

AGRICULTURE CODE  
TITLE 2. DEPARTMENT OF AGRICULTURE  
CHAPTER 12. POWERS AND DUTIES

Sec. 12.001. EXECUTION OF LAWS. The department shall execute all applicable laws relating to agriculture.

Acts 1981, 67th Leg., p. 1017, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.0011. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS. To carry out its duties under this code, the department may enter into cooperative agreements with:

(1) private entities; and

(2) local, state, federal, and foreign governmental entities.

Added by Acts 2001, 77th Leg., ch. 52, Sec. 1, eff. May 7, 2001.

Sec. 12.0012. NOTIFICATION. The department shall, upon submission for publication, notify the Texas Division of Emergency Management of each quarantine it adopts. The department shall thereafter cooperate with the Texas Division of Emergency Management in implementing any necessary safeguards to protect the state's agricultural resources from potential economic, health, or ecological disaster that may result from the quarantined pest or disease.

Added by Acts 2003, 78th Leg., ch. 1107, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 2B.01, eff. September 1, 2009.

Sec. 12.002. DEVELOPMENT OF AGRICULTURE. The department shall encourage the proper development and promotion of agriculture, horticulture, and other industries that grow, process, or produce products in this state.

Acts 1981, 67th Leg., p. 1017, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 2001, 77th Leg., ch. 208, Sec. 1, eff. May 21, 2001;

Acts 2003, 78th Leg., ch. 265, Sec. 1, eff. June 18, 2003.

Sec. 12.0025. NUTRITION PROGRAMS. The department shall administer the following federal and state nutrition programs:

(1) the commodity supplemental food program under 7 U.S.C. Section 612c;

(2) the food distribution program under 7 U.S.C. Section 612c;

(3) the emergency food assistance program under 7 U.S.C. Section 7501 et seq.;

(4) the school lunch program under 42 U.S.C. Section 1751 et seq.;

(5) the summer food service program under 42 U.S.C. Section 1761;

(6) the child and adult care food program under 42 U.S.C. Section 1766;

(7) the special milk program under 42 U.S.C. Section 1772; and

(8) the school breakfast program under 42 U.S.C. Section 1773.

Added by Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. [4062](#)), Sec. 1, eff. June 15, 2007.

Sec. 12.0026. INTERAGENCY FARM-TO-SCHOOL COORDINATION TASK FORCE. (a) To promote a healthy diet for schoolchildren and the business of small to mid-sized local farms and ranches, the interagency farm-to-school coordination task force shall develop and implement a plan to facilitate the availability of locally grown food products in public schools.

(b) The task force is composed of:

(1) a representative of:

(A) the department, appointed by the commissioner;

(B) the Texas Education Agency, appointed by the commissioner of education; and

(C) the Department of State Health Services, appointed by the commissioner of state health services; and

(2) at least one representative of each of the following groups, appointed by the commissioner:

- (A) fruit and vegetable producer organizations;
- (B) school food service organizations;
- (C) food distribution businesses;
- (D) child nutrition and advocacy organizations;
- (E) parent organizations;
- (F) educational institutions that conduct research in the areas of agriculture and nutrition; and
- (G) health nutrition educators who serve school districts.

(c) A member of the task force serves at the will of the official who appointed the member.

(d) The representative of the department serves as presiding officer. The task force may elect other necessary officers from its members.

(e) The task force shall meet at the call of the presiding officer.

(f) The agency whose commissioner appoints a member is responsible for the expenses of a member's service on the task force. A member of the task force is not entitled to additional compensation for serving on the task force.

(g) Each appropriate agency or group represented on the task force shall provide the personnel and resources necessary to implement a task force measure under this section.

(h) The task force shall:

- (1) design new education resources, or review or update existing resources, on nutrition and food education that may be used by schools and school districts;

- (2) expand food-focused experiential education programs;

- (3) offer assistance in identifying funding sources and grants that allow schools and school districts to recover the costs associated with purchasing locally grown food products;

- (4) develop a database of available locally grown food products for use by school food service agencies that includes contact and purchasing information for the products;

- (5) identify, design, or make available training programs to enable local farmers and ranchers to market their

products to schools and school districts, including programs related to:

- (A) crop production;
- (B) marketing of crops;
- (C) postharvest handling of crops;
- (D) food safety;
- (E) business management;
- (F) liability and risk management; and
- (G) other topics deemed appropriate by the task force;

(6) advise schools and school districts on methods by which a school or school district may improve its facilities to allow for the use of minimally processed, fresh, and locally produced foods in school meals;

(7) provide technical assistance to school food service agencies to establish procedures, recipes, menu rotations, and other internal processes that accommodate the use of locally grown foods in public schools;

(8) offer advanced skills development training to school food service employees regarding the proper methods of handling, preparing, and serving locally grown foods; and

(9) conduct any other activity considered by the task force as necessary to achieve its goals under this section.

(i) The task force may solicit and accept gifts, grants, and donations from public and private entities to use for the purposes of this section.

(j) The task force may use any existing program or procedure that it determines to be useful in performing its duties under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1376 (S.B. [1027](#)), Sec. 1, eff. September 1, 2009.

Sec. 12.0027. NUTRITION OUTREACH PROGRAM. (a) The department may develop an outreach program to promote better health and nutrition programs and prevent obesity among children in this state.

(b) The department may solicit and accept gifts, grants, and

donations from any public or private source for the purposes of this section.

(c) The department may adopt rules as necessary to administer an outreach program established under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 9.03, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 728 (S.B. [282](#)), Sec. 1, eff. June 19, 2009.

Sec. 12.0028. LIMITATION ON SANCTIONS IMPOSED ON SCHOOL DISTRICTS FOR SALE OF FOODS OF MINIMAL NUTRITIONAL VALUE. (a) In this section, "food of minimal nutritional value" has the meaning assigned by 7 C.F.R. Section 210.11(a)(2).

(b) The department may not impose on a school district a sanction, including disallowing meal reimbursement, based on the sale to students at a high school of food of minimal nutritional value, if the sale is approved in advance by the school and is made:

(1) outside of a school area designated for food service or food consumption or during a period other than a school meal service period; and

(2) for the purpose of raising money for a student organization or activity sponsored or sanctioned by the school or the school district in which the school is located.

Added by Acts 2013, 83rd Leg., R.S., Ch. 672 (H.B. [1781](#)), Sec. 1, eff. June 14, 2013.

Sec. 12.0029. SUMMER NUTRITION PROGRAMS. (a) In this section:

(1) "Field office" means a field office of a nutrition program administered by the department.

(2) "Summer nutrition program" means the summer food service program under 42 U.S.C. Section 1761. The term includes the seamless summer option under 42 U.S.C. Section 1761(a)(8).

(b) Unless the department grants a school district a waiver under Subsection (f), a district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program under 42 U.S.C. Section 1751 et seq.

shall provide or arrange for the provision of a summer nutrition program for at least 30 days during the period in which district schools are recessed for the summer.

(c) Not later than October 31 of each year, the department shall notify each school district described by Subsection (b) of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer.

(d) Not later than November 30 of each year, the board of trustees of a school district that intends to request a waiver under Subsection (e)(2) must send written notice of the district's intention to the district's local school health advisory council. The notice must include an explanation of the district's reason for requesting a waiver of the requirement.

(e) Each school district that receives a notice under Subsection (c) shall, not later than January 31 of the year following the year in which the notice was received:

(1) inform the department in writing that the district intends to provide or arrange for the provision of a summer nutrition program during the next period in which district schools are recessed for the summer; or

(2) request in writing that the department grant the district a waiver of the requirement to provide or arrange for the provision of a summer nutrition program.

(f) The department may grant a school district a waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:

(1) the district:

(A) provides documentation, verified by the department, showing that:

(i) there are fewer than 100 children in the district currently eligible for the national free or reduced-price lunch program;

(ii) transportation to enable district students to participate in the program is an insurmountable obstacle to the district's ability to provide or arrange for the provision of the program despite consultation by the district with

public transit providers;

(iii) the district is unable to provide or arrange for the provision of a program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; or

(iv) the district is unable to provide or arrange for the provision of a program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site; and

(B) has worked with the field offices to identify another possible provider for the program in the district; or

(2) the cost to the district to provide or arrange for provision of a program would be cost-prohibitive, as determined by the department using the criteria and methodology established under Subsection (g).

