

1-1 By: Whitmire S.B. No. 2089  
1-2 (In the Senate - Filed March 13, 2009; March 31, 2009, read  
1-3 first time and referred to Committee on Natural Resources;  
1-4 April 30, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 30, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2089 By: Seliger

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to protections provided by the Department of Agriculture  
1-11 for certain consumers; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 13.001, Agriculture  
1-14 Code, is amended to read as follows:

1-15 (a) In this chapter:

1-16 (1) "Weight or measure of a commodity" means the  
1-17 weight or measure of a commodity as determined by a weighing or  
1-18 measuring device [includes a weight, scale, beam, or measure of any  
1-19 kind; an instrument or mechanical device for weighing or measuring;  
1-20 and an appliance or accessory connected with an instrument or  
1-21 mechanical device for weighing or measuring].

1-22 (2) "Sell" includes barter or exchange.

1-23 (3) "Weighing or measuring device" ["Pump"] means:

1-24 (A) a scale; or

1-25 (B) a mechanical or electronic device used to  
1-26 dispense or deliver a commodity by weight, volume, flow rate, or  
1-27 other measure [a gasoline, kerosene, or diesel fuel measuring or  
1-28 dispensing device].

1-29 SECTION 2. Subsection (a), Section 13.002, Agriculture  
1-30 Code, is amended to read as follows:

1-31 (a) The department shall enforce the provisions of this  
1-32 chapter and shall supervise all weighing or measuring devices  
1-33 [weights and measures] sold or offered for sale in this state. The  
1-34 department may purchase apparatus as necessary for the  
1-35 administration of this chapter.

1-36 SECTION 3. Subsections (a), (c), and (d), Section 13.021,  
1-37 Agriculture Code, are amended to read as follows:

1-38 (a) The legal standard for the weight or measure of a  
1-39 commodity [of weights and measures] in this state is the standard  
1-40 weight or measure [of weights and measures] adopted and used by the  
1-41 government of the United States for that commodity. If the United  
1-42 States does not provide a standard [of] weight or measure for a  
1-43 commodity, the standard for that commodity is that established by  
1-44 this subchapter.

1-45 (c) Except as otherwise provided by an express contract, a  
1-46 contract for work or sales by weight or measure of a commodity shall  
1-47 be construed in accordance with the standards of this subchapter.

1-48 (d) The standards of this subchapter shall be the guide for  
1-49 making any adjustment of weighing [weights] or measuring devices  
1-50 [measures] under the law of this state.

1-51 SECTION 4. Subchapter B, Chapter 13, Agriculture Code, is  
1-52 amended by adding Section 13.029 to read as follows:

1-53 Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES.

1-54 The department by rule may exempt a weighing or measuring device  
1-55 from a requirement established by this chapter if the department  
1-56 determines that imposing or enforcing the requirement:

1-57 (1) is not cost-effective for the department;

1-58 (2) is not feasible with current resources or  
1-59 standards; or

1-60 (3) will not substantially benefit or protect  
1-61 consumers.

1-62 SECTION 5. Sections 13.036, 13.037, and 13.039, Agriculture  
1-63 Code, are amended to read as follows:

2-1           Sec. 13.036. FALSE REPRESENTATION OF COMMODITY QUANTITY. A  
2-2 person commits an offense if the person or the person's servant or  
2-3 agent:

2-4           (1) sells or offers or exposes for sale a quantity of a  
2-5 commodity or service that is less than the quantity the person  
2-6 represents; or

2-7           (2) as a buyer furnishing the weight or measure of a  
2-8 commodity or service by which the amount of the ~~[a]~~ commodity or  
2-9 service is determined, takes or attempts to take more than the  
2-10 quantity the person represents.

