

## CHAPTER 419

S.B. No. 976

## AN ACT

relating to authorizing private persons to inspect and test weights and measures; providing penalties.

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

SECTION 1. Chapter 13, Agriculture Code, is amended by adding Subchapter G to read as follows:

**SUBCHAPTER G. INSPECTION AND TESTING OF RANCH SCALES**

*Sec. 13.351. DEFINITIONS. In this subchapter:*

(1) "Person" means any individual, partnership, firm, corporation, association, or any other business entity.

(2) "Ranch scale" means a livestock scale which is located on a private ranch and which has a capacity of 4,999 pounds or greater.

*Sec. 13.352. LICENSE REQUIREMENT. (a) A person may not inspect or test ranch scales unless the person holds a license issued under this subchapter.*

(b) *The department shall issue a license to a person who meets the requirements of this subchapter.*

(c) *Each license holder under this subchapter shall conduct inspecting or testing activities in compliance with the rules of the department.*

(d) *A license holder shall maintain and submit to the department a report and record of all inspecting or testing activities compiled in accordance with the rules of the department.*

*Sec. 13.353. GENERAL REQUIREMENTS FOR LICENSE ISSUANCE OR RENEWAL. Before a license is issued or renewed by the department under this subchapter:*

(1) *the person applying for the license or renewal of the license shall provide the department proof of completion of a department-approved academic, trade, or professional course of instruction required by the department's rules;*

(2) *the person shall file with the department an insurance policy or other proof of insurance evidencing that the applicant has a completed operations liability insurance policy issued by an insurance company authorized to do business in this state or by a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance in an amount set by the department and based on the type of licensed activities to be provided; and*

(3) *the department, to verify compliance with trade practices, rules of the department, and this chapter, may conduct an inspection of the applicant's:*

(A) *facilities;*

- (B) inspecting and testing equipment and procedures;
- (C) repair and calibration equipment and procedures; and
- (D) transportation equipment.

Sec. 13.354. **LICENSE AND RENEWAL; FEES.** (a) An application for a license shall be submitted to the department on a form prescribed by the department, accompanied by a nonrefundable annual license fee in an amount established by department rule, not to exceed \$200.

(b) A license issued under this subchapter expires on the anniversary date of the person's test equipment calibration, as such anniversary is defined by department rule, and may be renewed by filing with the department a renewal application form prescribed by the department, accompanied by a nonrefundable annual license renewal fee in an amount established by department rule, not to exceed \$200.

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

Sec. 13.355. **DUTIES OF THE DEPARTMENT.** (a) The department by rule may adopt a system to periodically monitor and inspect or test scales inspected and tested by the license holder.

(b) The department by rule shall adopt guidelines to allow a representative of the license holder to perform functions of the license holder.

(c) The department by rule may adopt additional requirements for the issuance of a license and for the denial of an application for a license or renewal of a license. The rules adopted by the department shall be designed to protect the public health, safety, and welfare and the proper operation of facilities having ranch scales.

Sec. 13.356. **DENIAL, REVOCATION, MODIFICATION, OR SUSPENSION OF LICENSE.** (a) The department may refuse to issue a license for inspecting or testing of ranch scales if the applicant fails to comply with this subchapter.

(b) The department shall revoke, modify, or suspend a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a licensee if the licensee fails to comply with this subchapter or a rule adopted by the department under this subchapter.

(c) 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.

(d) If the department proposes to deny a person's application for a license for inspecting or testing of ranch scales or to revoke, modify, or suspend a person's license, the person is entitled to a hearing before a hearings 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. 13.357. **CIVIL PENALTY; INJUNCTION.** (a) A person who violates this subchapter or a rule adopted under this subchapter is liable to the state for a civil penalty of not less than \$250 nor more than \$10,000 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

(b) On request of the department, the attorney general or the county or district attorney of the county in which the violation is alleged to have occurred shall file suit to collect the penalty.

(c) A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund. All civil penalties recovered in suits first instituted by a local government or governments under this section shall be equally divided between the State of Texas and the local government or governments, with 50 percent of the recovery to be

*paid into the general revenue fund and the other 50 percent equally to the local government or governments first instituting the suit.*

*(d) The department is entitled to appropriate injunctive relief to prevent or abate a violation of this subchapter or a rule adopted under this subchapter. On request of the department, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.*

*Sec. 13.358. CRIMINAL PENALTY. (a) An individual commits an offense if the individual is required to be licensed under this subchapter, is not licensed under this subchapter, and performs or offers to perform an inspection or test on a ranch scale for compensation.*

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

SECTION 2. Subsection (a), Section 12.024, Agriculture Code, is amended to read as follows:

(a) This section is applicable only to a renewal fee under Section 13.354, 14.005, 71.043, 71.057, 75.004, 76.044, 76.073, 76.113, or 132.025 of this code.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. 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 29, 1993, by a viva-voce vote; passed the House on May 21, 1993, by a non-record vote.

Approved June 6, 1993.

Effective Sept. 1, 1993.