(g) The department by rule shall establish criteria and a methodology for determining whether the cost to a school district to provide or arrange for provision of a summer nutrition program would be cost-prohibitive for purposes of granting a waiver under Subsection (f)(2).

(h) A waiver granted under Subsection (f) is for a one-year period.

(i) If a school district has requested a waiver under Subsection (e)(2) and has been unable to provide to the department a list of possible providers for the summer nutrition program, the field offices shall continue to attempt to identify an alternate provider for the district's summer nutrition program.

(j) Not later than December 31 of each even-numbered year, the department shall provide to the legislature by e-mail a report that, for each year of the biennium:

(1) states the name of each school district that receives a notice under Subsection (c) and indicates whether the district:

(A) has provided or arranged for the provision of a summer nutrition program; or

(B) has not provided or arranged for the provision of a program and did not receive a waiver;

(2) identifies the funds, other than federal funds, used by school districts and the state in complying with this section; and

(3) identifies the total amount of any profit made or loss incurred through summer nutrition programs under this section.

(k) The department shall post and maintain on the department's Internet website the most recent report required by Subsection (j).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1052 (S.B. 89), Sec. 1, eff. September 1, 2011.

Sec. 12.003. AGRICULTURAL SOCIETIES. The department shall encourage the organization of agricultural societies.

Acts 1981, 67th Leg., p. 1017, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.006. DEVELOPMENT OF DOMESTIC AND FOREIGN MARKETS. The department shall investigate and report on the question of broadening the market and increasing the demand for cotton goods and all other agricultural or horticultural products in the United States and foreign countries. The department shall compile information beneficial to farmers, including information pertaining to:

(1) the number of bales of cotton consumed by spinners in foreign countries;

(2) the demand for cotton produced in Texas;

(3) the methods and course of sales to foreign countries, showing the purchasers, brokers, and others who handle the cotton after it leaves the producers; and

(4) countries with which trade could be increased, thereby creating a better outlet for trade and the best method for bringing consumer and purchaser together.

Acts 1981, 67th Leg., p. 1018, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.007. PLANT DISEASES AND PESTS. The department shall investigate the diseases of crops grown in this state, including grain, cotton, and fruit, to discover remedies. The department shall also investigate the habits and propagation of



insects that are injurious to the crops of the state and the best methods for their destruction. The department shall supervise the protection of fruit trees, shrubs, and plants as provided by law.  
Acts 1981, 67th Leg., p. 1018, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.010. CORRESPONDENCE WITH GOVERNMENT AGENCIES AND OTHERS. The department shall correspond with the United States Department of Agriculture, with the agriculture departments of the other states and territories, and, at the option of the department, with the agriculture departments of foreign countries and representatives of the United States in those countries, for the purpose of gathering information that will advance the interests of agriculture in the state. For the same purpose, the department may correspond with organizations and individuals whose objective is the promotion of agriculture in any branch.  
Acts 1981, 67th Leg., p. 1019, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.011. AGRICULTURAL RESOURCE STATISTICS. The department shall collect and publish statistics and other information relating to industries of this state and other states that the department considers beneficial in developing the agricultural resources of this state.  
Acts 1981, 67th Leg., p. 1019, ch. 388, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 2001, 77th Leg., ch. 52, Sec. 2, eff. May 7, 2001.

Sec. 12.013. EMPLOYEES. (a) The department may employ personnel as the duties of the department require. The commissioner shall provide to the department's employees, as often as necessary, information regarding their qualifications for employment and their responsibilities under applicable laws relating to standards of conduct for state employees.

(b) The commissioner or the commissioner's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for department employees must be based on the system established under this subsection.

(c) The commissioner or the commissioner's designee shall

develop an intraagency career ladder program that addresses opportunities for mobility and advancement for employees within the department. The program shall require intraagency postings of all positions concurrently with any public posting.

(d) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with the requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(e) A policy statement prepared under Subsection (d) of this section must cover an annual period, be updated annually and reviewed by the Texas Commission on Human Rights for compliance with Subsection (d)(1) of this section, and be filed with the governor's office.

(f) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (e) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Acts 1981, 67th Leg., p. 1019, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 3, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 419, Sec. 1.02, eff. Sept. 1, 1995.

Sec. 12.0135. CONFLICT PROVISIONS. (a) A person may not be a department employee employed in a "bona fide executive,

administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of agriculture; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of agriculture.

(b) A person may not act as the general counsel to the commissioner or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(c) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 4, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 8.02, eff. September 1, 2009.

Sec. 12.0144. FEE SCHEDULE. The department shall by rule adopt a schedule for all fees set by the department under this code. Except for those activities exempted in the General Appropriations Act, the department shall set fees in an amount which offsets, when feasible, the direct and indirect state costs of administering its regulatory activities.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 2.01, eff. Sept. 1, 1995.

Sec. 12.0145. SUBMISSION OF PROPOSED FEE SCHEDULE. The department shall include, as part of each request for legislative

appropriations submitted to the Legislative Budget Board, a proposed fee schedule that would recover all direct costs of administering each regulatory program of the department except a regulatory program exempted by the department because increased cost recovery would be contrary to the program's purpose.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 6, eff. Sept. 1, 1989.

Sec. 12.015. COOPERATION WITH TEXAS A & M UNIVERSITY AND EXPERIMENT STATIONS. This chapter does not affect the scope or character of the work of Texas A & M University or of the agricultural experiment stations, and the department shall cooperate with them in all matters relating to the agricultural and horticultural interests of the state.

Acts 1981, 67th Leg., p. 1020, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Sec. 12.016. RULES. The department may adopt rules as necessary for the administration of its powers and duties under this code.

Acts 1981, 67th Leg., p. 1020, ch. 388, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1995, 74th Leg., ch. 419, Sec. 1.03, eff. Sept. 1, 1995.

Sec. 12.0175. "GO-TEXAN" PROGRAM. (a) The department by rule shall establish the "GO-TEXAN" program to promote and encourage the development and expansion of markets for Texas agricultural products and other products grown, processed, or produced in the state.

(b) The department may charge a membership fee, as provided by department rule, for each participant in the "GO-TEXAN" program.

(c) The department shall adopt rules necessary to administer the "GO-TEXAN" program established under this section, including rules:

(1) governing the use of any registered logo of the department;

(2) providing membership eligibility requirements and grounds for denial of membership;

(3) establishing membership categories or tiers; and

(4) specifying membership benefits.

(d) The department may revoke or cancel a certificate of registration or license issued under the "GO-TEXAN" program established under this section if a participant fails to comply with a rule adopted by the department.

(e) In this section, "Texas agricultural product" means an agricultural, apicultural, horticultural, silvicultural, viticultural, or vegetable product, either in its natural or processed state, that has been produced, processed, or otherwise had value added to the product in this state, including:

- (1) feed for use by livestock or poultry;
- (2) fish or other aquatic species;
- (3) livestock, a livestock product, or a livestock by-product;
- (4) planting seed;
- (5) poultry, a poultry product, or a poultry by-product; or
- (6) wildlife processed for food or by-products.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 8, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 9.01, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 650, Sec. 2, eff. Aug. 30, 1993; Acts 2001, 77th Leg., ch. 208, Sec. 2, eff. May 21, 2001; Acts 2003, 78th Leg., ch. 265, Sec. 2, 3, eff. June 18, 2003.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 2, eff. September 1, 2021.

Sec. 12.0176. COOPERATION WITH CERTAIN COMMODITY PRODUCERS BOARDS. (a) The department may, to the extent that resources are available, enter into a cooperative agreement with a commodity producers board to increase the effectiveness and efficiency of the promotion of Texas agricultural products.

(b) A cooperative agreement may include:

- (1) provisions relating to the programs instituted by the department under this chapter and Chapter 46;
- (2) provisions relating to board contributions for promotional costs; and

(3) any other provisions the department and the board consider appropriate.