2-11           Sec. 13.037. USE OF INCORRECT WEIGHING ~~[FALSE WEIGHT]~~ OR  
2-12 MEASURING DEVICE ~~[MEASURE]~~. (a) A person commits an offense if  
2-13 the person or the person's servant or agent uses an incorrect  
2-14 weighing ~~[a false weight]~~ or measuring device ~~[measure]~~ in:

2-15           (1) buying or selling a commodity;

2-16           (2) computing a charge for services rendered on the  
2-17 basis of weight or measure; or

2-18           (3) determining the weight or measure of a commodity,  
2-19 if a charge is made for the determination.

2-20           (b) For the purpose of this section, a weighing ~~[weight]~~ or  
2-21 measuring device ~~[measure]~~ is incorrect ~~[false]~~ if it:

2-22           (1) does not conform as closely as practicable to the  
2-23 official standards;

2-24           (2) is not accurate;

2-25           (3) is of a construction that is not reasonably  
2-26 permanent in adjustment or does not correctly repeat its  
2-27 indications;

2-28           (4) facilitates the perpetration of fraud; or

2-29           (5) does not conform to the specifications and  
2-30 tolerances established by the department under Section 13.114 ~~[of  
2-31 this code]~~.

2-32           Sec. 13.039. TESTING OF PACKAGE BY DEPARTMENT ~~[SEALER]~~.

2-33           (a) ~~The department [A sealer appointed under Subchapter C of this  
2-34 chapter]~~ shall from time to time weigh or measure a package~~[r]~~ or an  
2-35 amount of any commodity~~[r]~~ that is kept or offered for sale, sold,  
2-36 or in the process of delivery, in order to determine:

2-37           (1) if the commodity is of the amount or quantity  
2-38 represented; or

2-39           (2) if the commodity is being offered for sale or sold  
2-40 in accordance with law.

2-41           (b) If ~~the department [a sealer]~~ finds that a package or any  
2-42 lot of a commodity contains less of the commodity than the amount  
2-43 represented, ~~the department [sealer]~~ may seize the package or the  
2-44 commodity as evidence.

2-45           (c) A person commits an offense if the person or the  
2-46 person's employee or agent refuses to exhibit a commodity being  
2-47 sold or offered for sale at a given weight or quantity, or  
2-48 ordinarily sold in that manner, to ~~the department [a sealer]~~ for  
2-49 testing and proving as to quantity.

2-50           SECTION 6. The heading to Subchapter C, Chapter 13,  
2-51 Agriculture Code, is amended to read as follows:

2-52           SUBCHAPTER C. INSPECTION AND REGISTRATION OF WEIGHING OR MEASURING  
2-53 DEVICES ~~[WEIGHTS AND MEASURES]~~

2-54           SECTION 7. Section 13.101, Agriculture Code, is amended to  
2-55 read as follows:

2-56           Sec. 13.101. REQUIRED INSPECTION. (a) At least once every  
2-57 four years, or more often as required by the department, a weighing  
2-58 ~~[weight]~~ or measuring device ~~[measure]~~ shall be inspected and  
2-59 tested for correctness by ~~the department [a sealer]~~ if it:

2-60           (1) is kept for sale, sold, or used by a proprietor,  
2-61 agent, lessee, or employee in proving the weight or measure,  
2-62 including the size, quantity, extent, or area, of any item; or

2-63           (2) is purchased, offered, or submitted by a  
2-64 proprietor, agent, lessee, or employee for sale, hire, or award.

2-65           (b) The department shall, to the extent necessary to ensure  
2-66 compliance with the official standards, require additional  
2-67 inspection and testing of weighing or measuring devices ~~[weights  
2-68 and measures]~~.

2-69           (c) A person who uses or keeps for use, or has or offers for

3-1 sale, a weighing [weight] or measuring device [measure] is  
 3-2 responsible for having the device [weight or measure] inspected and  
 3-3 tested as required by this section.

3-4 (d) Unless the department requires an additional  
 3-5 inspection, a weighing [weight] or measuring device [measure] that  
 3-6 is inspected and found correct by the department [a sealer] may be  
 3-7 kept for use, used, kept or offered for sale, or sold without  
 3-8 further testing.

