of fruits or vegetables, or by the shippers' agents, or by a person with a financial interest in the fruits or vegetables~~].

[(c) ~~Each person who requests an inspection shall pay a pro rata share of the expense of inspection.~~]

Sec. 91.004. CERTIFICATE OF INSPECTION. (a) The department shall furnish certificates of inspection or other forms to evidence that an official inspection has been made. *The department may issue a joint state-federal inspection certificate for an inspection conducted under a cooperative agreement entered into under Section 91.005 of this code.*

(b) [~~After an applicant has paid a pro rata share of the cost of an inspection performed under this chapter, an inspector shall issue to the applicant a form to evidence that an official inspection has been made or a certificate of inspection that shows the grade, classification, pack, or other standard requirements of the fruits or vegetables.~~]

[(e)] A certificate of inspection issued under this section is prima facie evidence of the grade, classification, pack, or other standard requirements of the fruits, *nuts*, or vegetables as of the time of inspection.

Sec. 91.005. COOPERATIVE AGREEMENTS. (a) The department may enter into cooperative agreements with the United States Department of Agriculture, or with any Texas firm, corporation, or association *to carry out shipping point and receiving market inspections under the Agricultural Marketing Act of 1946 (7 U.S.C. Section 1621 et seq.)* [~~that is organized for that purpose, or both~~]. An agreement *also* may provide for the certification of grades of fruits, *nuts*, and vegetables [~~, other than potatoes,~~] under this chapter.

(b) *The department also may enter into cooperative agreements with the United States Department of Agriculture or with federal administrative committees established by the United States Department of Agriculture under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. Section 671 et seq.) to administer and enforce marketing orders and programs* [~~Department inspectors and a firm, corporation, or association that has executed a cooperative agreement shall obtain a license from the department, which shall be issued under department rules~~].

(c) In addition to the grades established by this chapter, the department may adopt the United States standards for the fruits, *nuts*, and vegetables grown in this state *by entering into a cooperative agreement with the United States Department of Agriculture under the Agricultural Marketing Act of 1946 (7 U.S.C. Section 1621 et seq.)*, or the department may adopt rules concerning the grades, grading, or regulation of fruits, *nuts*, and vegetables [~~, other than potatoes, under this chapter~~].

Sec. 91.0051. FUNDING OF A COOPERATIVE INSPECTION. (a) *The legislature may not appropriate funds for the operation of an inspection service organized to carry out a cooperative agreement under this chapter. The legislature may appropriate funds necessary for the department to employ personnel to supervise an inspection service.*

*(b) Inspection activities conducted under a cooperative agreement under this chapter shall be self-financing. The department shall charge fees to a person who receives inspection services under a cooperative agreement.*

*(c) The department shall set fees at amounts that are approximately equal to the cost of providing inspection services.*

*(d) Notwithstanding any other provision of law, the department shall hold and disburse the fees collected under this chapter under the terms of the cooperative agreement governing the inspection activities for which the fees were collected.*

SECTION 2. Section 94.003, Agriculture Code, is amended to read as follows:

Sec. 94.003. DEPARTMENT TO ADMINISTER. (a) The department shall direct and supervise the inspection and certification of maturity of citrus fruit under this chapter and may adopt rules relating to:

- (1) the number and character of certificates of inspection and maturity;
- (2) inspection requests; and
- (3) seasonal requirements of citrus fruit for fitness for human consumption.

*(b) The department may direct and supervise the inspection and certification of maturity of citrus fruit under this chapter through the operation of an inspection service organized under Subchapter A, Chapter 91, of this code.*

SECTION 3. Subsection (b), Section 95.003, Agriculture Code, is amended to read as follows:

*(b) The department shall enforce this chapter, and may direct and supervise the enforcement of this chapter through the operation of an inspection service organized under Subchapter A, Chapter 91, of this code [~~and the rules adopted under this chapter shall be under the direction of the chief of the maturity division~~].*

SECTION 4. All funds accumulated through fees previously collected under the terms of a cooperative agreement entered into under Chapter 91, Agriculture Code, and all property purchased with such fees and in the possession of the State of Texas shall be transferred to the inspection service authorized by Chapter 91, Agriculture Code, operating on the effective date of this legislation. All funds and property transferred under this section shall be subject to the terms of the cooperative agreement in effect at the time of the transfer and shall be used only for the operation of such inspection service.

SECTION 5. This Act takes effect September 1, 1993.

SECTION 6. 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 the Senate on April 28, 1993, by a viva-voce vote; the Senate concurred in House amendment on May 19, 1993, by a viva-voce vote; passed the House with amendment, on May 11, 1993, by a non-record vote.

Approved May 29, 1993.

Effective Sept. 1, 1993.