(c) Funds contributed by a board under an agreement under this section are not state funds.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 25.01, eff. Jan. 11, 2004.

Sec. 12.0177. TEXAS NURSERY AND FLORAL ACCOUNT. Amounts collected under Sections [71.043\(b\)\(2\)](#) and [71.057\(e\)\(2\)](#) shall be deposited to the credit of the Texas nursery and floral account. The Texas nursery and floral account is an account in the general revenue fund. Money in the account may be used only by the department for:

(1) making grants to promote and market the Texas nursery and floral industries; and

(2) administering this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 960 (H.B. [3496](#)), Sec. 1, eff. June 19, 2009.

Sec. 12.018. TESTING. (a) On request of any person, the department may test an agricultural product for aflatoxins. The department may set and charge a fee, as provided by department rule, for each test.

(b) On request of any person, the department may perform laboratory analyses on agricultural products, including testing for pesticide residue, protein content, and milk butterfat content.

(c) The department shall set by rule the fee for each type of laboratory analysis.

Acts 1981, 67th Leg., p. 1020, ch. 388, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 239, Sec. 56, eff. Sept. 1, 1985; Acts 1989, 71st Leg., ch. 230, Sec. 9, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 419, Sec. 2.02, eff. Sept. 1, 1995.

Sec. 12.020. ADMINISTRATIVE PENALTIES. (a) If a person violates a provision of law described by Subsection (c) or a rule or order adopted by the department under a provision of law described by Subsection (c), the department may assess an administrative

penalty against the person as provided by this section.

(b) The penalty for each violation may be in an amount not to exceed the maximum provided by Subsection (c) of this section. Each day a violation continues or occurs may be considered a separate violation for purposes of penalty assessments.

(c) The provisions of law subject to this section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
Chapters 13, 14A, 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, 122, 125, 132, and 134	not more than \$5,000
Subchapters A, B, and C, Chapter 71	not more than \$5,000
Chapter 14	not more than \$10,000
Chapter 1951, Occupations Code	not more than \$5,000
Chapter 153, Natural Resources Code	not more than \$5,000
Section 91.009	not more than \$5,000.

(d) In determining the amount of the penalty, the department shall consider:

(1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public;

(2) the damage to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If, after investigation of a possible violation and the facts surrounding that possible violation, the department determines that a violation has occurred, the department may issue a violation report stating the facts on which the conclusion that a

violation occurred is based, recommending that an administrative penalty under this section be imposed on the person charged, and recommending the amount of that proposed penalty. The department shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set forth in Subsection (d) of this section.

(f) Not later than the 14th day after the date on which the report is issued, the department shall give written notice of the report to the person charged. The notice shall include a brief summary of the charges, a statement of the amount of the penalty recommended, and a statement of the right of the person charged to a hearing on the occurrence of the violation or the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) Not later than the 20th day after the date on which notice is received, the person charged shall accept the determination of the department made under Subsection (e), including the recommended penalty, or make a written request for a hearing on the determination.

(h) If the person charged with the violation accepts the determination of the department or fails to timely respond to the notice, the commissioner shall issue an order approving the determination and ordering the payment of the recommended penalty.

(i) If the person charged requests a hearing, the department shall set a hearing and give notice of the hearing. The hearing shall be conducted under Section [12.032](#). The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for decision as to the occurrence of the violation, including a recommendation as to the amount of the proposed penalty if a penalty is warranted. Based on the findings of fact, conclusions of law, and recommendations of the judge, the commissioner by order may find a violation has occurred and may assess a penalty or may find that no violation has occurred.

(j) The department shall give notice of the commissioner's order under Subsection (h) or (i) to the person charged. The notice shall include:



(1) the findings of fact and conclusions of law separately stated;

(2) the amount of the penalty ordered, if any;

(3) a statement of the right of the person charged to judicial review of the commissioner's order, if any; and

(4) other information required by law.

(j-1) Not later than the 30th day after the date notice is provided under Subsection (j), a person ordered to pay a penalty under Subsection (h) shall pay the penalty.

(k) Within the 30-day period immediately following the day on which the order under Subsection (i) becomes final under Section [2001.144](#), Government Code, the person charged with the penalty shall:

(1) pay the penalty in full;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(l) Within the 30-day period, a person who acts under Subsection (k)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the department by certified mail.

(m) The department on receipt of a copy of an affidavit under Subsection (1)(2) of this section may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give a supersedeas bond.

(n) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the department may refer the matter to the attorney general for collection of the amount of the penalty.

(o) Judicial review of the order of the commissioner under Subsection (i):

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code; and

(2) is under the substantial evidence rule.

(p) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(q) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is not upheld by the court, the court shall order the release of the bond. If the person gave a supersedeas bond and if the amount of the penalty is

reduced, the court shall order the release of the bond after the person pays the amount.

(r) A penalty collected under this section shall be deposited in the state treasury to the credit of the General Revenue Fund.

(s) All proceedings under this section are subject to Chapter 2001, Government Code, except as provided in Subsections (t) and (u).

(t) Notwithstanding Section 2001.058, Government Code, the commissioner may change a finding of fact or conclusion of law made by the administrative law judge if the commissioner:

(1) determines that the administrative law judge:

(A) did not properly apply or interpret applicable law, department rules or policies, or prior administrative decisions; or

(B) issued a finding of fact that is not supported by a preponderance of the evidence; or

(2) determines that a department policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

(u) The commissioner shall state in writing the specific reason and legal basis for a determination under Subsection (t).

Added by Acts 1983, 68th Leg., p. 5382, ch. 990, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 10, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), (52), (53), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 358, Sec. 2, eff. June 8, 1995; Acts 1995, 74th Leg., ch. 419, Sec. 3.02, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 425, Sec. 2, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 186, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 374, Sec. 1, eff. May 25, 2001; Acts 2001, 77th Leg., ch. 1124, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 963 (H.B. 4062), Sec. 2, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 6.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 97 (S.B. 893), Sec. 1, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 567 (H.B. [3199](#)), Sec. 2, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 1.01, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 896 (H.B. [3227](#)), Sec. 1, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 764 (H.B. [1325](#)), Sec. 1, eff. June 10, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1219 (S.B. [2119](#)), Sec. 4, eff. September 1, 2020.

Sec. 12.0201. LICENSE SANCTIONS. (a) In addition to other sanctions provided by law, the department may revoke, modify, suspend, or refuse to issue or renew a license, assess an administrative penalty, place on probation a person whose license has been suspended, or reprimand a license holder if the department finds that the practitioner:

(1) violated a provision of this code or Chapter [1951](#), Occupations Code;

(2) violated a rule adopted by the department under this code or Chapter [1951](#), Occupations Code; or

(3) after appropriate notice, failed to comply with an order of the department.

(b) In addition to any other actions permitted under this code or Chapter [1951](#), Occupations Code, if a license suspension is probated, the department may require the practitioner:

(1) to maintain additional information in the practitioner's records;

(2) to report regularly to the department on matters that are the basis of the probation;

(3) to limit practice to the areas prescribed by the department; or

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

Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.04, eff. Sept. 1,

1995. Amended by Acts 2001, 77th Leg., ch. 52, Sec. 3, eff. May 7, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. 1016), Sec. 7.01, eff. September 1, 2009.

Sec. 12.0202. ADMINISTRATIVE HEARINGS. If the department proposes to suspend, revoke, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by Chapter 2001, Government Code. Rules of practice adopted by the department under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.04, eff. Sept. 1, 1995.

Sec. 12.0203. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION. (a) The commissioner shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commissioner shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative

dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 8.03, eff. September 1, 2009.

Sec. 12.0204. ADVISORY COMMITTEES. (a) The department by rule may establish advisory committees to make recommendations to the department on programs, rules, and policies administered by the department.