3-9 (e) The department may inspect and test a weighing or  
 3-10 measuring device less frequently than required by Subsection (a):

3-11 (1) to accommodate complaint-based and risk-based  
 3-12 inspection schedules; or

3-13 (2) in response to an emergency or a limitation in  
 3-14 department funding.

3-15 SECTION 8. Subsections (a) and (c), Section 13.1011,  
 3-16 Agriculture Code, are amended to read as follows:

3-17 (a) A person who operates a weighing or measuring [pump,  
 3-18 scale, or bulk or liquefied petroleum gas metering] device for a  
 3-19 commercial transaction shall [must] register annually with the  
 3-20 department.

3-21 (c) If a person fails to register as required by this  
 3-22 section and pay the fee required under Section 13.1151 [~~of this~~  
 3-23 ~~code~~], the department may assess a late fee against the person,  
 3-24 prohibit the operation of the weighing or measuring [pump, scale,  
 3-25 or metering] device, or both assess the fee and prohibit the  
 3-26 operation of the [~~pump, scale, or metering]~~ device.

3-27 SECTION 9. Subsection (e), Section 13.1012, Agriculture  
 3-28 Code, is amended to read as follows:

3-29 (e) The department may conduct an inspection of an  
 3-30 applicant's or registrant's:

3-31 (1) facilities;

3-32 (2) inspecting and testing equipment and procedures;

3-33 (3) repair and calibration equipment, records, and  
 3-34 procedures; and

3-35 (4) transportation equipment.

3-36 SECTION 10. The heading to Section 13.111, Agriculture  
 3-37 Code, is amended to read as follows:

3-38 Sec. 13.111. REPAIR OR DESTRUCTION OF INCORRECT WEIGHING  
 3-39 [WEIGHTS] OR MEASURING DEVICES [MEASURES].

3-40 SECTION 11. Subsections (a) and (b), Section 13.111,  
 3-41 Agriculture Code, are amended to read as follows:

3-42 (a) If, in the judgment of the department [sealer], a  
 3-43 weighing [weight] or measuring device [measure] found to be  
 3-44 incorrect is not capable of being repaired, the department [sealer]  
 3-45 may condemn, seize, and destroy the device [weight or measure].

3-46 (b) If, in the judgment of the department [sealer], an  
 3-47 incorrect weighing [weight] or measuring device [measure] is  
 3-48 capable of being repaired, the department [sealer] shall place on  
 3-49 the device [weight or measure] a tag or other mark with the words  
 3-50 "Out of Order." The owner or user of the weighing [weight] or  
 3-51 measuring device [measure] may have it repaired within 30 days, but  
 3-52 may not use or dispose of it until it is reinspected and released  
 3-53 for use by the department or inspected and released for use in any  
 3-54 other manner authorized by department rule [sealed. After repair,  
 3-55 the owner or user shall notify the sealer and the sealer shall  
 3-56 reinspect the weight or measure. If it is found to be correct, the  
 3-57 sealer shall remove the out-of-order tag and seal the weight or  
 3-58 measure as provided by Section 13.110 of this code].

3-59 SECTION 12. Section 13.112, Agriculture Code, is amended to  
 3-60 read as follows:

3-61 Sec. 13.112. TESTS FOR STATE INSTITUTIONS. As requested by  
 3-62 the comptroller or the governing body of a state institution, the  
 3-63 department shall test each weighing [weight] or measuring device  
 3-64 [measure] used by a state institution for any purpose, including a  
 3-65 weighing or measuring device [weight or measure] used in checking  
 3-66 the receipt and distribution of supplies. The department shall  
 3-67 report results of the test to the chairman of the governing body of  
 3-68 the institution.

