

By: Ellis

S.B. No. 2039

A BILL TO BE ENTITLED

AN ACT

relating to requiring certain critical facilities to be capable of operating with alternative electrical power; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 106 to read as follows:

CHAPTER 106. ALTERNATIVE ELECTRICAL POWER REQUIREMENTS FOR CERTAIN SERVICE STATIONS

Sec. 106.001. DEFINITIONS. In this chapter:

(1) "Alternative electrical power" means electrical power that is provided by one of the following generators or systems when electrical power from a utility service is interrupted:

(A) an electrical generator;

(B) a combined heat and power system; or

(C) a renewable power system with energy storage.

(2) "Department" means the Department of Agriculture.

(3) "Division" has the meaning assigned by Section 418.004, Government Code.

(4) "Service station" has the meaning assigned by Section 105.001.

Sec. 106.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a self-service, full-service, or combination of self-service and full-service service station that:

1 (1) is located within 100 miles of the Gulf of Mexico
2 or of a bay or inlet of the gulf;

3 (2) is located within one-half mile of an interstate
4 highway or state or federally designated evacuation route; and

5 (3) has six or more fueling positions.

6 (b) This chapter applies to a service station described by
7 Subsection (a) regardless of whether the service station is located
8 on the grounds of, or is owned by, another business entity that does
9 not engage in the business of selling motor vehicle fuel to the
10 public.

11 (c) This chapter does not apply to:

12 (1) an automobile dealer;

13 (2) a person who operates a fleet of motor vehicles; or

14 (3) a person who sells motor vehicle fuel exclusively
15 to a fleet of motor vehicles.

16 Sec. 106.003. ALTERNATIVE ELECTRICAL POWER CAPACITY FOR
17 SERVICE STATIONS. (a) A service station shall be prewired with an
18 appropriate transfer switch and be capable of operating all fuel
19 pumps, dispensing equipment, and life-safety systems using
20 alternative electrical power.

21 (b) Installation of appropriate wiring and transfer
22 switches must be performed by an electrical contractor.

23 (c) If a local government requires a certificate of
24 occupancy for completion of construction of a service station, the
25 local government may not issue a certificate of occupancy to the
26 service station unless the local government determines that the
27 service station has the equipment and operational capabilities

1 required by Subsection (a).

2 Sec. 106.004. ALTERNATIVE ELECTRICAL POWER REQUIRED. A
3 service station shall be equipped with alternative electrical power
4 for use at the station and be capable of operating all fuel pumps,
5 dispensing equipment, and life-safety systems using alternative
6 electrical power for a minimum of three days following a disaster.

7 Sec. 106.005. REQUIRED DOCUMENTS FOR SERVICE STATIONS.

8 (a) A service station must keep a copy of the documentation of the
9 installation of appropriate wiring for the operation of alternative
10 electrical power, including a transfer switch, on-site or at its
11 corporate headquarters.

12 (b) A service station must keep a written statement
13 attesting to the periodic testing and ensured operational capacity
14 of the equipment.

15 (c) The documents required by this section must be made
16 available, on request, to the department or the division.

17 Sec. 106.006. ADMINISTRATION; RULES. The department shall:

18 (1) administer and enforce the provisions of this
19 chapter; and

20 (2) adopt rules as necessary for the administration
21 and enforcement of this chapter.

22 Sec. 106.007. PENALTY. A person who violates this chapter
23 commits an offense. An offense under this section is a Class C
24 misdemeanor.

25 SECTION 2. Section 241.026, Health and Safety Code, is
26 amended by adding Subsection (g) to read as follows:

27 (g) The minimum standards adopted by the executive

1 commissioner of the Health and Human Services Commission under this
2 section must require each hospital that is located within 100 miles
3 of the Gulf of Mexico or of a bay or inlet of the gulf to provide
4 emergency electrical power for at least three days following a
5 disaster using alternative electrical power, as defined in Section
6 106.001, Business and Commerce Code, located on the premises.

7 SECTION 3. Subchapter E, Chapter 13, Water Code, is amended
8 by adding Section 13.1395 to read as follows:

9 Sec. 13.1395. ALTERNATIVE ELECTRICAL POWER. (a) This
10 section applies only to a retail public utility required to possess
11 a certificate of convenience and necessity, a district, or an
12 affected county that provides retail water or sewer utility service
13 to more than 1,000 customers in a county that is assigned a risk
14 designation of "high" or "very high" under Subsection (b).

15 (b) The commission by rule shall assign each county in this
16 state a level of risk of "low," "moderate," "high," or "very high"
17 according to that county's likelihood of experiencing a major
18 disaster, based on historical information regarding the number of
19 federal disaster declarations that have been declared for the
20 county.

21 (c) A retail public utility, district, or affected county to
22 which this section applies shall incorporate and maintain on-site
23 alternative electrical power, as defined in Section 106.001,
24 Business and Commerce Code, capable of ensuring the operation of
25 the utility's water and sewer systems in a county that is assigned a
26 risk designation of "high" or "very high" under Subsection (b) for
27 three days following an extended power outage caused by a major

1 disaster.

2 (d) The commission by rule shall establish the minimum
3 operating standards for alternative electrical power required by
4 Subsection (c), which must include the minimum operating capacity
5 that must be maintained during an extended power outage.

6 SECTION 4. Not later than December 1, 2009, the Texas
7 Commission on Environmental Quality by rule shall adopt standards
8 as required by Section 13.1395, Water Code, as added by this Act.

9 SECTION 5. A retail public utility, district, or affected
10 county required to incorporate and maintain alternative electrical
11 power under Section 13.1395, Water Code, as added by this Act, shall
12 comply with Texas Commission on Environmental Quality rules adopted
13 under that section not later than January 31, 2010.

14 SECTION 6. A newly constructed service station that begins
15 operating on or after the effective date of this Act shall comply
16 with Chapter 106, Business & Commerce Code, as added by this Act,
17 beginning on the first day of operation. A service station
18 operating before the effective date of this Act shall comply with
19 Chapter 106, Business & Commerce Code, as added by this Act,
20 beginning on the later of June 1, 2010, or the first day of
21 operation after replacing a fuel pump.

22 SECTION 7. Not later than January 1, 2010, the executive
23 commissioner of the Health and Human Services Commission shall
24 adopt the minimum standards required by Sections 241.026(g), Health
25 and Safety Code, as added by this Act.

26 SECTION 8. This Act takes effect September 1, 2009.