(b) In establishing an advisory committee under this section, the department shall adopt rules, including rules regarding:

(1) the purpose, role, responsibility, goals, and duration of the committee;

(2) the size of and quorum requirement for the committee;

(3) qualifications for committee membership;

(4) appointment procedures for members;

(5) terms of service for members;

(6) training requirements for members;

(7) policies to avoid conflicts of interest by committee members;

(8) a periodic review process to evaluate the continuing need for the committee; and

(9) policies to ensure the committee does not violate any provisions of Chapter [551](#), Government Code, applicable to the department or the committee.

Added by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. [703](#)), Sec. 3, eff. September 1, 2021.

Sec. 12.0205. COORDINATION OF CONSUMER PROTECTION ENFORCEMENT WITH OFFICE OF ATTORNEY GENERAL. (a) The department and the office of the attorney general shall enter into a memorandum of understanding to coordinate the enforcement of consumer protection programs.

(b) The memorandum of understanding shall require the

department to communicate with the consumer protection division of the office of the attorney general to identify and avoid potential duplication of effort before taking final disciplinary or enforcement action related to consumer protection.

Added by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. [703](#)), Sec. 4, eff. September 1, 2021.

Sec. 12.021. FEE FOR PHYTOSANITATION INSPECTION; ISSUANCE OF CERTIFICATE. The department shall collect an inspection fee, as provided by department rule, for a phytosanitation inspection required by foreign countries or other states for agricultural products, processed products, or equipment exported from this state. The department may issue a phytosanitary certificate on completion of the inspection.

Added by Acts 1985, 69th Leg., ch. 239, Sec. 58, eff. Sept. 1, 1985.  
Amended by Acts 1995, 74th Leg., ch. 419, Sec. 2.03, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 52, Sec. 4, eff. May 7, 2001.

Sec. 12.022. AUTHORITY TO SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS. The department may solicit and accept gifts, grants, and donations of money, services, or property from any person. Money received by the department under this section may be expended or distributed for any public purpose related to the department's duties.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 11, eff. Sept. 1, 1989.  
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 9.02, eff. September 1, 2009.

Sec. 12.023. EXPIRATION OF REGISTRATION OR LICENSES. The department by rule shall adopt a system under which registrations or licenses required by the department, including licenses issued under Chapter [1951](#), Occupations Code, expire on various dates during the year. The department may increase or decrease the term of an initial or renewal license or registration so that all licenses held by a person or a group of license holders expire on the same date. For the period in which the registration or license

expiration date is changed, registration or license fees shall be prorated on a monthly basis so that each registrant or licensee pays only that portion of the fee that is allocable to the number of months during which the registration or license is valid. On the next renewal of the registration or license, the total renewal fee is payable.

Added by Acts 1985, 69th Leg., ch. 664, Sec. 1, eff. Sept. 1, 1985. Renumbered from Sec. 12.021 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(1), eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 230, Sec. 12, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 419, Sec. 1.05, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 6.02, eff. September 1, 2009.

Sec. 12.024. LATE RENEWAL OF LICENSE OR REGISTRATION. (a) A person who is otherwise eligible to renew a license or registration may renew an unexpired license or registration by paying the required renewal fee to the department before the expiration date of the license or registration. A person whose license or registration has expired may not engage in activities that require a license or registration until the license or registration has been renewed under the provisions of this section.

(b) If the person's license or registration has been expired for 90 days or less, the person may renew the license or registration by paying to the department 1-1/2 times the required renewal fee.

(c) If the person's license or registration has been expired for longer than 90 days but less than one year, the person may renew the license or registration by paying to the department two times the required renewal fee.

(d) If the person's license or registration has been expired for one year or longer, the person may not renew the license or registration. The person may obtain a new license or registration by submitting to reexamination, if applicable, and complying with the requirements and procedures for obtaining an original license or registration.



(e) If the person was licensed or registered in this state, moved to another state, and is currently licensed or registered and has been in practice in the other state for the two years preceding application, the person may renew an expired license or registration without reexamination, if required. The person must pay to the department a fee that is equal to two times the required renewal fee for the license or registration.

(f) At least 30 days before the expiration of a person's license or registration, the department shall attempt to send notice of the impending license or registration expiration to the person at the license holder's or registrant's last known e-mail or physical address according to the records of the department.

(g) The department by rule shall set fees required by this section.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 13, eff. Sept. 1, 1989.  
Amended by Acts 1993, 73rd Leg., ch. 419, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 650, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 1016, Sec. 10, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 419, Sec. 2.04, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 924 (H.B. [1494](#)), Sec. 2.01, eff. September 1, 2013.

Sec. 12.025. PROGRAM ACCESSIBILITY PLAN. The department shall comply with federal and state laws related to program and facility accessibility. The commissioner shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 14, eff. Sept. 1, 1989.  
Amended by Acts 1995, 74th Leg., ch. 419, Sec. 1.06, eff. Sept. 1, 1995.

Sec. 12.026. PUBLIC INTEREST INFORMATION. (a) The department shall prepare information of public interest describing the functions of the department and the department's procedures by which complaints are filed with and resolved by the department. The

department shall make the information available to the public and appropriate state agencies.

(b) The department by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department. The department may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the department;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the department; or

(3) in a bill for service provided by an individual or entity regulated by the department.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 56(2), eff. September 1, 2021.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 56(2), eff. September 1, 2021.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 15, eff. Sept. 1, 1989.  
Amended by Acts 1995, 74th Leg., ch. 419, Sec. 1.07, eff. Sept. 1, 1995.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 5, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 56(2), eff. September 1, 2021.

Sec. 12.02601. COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.  
Added by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 6, eff. September 1, 2021.

Sec. 12.0261. ADMINISTRATIVE PROCEDURE. The department is subject to Chapter 2001, Government Code.  
Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.08, eff. Sept. 1, 1995.

Sec. 12.027. ECONOMIC DEVELOPMENT PROGRAM. (a) The department shall maintain an economic development program for rural areas in this state.

- (b) In administering the program, the department shall:
- (1) promote economic growth in rural areas;
  - (2) identify potential opportunities for business in rural areas and assist rural communities in maximizing those opportunities;
  - (3) work with rural communities to identify economic development needs and direct those communities to persons who can address and assist in meeting those needs;
  - (4) encourage communication between organizations, industries, and regions to improve economic and community development services to rural areas;
  - (5) coordinate meetings with public and private entities to distribute information beneficial to rural areas;
  - (6) enter into a memorandum of agreement to work cooperatively with the Texas Economic Development and Tourism Office, the Texas A&M AgriLife Extension Service, and other entities the department deems appropriate to further program objectives; and
  - (7) perform any other functions necessary to carry out the program.

(c) The department may employ personnel to carry out the program.

(d) The department by rule may charge a membership fee to a

participant in the program.

(e) The department may adopt rules as necessary to administer the program, including rules regarding the use of any state or federally registered trademarks, certification marks, or service marks of the department.

(f) The department may revoke a participant's certificate of registration or license issued under the program if the participant fails to comply with a rule adopted by the department.

(g) In addition to the department's authority under Subsection (a), the department may request, accept, and use any gift, grant, loan, donation, aid, appropriation, guaranty, allocation, subsidy, or contribution of any item of value to further an economic development program in this state.

Added by Acts 2001, 77th Leg., ch. 15, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 69 (S.B. [1086](#)), Sec. 1, eff. May 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. [1214](#)), Sec. 1, eff. June 14, 2013.

Sec. 12.0271. RURAL ECONOMIC DEVELOPMENT AND INVESTMENT PROGRAM. (a) From funds appropriated for that purpose, the commissioner shall establish and administer a financial assistance program to encourage private economic development in rural areas. Financial assistance under the program may be provided only to:

- (1) a county with a population of not more than 75,000;
- (2) a municipality with a population of not more than 50,000; or
- (3) an economic development corporation or community development financial institution that primarily represents a county or municipality described by this subsection.

(b) Financial assistance under Subsection (a) may be used only for a project relating to:

- (1) the acquisition or development of land, easements, or rights-of-way;
- (2) attracting new private enterprises to the county

or municipality, including:

- (A) manufacturing facilities;
  - (B) freight storage facilities;
  - (C) distribution warehouse centers; and
  - (D) other nonretail private enterprises;
- (3) the construction, extension, or other improvement

of:

- (A) water or waste disposal facilities; or
  - (B) transportation infrastructure; or
- (4) any other activity relating to private economic development that the commissioner determines will encourage economic and infrastructure development in a rural area.