3-69 SECTION 13. Subsections (a), (c), (d), and (e), Section

4-1 13.113, Agriculture Code, are amended to read as follows:

4-2 (a) The standards of weights and measures received from the  
4-3 United States and certified by the National Institute of Standards  
4-4 and Technology are the state's standards by which all state and  
4-5 local standards of weights and measures are tried, authenticated,  
4-6 proved, and certified [~~sealed~~].

4-7 (c) In addition to the standards kept by the state, the  
4-8 department shall maintain a complete set of copies of the original  
4-9 standards for use in adjusting local standards or in the  
4-10 performance of other official duties. The department may purchase  
4-11 additional sets of standards as necessary for use by a department  
4-12 inspector or other department personnel [~~state sealers~~].

4-13 (d) At the request of a city, the department shall furnish  
4-14 the city with copies of the state's standards or test and approve  
4-15 other standards acquired by the city. The city shall reimburse the  
4-16 state for the actual cost of the standards furnished, plus the costs  
4-17 of freight and certification. All standards furnished to or tested  
4-18 for a city shall be true and correct, [~~sealed and~~] certified by the  
4-19 department [~~commissioner~~], and stamped with the letter "C". The  
4-20 copies used by a city may be of any suitable material or  
4-21 construction that the city requests, subject to approval by the  
4-22 department.

4-23 (e) The department shall inspect and correct the standards  
4-24 used by a department inspector, other department employee, or  
4-25 individual or business licensed by the department to perform  
4-26 private maintenance, repairs, or calibration of weighing or  
4-27 measuring devices [~~a local sealer~~] at least once every year [~~two~~  
4-28 ~~years~~]. The department shall keep a record of the inspection and  
4-29 character of weights and measures inspected under this subsection.  
4-30 [~~The city shall pay all expenses incurred in inspections under this~~  
4-31 ~~subsection.~~]

4-32 SECTION 14. Subsection (a), Section 13.114, Agriculture  
4-33 Code, is amended to read as follows:

4-34 (a) The department shall establish tolerances and  
4-35 specifications for commercial weighing or [~~and~~] measuring devices  
4-36 [~~apparatus~~] used in this state. The tolerances and specifications  
4-37 shall be similar to those recommended by the National Institute of  
4-38 Standards and Technology.

4-39 SECTION 15. Subsections (a) and (f), Section 13.115,  
4-40 Agriculture Code, are amended to read as follows:

4-41 (a) The department shall collect a fee in accordance with  
4-42 this section for each test of a weighing [~~weight~~] or measuring  
4-43 device [~~measure~~] required by this subchapter or performed on  
4-44 request of the owner.

4-45 (f) The department shall charge a fee, as provided by  
4-46 department rule, for precision testing of tapes, rules, glassware,  
4-47 and other weighing or measuring devices performed by the  
4-48 department's metrology laboratory.

4-49 SECTION 16. Sections 13.1151, 13.117, 13.118, and 13.119,  
4-50 Agriculture Code, are amended to read as follows:

4-51 Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. The  
4-52 department may charge the owner or operator of a weighing or  
4-53 measuring device a fee, as provided by department rule, to recover  
4-54 the costs of registration and inspection of a weighing or [~~pump,~~  
4-55 ~~scale, bulk or liquefied petroleum gas metering device, or other~~]  
4-56 measuring [~~or dispensing~~] device required to be registered or  
4-57 inspected under this chapter.

4-58 Sec. 13.117. REFUSING TO ALLOW [~~PERMIT~~] TEST OF WEIGHING  
4-59 [~~WEIGHT~~] OR MEASURING DEVICE [~~MEASURE~~]. A person commits an  
4-60 offense if the person neglects or refuses to allow [~~exhibit~~] a  
4-61 weighing [~~weight~~] or measuring device [~~measure~~] under the person's  
4-62 control or in the person's possession to be inspected, tested, or  
4-63 examined by the department and the inspection, test, or examination  
4-64 is required by this chapter [~~or a sealer for inspection or~~  
4-65 ~~examination as required by law~~].