(c) To further a purpose described by Subsection (b), the commissioner may provide financial assistance to an eligible county, municipality, community development financial institution, or economic development corporation by:

(1) extending credit by direct loan, based on the credit of the county, municipality, community development financial institution, or economic development corporation;

(2) providing a credit enhancement;

(3) effectively lowering interest rates;

(4) financing a purchase or lease agreement in connection with an economic or infrastructure development project; or

(5) providing methods of leveraging money from sources other than this state that are related to the project for which the assistance is provided.

(d) A county, municipality, community development financial institution, or economic development corporation that receives funds under Subsection (c) shall segregate the funds from other funds under the control of the county, municipality, or economic development corporation and use the funds only for a purpose described by this section. Any funds disbursed through the program must be repaid on terms determined by the department.

(e) The department shall adopt rules necessary to implement this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 8.04,

eff. September 1, 2009.

Sec. 12.0272. TEXAS ECONOMIC DEVELOPMENT FUND. (a) The Texas economic development fund is a fund in the state treasury. The fund consists of:

(1) all interest, income, revenue, and other assets associated with economic development programs established using money allocated and paid to the department under the August 15, 2011, allocation agreement between the department and the United States Department of the Treasury, as amended, to implement the State Small Business Credit Initiative Act of 2010 (12 U.S.C. Section 5701 et seq.);

(2) all money, deposits, distributions, dividends, earnings, gain, income, interest, proceeds, profits, program income, rents, returns of capital, returns on investments, royalties, revenue, or yields received or realized by the department as a result of an investment made by or on behalf of the department pursuant to the August 15, 2011, allocation agreement between the department and the United States Department of the Treasury, as amended;

(3) gifts, loans, donations, aid, appropriations, guaranties, allocations, subsidies, grants, or contributions received under Sections [12.022](#) and [12.027\(g\)](#);

(4) interest and income earned on the investment of money in the fund; and

(5) other money required by law to be deposited in the fund.

(b) Money in the Texas economic development fund is dedicated to and may be appropriated only to the department for the purposes of administering, continuing, implementing, or maintaining:

(1) an economic development program originally established as part of the department's implementation of the State Small Business Credit Initiative; and

(2) one or more of the department's economic development programs:

(A) established to encourage the export of Texas

agricultural products or products manufactured in rural Texas; or

(B) established through an agreement with a federal agency, foreign governmental entity, local governmental entity, nonprofit organization, private entity, public university, or state governmental entity to encourage rural economic development in this state.

(c) The Texas economic development fund is exempt from Section 403.095, Government Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. 1214), Sec. 2, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 459 (H.B. 2004), Sec. 1, eff. June 9, 2017.

Sec. 12.0273. LIMITATIONS ON LOANS AND GRANTS FROM TEXAS ECONOMIC DEVELOPMENT FUND. (a) The department may use money in the Texas economic development fund only to make loans and grants in the manner provided by this section for the purposes provided by Section 12.0272(b).

(b) The recipient of a grant using money from the fund must provide matching funds in an amount equal to 25 percent of the amount of the grant.

(c) The term of a loan made using money from the fund may not exceed 20 years. A loan must require monthly payments of principal and interest beginning not later than the 90th day after the date the loan is made.

(d) The department shall administer the fund as a perpetual source of financing for loans and grants under this section. The department shall use payments of principal and interest to make additional loans and grants.

(e) The cumulative amount of loans and grants to any person using money from the fund may not exceed \$1 million.

(f) The department shall retain in the fund in the state treasury an amount of money equal to at least 25 percent of the amount of money in the fund on January 1, 2017.

(g) Not later than December 1 of each even-numbered year, the department shall submit a report on the status of the fund,

including loans and grants made using money from the fund, to the governor, lieutenant governor, speaker of the house of representatives, and chairs of the house and senate committees with primary jurisdiction over the department.

Added by Acts 2017, 85th Leg., R.S., Ch. 459 (H.B. 2004), Sec. 2, eff. June 9, 2017.

Sec. 12.028. COMPETITIVE BIDDING OR ADVERTISING. (a) The department may not adopt rules restricting competitive bidding or advertising by a person regulated by the department except to prohibit false, misleading, or deceptive practices by the person.

(b) The department may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the department a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 17, eff. Sept. 1, 1989.

Sec. 12.029. MINORITY AND FEMALE-OWNED BUSINESS CONTRACTS. (a) The department shall establish by rule policies to encourage minority and female-owned small businesses to bid for contract and open market purchases of the department and to assist those businesses in that bidding. The department shall review the policies periodically to correct any deficiencies in the policies.

(b) The department annually shall determine the number, types, and value of contracts awarded to minority and female-owned small businesses in the year preceding the determination and the ratio of the number and the value of those contracts to the number and the value of all contracts awarded by the department in that year.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(2), eff. June 17, 2011.



(d) In this section, "minority and female-owned small business" means a business enterprise:

(1) that is independently owned and operated, that was formed for the purpose of making a profit, and that has fewer than 100 employees and less than \$1 million in annual gross receipts; and

(2) that is controlled by one or more socially and economically disadvantaged persons who own at least 51 percent of the business enterprise and are socially disadvantaged because of their identification as members of certain groups, including women, black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans, and American Indians.

Added by Acts 1989, 71st Leg., ch. 230, Sec. 18, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.79, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(2), eff. June 17, 2011.

Sec. 12.031. ADVERTISING, PUBLICATIONS, AND FEES. (a) The department may provide or sell information, including books, magazines, photographs, prints, and bulletins, to the public concerning agriculture, horticulture, or related industries.

(a-1) In order to market and promote agricultural and other products grown, processed, or produced in this state, the department may create, distribute, and provide informational materials to the public in any type of media format.

(b) In order to recover the costs of administering activities under Sections [12.002](#), [12.0175](#), [46.0095](#), [47.052](#), and [50B.001](#), the department may sell advertising and assess and collect fees, revenues, and royalties on department-owned content, information, or materials described by Subsections (a) and (a-1), including the department's state or federally registered certification marks, service marks, and trademarks.

(c) The department may enter into agreements with private entities and local, state, federal, or foreign governmental entities for publication of information concerning agriculture,

horticulture, or related industries.

(c-1) The department may collect an event fee or a royalty for the marketing and promotional activities authorized by:

- (1) this chapter;
- (2) Chapter 46;
- (3) Chapter 47; or
- (4) Chapter 50B.

(d) Money received under this section shall be deposited in the State Treasury and may be appropriated only to the department for the department's activities or programs relating to the marketing and promotion of agriculture, horticulture, and other industries that grow, process, or produce products in this state.

Added by Acts 1993, 73rd Leg., ch. 226, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 69 (S.B. 1086), Sec. 2, eff. May 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 69 (S.B. 1086), Sec. 3, eff. May 17, 2011.

Sec. 12.032. COOPERATION WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) The commissioner and the chief administrative law judge of the State Office of Administrative Hearings by rule shall adopt a memorandum of understanding under which the State Office of Administrative Hearings conducts hearings for the department under this code. The memorandum of understanding shall require the chief administrative law judge, the department, and the commissioner to cooperate in connection with the hearings under this code and may authorize the State Office of Administrative Hearings to perform any administrative act, including giving of notice, that is required to be performed by the department or the commissioner under this code. The memorandum of understanding shall also require that hearings under this section be held at a location agreed upon by the State Office of Administrative Hearings and the department.

(b) For a hearing conducted by the State Office of Administrative Hearings under this code, the department and the commissioner retain the authority to decide whether the

administrative law judge conducting the hearing for the State Office of Administrative Hearings shall:

(1) enter the final decision in the case after completion of the hearing; or

(2) propose a decision to the department or the commissioner for final consideration.

(c) Any provision of this code that provides that the department or the commissioner take an action at a hearing means:

(1) that the department or the commissioner shall take the action after the receipt of a proposal for decision from the State Office of Administrative Hearings regarding the hearing conducted by that office; or

(2) if so directed by the department or the commissioner, the State Office of Administrative Hearings shall enter the final decision in the case after completion of the hearing.

(d) The department shall prescribe rules of procedure for any cases not heard by the State Office of Administrative Hearings.

(e) The department by interagency contract shall reimburse the State Office of Administrative Hearings for the costs incurred in conducting administrative hearings for the department. The department may pay an hourly fee for the costs of conducting these hearings or a fixed annual fee negotiated biennially by the department and the State Office of Administrative Hearings to coincide with the department's legislative appropriations request.

(f) This section does not apply to hearings held under Chapter 103.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 3.01, eff. Sept. 1, 1995.

Sec. 12.033. MULTIPLE LICENSES. (a) In this section:

(1) "Component license" means a license issued by the department that is consolidated under this section.

(2) "Grocer" means a person whose business consists primarily of the retail sale of food for human consumption.

(b) A grocer who holds more than one type of license issued by the department may obtain from the department a single

consolidated license. A consolidated license authorizes each of the activities of the component licenses.

(c) The department by rule shall implement a program for the issuance of a consolidated license under this section. The rules shall include provisions for:

(1) a fee schedule for the consolidated license that considers:

(A) the cost of operating each component license program; and

(B) the economic efficiency gained by the department through the operation of a consolidated license program;

(2) the suspension or revocation of a consolidated license for a violation of a rule or statute authorizing one of the component licenses;

(3) the combination of all inspections required for the component licenses into a single inspection; and

(4) any other provision the department determines is necessary to implement this section.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 8.01, eff. Sept. 1, 1995.

Sec. 12.034. REFUND OR WAIVER OF FEES. The department by rule may provide for:

(1) the full or partial refund of a fee collected by the department;

(2) the waiver of a licensing, registration, or certification fee collected by the department, including any related late fee; and

(3) the waiver of an inspection fee.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 2.05, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 196, Sec. 1, eff. Sept. 1, 2003.

Sec. 12.035. NOTICE TO EXAMINEE. Not later than the 30th day after the date on which a licensing or registration examination is administered under this code, the department shall notify each examinee of the results of the examination. However, if an

examination is graded or reviewed by a national testing service, the department shall notify examinees of the results of the examination not later than the 14th day after the date on which the department receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the department shall notify the examinee of the reason for the delay before the 90th day. The department may require a testing service to notify examinees of the results of an examination.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.09, eff. Sept. 1, 1995.

Sec. 12.036. LICENSING OUT-OF-STATE APPLICANTS. The department may waive any prerequisite to obtaining a license or registration for an applicant after reviewing the applicant's credentials and determining that the applicant holds a valid license from another state that has license or registration requirements substantially equivalent to those of this state.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.09, eff. Sept. 1, 1995.

Sec. 12.037. CONTINUING EDUCATION. The department may recognize, prepare, or administer continuing education programs for its license holders.

Added by Acts 1995, 74th Leg., ch. 419, Sec. 1.09, eff. Sept. 1, 1995.

Sec. 12.038. OFFICE OF RURAL AFFAIRS. (a) The department shall establish and maintain an Office of Rural Affairs. The office shall be headed by a rural affairs director. To be eligible to serve as the rural affairs director, a person must have demonstrated a strong commitment to and involvement in economic development activities in rural areas.

(b) The Office of Rural Affairs shall:

(1) develop a rural resource guide and provide the information to rural areas through print and electronic media and

through use of the Texas Business and Community Economic Development Clearinghouse;

(2) provide information to state agencies on the effects of proposed policies or actions that affect rural areas;

(3) cosponsor meetings, to the extent practical, in cooperation with public and private educational institutions to disseminate information beneficial to rural areas;

(4) identify potential opportunities for businesses in rural areas and assist these businesses to maximize those opportunities;

(5) conduct an analysis of the available federal, state, and local government and rural economic development business outreach and data services in rural areas of this state by examining the availability of:

(A) computerized economic development databases that provide data for existing and prospective businesses and communities in rural areas of this state; and

(B) business information outreach service offices or centers that provide comprehensive technical assistance, research, consulting services, training, and other services to businesses in rural areas; and

(6) perform any other functions necessary to carry out the purposes of this section.

(c) In administering this section, the department may:

(1) employ and set the compensation of personnel to carry out the Office of Rural Affairs' functions under this section; and

(2) consult with:

(A) experts and authorities in the fields of rural development, economic development, and community development;

(B) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community; and

(C) individuals who represent the public interest.

(d) Each state agency must, on request, furnish the Office

of Rural Affairs with reports and other information necessary to enable the Office of Rural Affairs to carry out the purposes of this section.

(e) The Office of Rural Affairs may accept gifts, grants, and donations from sources other than the state for the purpose of performing specific projects, studies, or procedures or to provide assistance to rural areas.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(3), eff. June 17, 2011.

Renumbered from Government Code Sec. 481.0067 by Acts 2001, 77th Leg., ch. 1437, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(3), eff. June 17, 2011.

Sec. 12.039. CERTAIN WINE PRODUCED OR BOTTLED IN THIS STATE.

(a) The Texas Wine Marketing Research Institute or other qualified entity shall, as funding is available, conduct an annual study relating to the quantities and varieties of grapes and other fruit grown in this state that are used for wine making.

(b) Not later than October 15 of the study year, the Texas Wine Marketing Research Institute or other qualified entity shall submit a report to the commissioner. The report must:

(1) include:

(A) the quantities and varieties of grapes and other fruit grown in this state that are available on September 30 of the study year for use in wine making;

(B) the needs of wineries in this state for those grapes and other fruit to meet the wineries' projected production estimates for the following calendar year; and

(C) recommendations regarding the varieties of grapes and other fruit grown in this state for which a reduction in the percentage by volume of Texas grapes used should be granted under Subsection (d); or

(2) state that funding was not available to complete the study required by this section.

(c) If a statement is provided in accordance with Subsection

(b)(2), the reporting entity shall include in the report:

(1) any information that has been routinely collected or developed by the reporting entity and that might be useful in determining the quantities and varieties of grapes and other fruit grown in this state that are available for use in wine making the following calendar year; and

(2) recommendations regarding the varieties of grapes and other fruit grown in this state for which a reduction in the percentage by volume of Texas grapes used should be granted under Subsection (d).

(d) The commissioner shall review the report and, if the commissioner determines that the quantity of a variety of grapes or other fruit grown in this state is insufficient for the wineries in this state to produce their projected production estimates during the following calendar year, the commissioner may reduce the percentage by volume of fermented juice of grapes or other fruit grown in this state that wine containing that particular variety of grape or other fruit must contain under Section 16.011, Alcoholic Beverage Code. The percentage established under this subsection must ensure that the use of that variety of grape or other fruit grown in this state is maximized while allowing for the acquisition of grapes or other fruit grown outside of this state in a quantity sufficient to meet the needs of wineries in this state.

(e) The commissioner shall submit the commissioner's determination to the Texas Alcoholic Beverage Commission in writing and publish the commissioner's determination in the Texas Register and on the department's Internet website not later than December 31 of the study year.

(f) A percentage requirement established under Subsection (d) applies to wine bottled under Section 16.011, Alcoholic Beverage Code, during the calendar year following the study year.

(g) If a winery in this state finds that the determination made by the commissioner under Subsection (d) does not reduce the percentage requirement with respect to a particular variety of grape or other fruit to a level sufficient for the winery to meet the winery's planned production for the relevant year, the winery may submit documentation or other information to the commissioner



substantiating that the winery has not been able to acquire those grapes or other fruit grown in this state in an amount sufficient to meet the winery's production needs. If the commissioner determines that there is not a sufficient quantity of that variety of grapes or other fruit grown in this state to meet the needs of that winery, the commissioner may reduce the percentage requirement for wine bottled during the remainder of the calendar year that contains that variety of fruit.

(h) The commissioner may:

(1) establish a voluntary registry for vineyards and other fruit growers in this state to assist in the determination of the availability of grapes and other fruit grown in this state and facilitate communication between the wineries and fruit growers in this state regarding the availability of and need for grapes and other fruit for wine making; and

(2) assess a fee to cover the cost of administering the registry.