4-66 Sec. 13.118. HINDERING DEPARTMENT PERSONNEL [~~SEALER~~]. A  
4-67 person commits an offense if the person hinders or obstructs in any  
4-68 way the department, a department inspector or other department  
4-69 personnel [~~a sealer~~] in the performance of official duties.

5-1           Sec. 13.119. REMOVAL OF REGISTRATION [~~SEALER'S~~] TAG. A  
 5-2 person commits an offense if the person removes or obliterates a tag  
 5-3 or device placed on a weighing [~~weight~~] or measuring device  
 5-4 [~~measure~~] under this chapter [~~Section 13.110 or 13.111 of this~~  
 5-5 ~~code~~].

5-6           SECTION 17. Sections 13.120 and 13.121, Agriculture Code,  
 5-7 are amended to read as follows:

5-8           Sec. 13.120. SALE OR USE OF INCORRECT WEIGHING [~~FALSE~~  
 5-9 ~~WEIGHTS~~] OR MEASURING DEVICE [~~MEASURES~~]. (a) The department may  
 5-10 condemn and prohibit the sale or distribution of any incorrect  
 5-11 weighing [~~false weight~~] or measuring device [~~measure~~] that is sold,  
 5-12 offered for sale, or about to be sold in this state.

5-13           (b) A person commits an offense if the person or the  
 5-14 person's servant or agent:

5-15           (1) offers or exposes for sale, hire, or award or sells  
 5-16 an incorrect weighing [~~a false weight~~] or measuring device  
 5-17 [~~measure~~];

5-18           (2) possesses an incorrect weighing [~~a false weight~~]  
 5-19 or measuring device [~~measure~~]; or

5-20           (3) sells, offers for sale, uses, or possesses for the  
 5-21 purpose of sale or use a device or instrument to be used to falsify  
 5-22 or intended to falsify a weight or measure.

5-23           [~~(c) In this section, "false weight or measure" has the~~  
 5-24 ~~meaning assigned by Section 13.037 of this code.~~]

5-25           Sec. 13.121. DISPOSING OF CONDEMNED WEIGHING OR MEASURING  
 5-26 DEVICE [~~WEIGHT~~]. A person commits an offense if the person or the  
 5-27 person's servant or agent disposes of a weighing [~~weight~~] or  
 5-28 measuring device [~~measure~~] condemned under Section 13.111 or 13.120  
 5-29 [~~of this code~~] in a manner contrary to those sections.

5-30           SECTION 18. Subsection (b), Section 13.253, Agriculture  
 5-31 Code, is amended to read as follows:

5-32           (b) An elected county public weigher must obtain a  
 5-33 certificate of authority as provided by Section 13.255 [~~of this~~  
 5-34 ~~code~~] and must execute a bond as provided by Section 13.256 [~~of this~~  
 5-35 ~~code~~] before issuing an official certificate of weight or measure  
 5-36 of a commodity. A county public weigher elected under this section  
 5-37 is subject to rules adopted by the commissioners court.

5-38           SECTION 19. Subsection (a), Section 13.257, Agriculture  
 5-39 Code, is amended to read as follows:

5-40           (a) On each certificate of weight or measure of a commodity  
 5-41 that a public weigher or deputy public weigher issues, the public  
 5-42 weigher or deputy public weigher shall include the:

5-43           (1) time and date that the weight or measure of the  
 5-44 commodity [~~measurement~~] was taken;

5-45           (2) signature and license number of the public weigher  
 5-46 or deputy public weigher; and

5-47           (3) seal of the department.

5-48           SECTION 20. Subsection (a), Section 13.259, Agriculture  
 5-49 Code, is amended to read as follows:

5-50           (a) A public weigher or deputy public weigher who  
 5-51 intentionally or knowingly issues a certificate of weight or  
 5-52 measure of a commodity giving a false weight or measure for the [~~a~~]  
 5-53 commodity [~~weighed or measured~~] commits an offense.