(i) Information gathered through a registry established under Subsection (h) shall be posted on the department's Internet website and may be made available in any other format agreed on by the commissioner and a requestor who pays the appropriate fee for reproducing the record.

(j) The vineyard and fruit growers registry fund is an account in the general revenue fund. Fees collected under Subsection (h) shall be deposited to the credit of that account. Money in the account may be appropriated only to the department and may be used only to cover administrative and personnel costs of the department associated with administering a registry established under Subsection (h).

Added by Acts 2005, 79th Leg., Ch. 878 (S.B. [1137](#)), Sec. 1, eff. June 17, 2005.

Sec. 12.040. TEXAS CERTIFIED RETIREMENT COMMUNITY PROGRAM.

(a) In this section, "program" means the Texas Certified Retirement Community Program.

(b) The department shall establish and maintain a Texas Certified Retirement Community Program in which retirees and

potential retirees are encouraged to make their homes in Texas communities that have met the criteria for certification by the department as a Texas certified retirement community.

(c) The mission of the program is to:

(1) promote Texas as a retirement destination to retirees and potential retirees both in and outside Texas;

(2) assist Texas communities in their efforts to market themselves as desirable retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(3) assist in the development of retirement communities and life-care communities for economic development purposes and as a means of providing a potential workforce and enriching Texas communities; and

(4) encourage tourism to Texas in reference to an evaluation of this state as a desirable retirement location and for the visitation of those who have chosen to retire in this state.

(d) To be eligible to be a Texas certified retirement community, a community shall:

(1) through a board or panel that serves as the community's official program sponsor:

(A) complete a retiree desirability assessment, as developed by the department, to include facts regarding crime statistics, tax information, recreational opportunities, housing availability, and other appropriate factors, including criteria listed in Subsection (e); and

(B) work to gain the support of churches, clubs, businesses, media, and other entities, as necessary for the success of the program in the community;

(2) identify emergency medical services and a hospital within a 75-mile radius of the community; and

(3) submit to the department:

(A) a fee in an amount equal to the greater of:

(i) \$5,000; or

(ii) \$0.25 multiplied by the population of the community, as determined by the most recent census;

(B) a marketing plan detailing the mission as

applied to the community, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and dangers, and the strategies the community will employ to attain the goals of the program; and

(C) a long-term plan outlining the steps the community will undertake to maintain its desirability as a destination for retirees, including an outline of plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by Subdivision (1)(A).

(e) The department shall develop and use a scoring system to determine whether an applicant will qualify as a Texas certified retirement community. In addition to the requirements of Subsection (d), the department shall consider as part of the scoring system the applicant community in relation to the following criteria:

- (1) Texas' state and local tax structure;
- (2) housing opportunities and cost;
- (3) climate;
- (4) personal safety;
- (5) working opportunities;
- (6) health care services and other services along the continuum of care, including home-based and community-based services, housing for the elderly, assisted living, personal care, and nursing care facilities;
- (7) transportation;
- (8) continuing education;
- (9) leisure living;
- (10) recreation;
- (11) the performing arts;
- (12) festivals and events;
- (13) sports at all levels; and
- (14) other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment, as may be identified by the Department of Aging and Disability Services.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1197, Sec. 8, eff. June 14, 2013.

(g) If the department finds that a community successfully meets the requirements of a Texas certified retirement community, not later than the 90th day after the application is submitted and approved, the department shall provide assistance to the community as determined by department rule.

(h) A community's certification under this section expires on the fifth anniversary of the date the initial certification is issued. To be considered for recertification by the department, an applicant community must:

(1) complete and submit a new application in accordance with the requirements of Subsection (d); and

(2) submit data demonstrating the success or failure of the community's efforts to market and promote itself as a desirable location for retirees and potential retirees.

(i) The Texas certified retirement community program account is an account in the general revenue fund. The account is composed of fees collected under Subsection (d). Money in the account may be appropriated to the department only for the purposes of this section, including the payment of administrative and personnel costs of the department associated with administering the program.

(j) The department may contract with a local or regional nonprofit organization to provide a service described by Subsection (g) to a community in this state.

(k) The department shall adopt rules to implement this section.

Added by Acts 2005, 79th Leg., Ch. 214 (H.B. [1982](#)), Sec. 1, eff. September 1, 2005.

Renumbered from Agriculture Code, Section [12.039](#) by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(1), eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 112 (H.B. [1918](#)), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. [1214](#)), Sec. 3, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. [1214](#)), Sec. 8, eff.

June 14, 2013.

Sec. 12.041. SCHOOL BREAKFAST AND LUNCH PROGRAM. (a) The department, the Texas Education Agency, and the Health and Human Services Commission shall ensure that applicable information maintained by each entity is used on at least a quarterly basis to identify children who are categorically eligible for free meals under the national free or reduced-price breakfast and lunch program. In complying with this subsection, the department, agency, and commission shall use information that corresponds to the months of the year in which enrollment in the food stamp program is customarily higher than average.

(b) The department shall determine the feasibility of establishing a process under which school districts verify student eligibility for the national free or reduced-price breakfast and lunch program through a direct verification process that uses information maintained under the food stamp and Medicaid programs, as authorized by 42 U.S.C. Section 1758(b)(3), as amended by Section 105(a) of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. No. 108-265), and 7 C.F.R. Sections 245.6a(a)(1) and (3) and 245.6a(b)(3). If the department determines the process described by this subsection is feasible, the department may implement the process.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 1.19, eff. May 31, 2006.

Sec. 12.042. HOME-DELIVERED MEAL GRANT PROGRAM. (a) The department shall establish a home-delivered meal grant program to benefit homebound elderly persons and persons with disabilities in this state. The program must be designed to help defray the costs of providing home-delivered meals that are not fully funded by the Health and Human Services Commission or an area agency on aging.

(b) From funds appropriated for that purpose, the department shall make grants to qualifying organizations that provide home-delivered meals to homebound elderly persons and persons with disabilities. The department may use not more than five percent of those appropriated funds for the administration of

the grant program.

(c) An organization applying to the department for a grant under this section must:

(1) be a governmental agency or a nonprofit private organization that is exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, that is a direct provider of home-delivered meals to elderly persons or persons with disabilities in this state;

(2) if it is a nonprofit private organization, have a volunteer board of directors;

(3) practice nondiscrimination;

(4) have an accounting system or fiscal agent approved by the county in which it provides meals;

(5) have a system to prevent the duplication of services to the organization's clients; and

(6) agree to use funds received under this section only to supplement and extend existing services related directly to home-delivered meal services.

(d) Before an organization may receive a grant from the department, the county in which the organization provides meals must make a grant to the organization. If the county makes a grant to the organization in an amount that is less than 25 cents for each person at least 60 years of age who resides in the county, according to the most recent federal decennial census, the maximum amount the department may provide to organizations in the county under Subsection (h) is reduced to an amount in proportion to the amount by which the county grant is less than 25 cents for each elderly resident.

(e) The department shall require an organization seeking a grant to file an application in a form approved by the department. The application must be signed or electronically acknowledged by the organization's executive director, be postmarked or electronically submitted not later than November 1, and must include:

(1) the organization's name and address;

(2) the names and titles of the organization's

executive director and board chair, if applicable;

(3) the name of the county in relation to which the organization is applying;

(4) the number of residents at least 60 years of age who reside in that county, according to the most recent federal decennial census;

(5) the amount of the grant awarded by that county as required by Subsection (d);

(6) the number of meals the organization delivered to elderly persons or persons with disabilities in that county during the preceding state fiscal year that were not fully funded by the Health and Human Services Commission or an area agency on aging;

(7) appropriate documentation demonstrating that the organization:

(A) is a qualifying governmental agency or nonprofit private organization;

(B) has been awarded a grant by the county in relation to which the organization is applying, as required by Subsection (d); and

(C) has delivered the number of meals reported under Subdivision (6);

(8) the organization's most recent financial statement or audited financial report; and

(9) a list of the organization's board and officers.

(f) An organization that applies for a grant for meals delivered in more than one county must submit a separate application in relation to each county.

(g) The department annually shall determine:

(1) the total amount of money available for grants under this section;

(2) the number of residents at least 60 years of age in this state, according to the most recent federal decennial census; and

(3) the number of residents at least 60 years of age in each county in this state, according to the most recent federal decennial census.

(h) Except as provided by Subsections (d), (i), and (j),

grants from the department to qualifying organizations in a county in a state fiscal year may not exceed an amount determined by the formula:

$$CR \times (TD/SR)$$

where:

"CR" is the number of residents at least 60 years of age in the county;

"TD" is the total amount of money appropriated to the department for that state fiscal year to make grants, less the department's administrative expenses; and

"SR" is the number of residents at least 60 years of age in this state.

(i) Not later than February 1 of each year, the department shall make a grant to each qualifying organization that has submitted an approved application under this section. Subject to Subsections (d) and (h), the department shall make grants in an amount equal to one dollar for each meal that the organization delivered to homebound elderly persons or persons with disabilities in the county in the preceding state fiscal year that was not fully funded by the Health and Human Services Commission or an area agency on aging. If more than one qualifying organization delivers meals in a county, the department shall reduce the grants proportionally to each qualifying organization in that county so that the total amount of the grants to the organizations does not exceed the amount described by Subsection (h).

(j) If the total amount of the grants made by the department under Subsection (i) is less than the amount appropriated to fund the program under this section in a state fiscal year, the department shall use the unspent funds to proportionally increase the grants to each qualifying organization.

(k) The home-delivered meal fund is an account in the general revenue fund. Money in the account may be appropriated only to the department to award grants under this section and to pay for the operation of the program under this section.

(l) These funds shall not be considered by the Texas Department of Aging and Disability Services or the Area Agencies on Aging in setting unit rates.



Added by Acts 2007, 80th Leg., R.S., Ch. 92 (H.B. 407), Sec. 1, eff. May 15, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. 703), Sec. 7, eff. September 1, 2021.

Sec. 12.046. TEXAS RURAL INVESTMENT FUND. (a) In this section:

(1) "Fund" means the Texas Rural Investment Fund.

(2) "Rural community" means a municipality with a population of less than 50,000 or a county with a population of less than 200,000.

(b) The fund is a dedicated account in the general revenue fund and consists of:

(1) appropriations of money to the fund by the legislature;

(2) gifts, grants, including federal grants, and other donations received for the fund; and

(3) interest earned on the investment of money in the fund.

(b-1) The department shall administer the fund and select recipients of grants and loans from the fund.

(c) The fund may be used by the department only to:

(1) pay for grants or loans to public or private entities for projects in rural communities that have strong local support, provide positive return on the state's investment, and stimulate one or more of the following:

(A) local entrepreneurship;

(B) job creation or retention;

(C) new capital investment;

(D) strategic economic development planning;

(E) individual economic and community development leadership training;

(F) housing development; or

(G) innovative workforce education; and

(2) administer the grant and loan program under this section.

(d) In awarding a grant or loan of money from the fund for a project, the department shall consider:

- (1) the project's effect on job creation and wages;
- (2) the financial strength of the applicant;
- (3) the applicant's business history;
- (4) an analysis of the relevant business sector;
- (5) whether there is public or private sector financial support for the project; and
- (6) whether there is local support for the project.

(e) The fund is exempt from the application of Sections [403.095](#) and [404.071](#), Government Code.

(f) The department may accept grants, gifts, or donations from any source that are made for the purposes of this section. Money received under this subsection shall be deposited in the fund.

(g) The department shall adopt rules to administer this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 9.04, eff. September 1, 2009.

Sec. 12.047. USE OF TECHNOLOGY. The commissioner shall implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. The policy must ensure that the public is able to interact with the department on the Internet.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 8.05, eff. September 1, 2009.

Sec. 12.048. OBTAINING CRIMINAL HISTORY RECORD INFORMATION.

(a) The department is authorized to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person who:

- (1) applies for a license issued by the department;
- (2) holds a license issued by the department;
- (3) requests a determination of eligibility for a license issued by the department; or
- (4) is an employee, volunteer, or intern of the

department, or an applicant to be an employee, volunteer, or intern of the department.

(b) In addition to the information the department is authorized to obtain under Sections [411.122](#) and [411.1405](#), Government Code, and this section, the department is authorized to request and obtain criminal history record information through the Federal Bureau of Investigation as provided by Section [411.087](#), Government Code.

(c) Information provided to the department under this section and Chapter [411](#), Government Code, is confidential, is not subject to disclosure under Chapter [552](#), Government Code, and may not be disclosed to any person other than as required by a court order.

Added by Acts 2009, 81st Leg., R.S., Ch. 506 (S.B. [1016](#)), Sec. 9.05, eff. September 1, 2009.

For expiration of this section, see Subsection (l).

Sec. 12.050. TRADE AGRICULTURAL INSPECTION GRANT PROGRAM.

(a) Using money appropriated for this purpose or money received under Subsection (g), the department may make a grant to a nonprofit organization for the purpose of promoting the agricultural processing industry in this state by reducing wait times for agricultural inspections of vehicles at ports of entry along the border with the United Mexican States.

(b) The department shall request proposals for the award of a grant under this section. The department shall evaluate the proposals and award a grant based on the proposed program's quantifiable effectiveness and the potentially positive impact on the agricultural processing industry in this state.

(c) A grant awarded under this section must be made to an organization that has demonstrated experience working with border inspection authorities to reduce border crossing wait times.

(d) A grant recipient may use grant money received under this section only to pay for activities directly related to the purpose of the grant program as described by Subsection (a). A grant recipient may use grant money to reimburse a federal governmental agency that, at the request of the grant recipient,

provides additional border agricultural inspectors or pays overtime to border agricultural inspectors at ports of entry along the border with the United Mexican States.

(e) The department shall establish procedures to administer the grant program, including a procedure for the submission of a proposal and a procedure to be used by the department to evaluate a proposal.

(f) The department shall enter into a contract that includes performance requirements with each grant recipient. The department shall monitor and enforce the terms of the contract. The contract must authorize the department to recoup grant money from a grant recipient for failure of the grant recipient to comply with the terms of the contract.

(g) The department may solicit and accept gifts, grants, and donations from any source for the purpose of awarding grants under this section.

(h) To be eligible to receive a grant under this section, a nonprofit organization must provide matching funds. The department may not award a grant to a nonprofit organization until the department certifies that the nonprofit organization has the matching funds. The amount of the grant may not exceed the amount of matching funds. The department may not require a nonprofit organization to provide matching funds in an amount that exceeds the amount of the grant.

(i) The total amount of grants awarded under this section may not exceed \$725,000 for the duration of the program.

(j) The department may adopt any rules necessary to implement this section.

(k) Not later than January 15, 2025, the department shall evaluate the performance of the program under this section and submit a report to the legislature. The report must include an evaluation of agricultural inspections affected by the program, including the extent to which the program is reducing wait times for agricultural inspections of vehicles at ports of entry along the border with the United Mexican States.

(l) Unless continued in existence by the legislature, this section expires September 1, 2025.

Added by Acts 2019, 86th Leg., R.S., Ch. 1351 (H.B. [2155](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 655 (H.B. [1371](#)), Sec. 1, eff. June 15, 2021.

Sec. 12.051. FARMER MENTAL HEALTH AND SUICIDE PREVENTION PROGRAM. (a) The department shall establish a farmer mental health and suicide prevention program to raise awareness among farmers of issues relating to mental health and suicide prevention.

(b) As part of the program, the department shall:

(1) promote suicide prevention among farmers through a public awareness campaign;

(2) provide a toll-free telephone hotline for farmer mental health assistance;

(3) develop a mental wellness plan for farmers affected by a disaster; and

(4) coordinate suicide prevention activities with other state agencies, including the Department of State Health Services.

Added by Acts 2021, 87th Leg., R.S., Ch. 848 (S.B. [703](#)), Sec. 8, eff. September 1, 2021.