5-54           SECTION 21. Subsection (a), Section 13.260, Agriculture  
 5-55 Code, is amended to read as follows:

5-56           (a) A person who intentionally or knowingly issues an  
 5-57 official certificate of weight or measure of a [~~for any~~] commodity  
 5-58 without first obtaining a certificate of authority under Section  
 5-59 13.255 [~~of this code~~], who issues an official certificate of weight  
 5-60 or measure of a commodity after revocation of the person's  
 5-61 certificate of authority, or who issues an official certificate of  
 5-62 weight or measure of a commodity without executing a bond as  
 5-63 required under Section 13.256 [~~of this code~~] commits an offense.

5-64           SECTION 22. Subsections (a), (b), (d), and (f), Section  
 5-65 13.401, Agriculture Code, are amended to read as follows:

5-66           (a) A person who has a license issued under this subchapter  
 5-67 may [~~has all of the powers and duties of a sealer under this chapter~~  
 5-68 ~~except for~~]:

5-69           (1) inspect, test, maintain, and repair:

6-1 (A) a weighing or measuring device;  
 6-2 (B) a liquefied petroleum gas meter under  
 6-3 Subchapter F; or  
 6-4 (C) a ranch scale under Subchapter G;  
 6-5 (2) return an incorrect weighing or measuring device  
 6-6 to service under Section 13.111;  
 6-7 (3) prohibit an incorrect weighing or measuring device  
 6-8 from being used until the device is repaired, if the inspector  
 6-9 determines that the device can be repaired; and  
 6-10 (4) condemn and prohibit the further use of an  
 6-11 incorrect weighing or measuring device that the inspector  
 6-12 determines cannot be repaired ~~testing of a package under Section~~  
 6-13 ~~13.039,~~

6-14 ~~[(2) peace officer status under Section 13.108(b); and~~  
 6-15 ~~[(3) entering premises or conducting a stop under~~  
 6-16 ~~Section 13.108(c)].~~

6-17 (b) It is a defense to prosecution under Section 13.117 or  
 6-18 13.118 that the licensed inspector ~~sealer~~ is acting under the  
 6-19 authority of a license issued under this subchapter.

6-20 (d) Unless appointed an inspector ~~a sealer~~ under  
 6-21 Subchapter C, a person may not perform the functions of an inspector  
 6-22 ~~a sealer~~ without a license issued under this subchapter.

6-23 (f) A license holder under this subchapter shall conduct  
 6-24 inspecting, ~~or~~ testing, prohibiting, or condemning activities in  
 6-25 compliance with the rules of the department.

6-26 SECTION 23. Subsection (a), Section 13.404, Agriculture  
 6-27 Code, is amended to read as follows:

6-28 (a) The department ~~[by rule]~~ may ~~[adopt a system to]~~  
 6-29 periodically monitor and inspect or test weighing or measuring  
 6-30 devices that have been ~~scales~~ inspected and tested by a license  
 6-31 holder and any standards used by the license holder during an  
 6-32 inspection or test.

6-33 SECTION 24. Chapter 17, Agriculture Code, is amended by  
 6-34 adding Subchapter B-1 to read as follows:

6-35 SUBCHAPTER B-1. MOTOR FUEL QUALITY AND TESTING  
 6-36 Sec. 17.071. MINIMUM MOTOR FUEL QUALITY AND TESTING  
 6-37 STANDARDS. The department by rule shall adopt minimum motor fuel  
 6-38 quality and testing standards for motor fuel that is sold or offered  
 6-39 for sale in this state. The standards must comply with the  
 6-40 nationally recognized minimum standards established by:

6-41 (1) the American Society for Testing and Materials, as  
 6-42 those standards existed on September 1, 2009, for motor fuels other  
 6-43 than motor fuels blended with ethanol; and

6-44 (2) the National Institute of Standards and  
 6-45 Technology, as those standards existed on September 1, 2009, for  
 6-46 motor fuels blended with ethanol.

6-47 Sec. 17.072. TESTING OF MOTOR FUEL QUALITY. (a) The  
 6-48 department may collect samples and conduct testing at any location  
 6-49 where motor fuel is kept, transferred, sold, or offered for sale, to  
 6-50 verify that the motor fuel complies with the minimum standards  
 6-51 required by Section 17.071.

6-52 (b) On arriving at a facility to conduct testing under  
 6-53 Subsection (a), a representative of the department shall notify the  
 6-54 owner or manager of the facility of the representative's presence  
 6-55 and purpose.

6-56 (c) A person commits an offense if the person refuses to  
 6-57 allow a department representative to collect samples or conduct  
 6-58 motor fuel testing under Subsection (a).

6-59 Sec. 17.073. STOP-SALE ORDER. If the department has reason  
 6-60 to believe that motor fuel is in violation of this chapter or a rule  
 6-61 adopted under this chapter, the department may issue and enforce a  
 6-62 written order to stop the sale of the motor fuel. The department  
 6-63 shall present the order to the dealer, distributor, jobber,  
 6-64 supplier, or wholesaler who is in control of the motor fuel at the  
 6-65 time the motor fuel is tested. The person who receives the order  
 6-66 may not sell the motor fuel until the department determines that the  
 6-67 motor fuel is in compliance with this chapter and department rules.

6-68 SECTION 25. Subsections (a) and (b), Section 17.104,  
 6-69 Agriculture Code, are amended to read as follows:

7-1 (a) The commissioner may adopt rules consistent with this  
7-2 chapter for the regulation of the sale of motor fuels, including  
7-3 motor fuels that contain [~~containing~~] ethanol and methanol.

7-4 (b) The commissioner by rule may impose a fee for testing,  
7-5 inspection, or the performance of other services provided as  
7-6 determined necessary by the commissioner in the administration of  
7-7 this chapter. A fee imposed under this subsection shall be  
7-8 collected from each dealer, distributor, jobber, supplier, and  
7-9 wholesaler on a periodic basis determined by the commissioner  
7-10 without regard to whether the motor fuel is subject to regulation  
7-11 under this chapter.

7-12 SECTION 26. Subsections (a) and (b), Section 17.155,  
7-13 Agriculture Code, are amended to read as follows:

7-14 (a) The department [~~commissioner~~] may impose an  
7-15 administrative penalty against a person regulated under this  
7-16 chapter who violates this chapter or a rule or order adopted under  
7-17 this chapter. Except as otherwise provided by this section, an  
7-18 administrative penalty is imposed and collected in the manner  
7-19 provided by Section 12.020.

7-20 (b) The penalty for a violation of this chapter or a rule or  
7-21 order adopted under this chapter may not exceed \$5,000 [~~\$500~~] a day  
7-22 for each violation. Each day a violation continues or occurs may be  
7-23 considered a separate violation for purposes of imposing a penalty.

7-24 SECTION 27. Subchapter D, Chapter 17, Agriculture Code, is  
7-25 amended by adding Section 17.156 to read as follows:

7-26 Sec. 17.156. TOLL-FREE NUMBER. The department shall  
7-27 provide a toll-free telephone number for use by the public in  
7-28 reporting violations of this subchapter.

7-29 SECTION 28. The following provisions of the Agriculture  
7-30 Code are repealed:

- 7-31 (1) Section 13.004;
- 7-32 (2) Section 13.102;
- 7-33 (3) Section 13.104;
- 7-34 (4) Section 13.108;
- 7-35 (5) Section 13.109;
- 7-36 (6) Section 13.110;
- 7-37 (7) Subsections (c) and (d), Section 13.111; and
- 7-38 (8) Section 13.116.

7-39 SECTION 29. This Act takes effect September 1, 2009.

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