

By: Whitmire

S.B. No. 893

A BILL TO BE ENTITLED

AN ACT

relating to motor fuel quality and testing.

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

SECTION 1. Subsection (c), Section 12.020, Agriculture Code, is amended to read as follows:

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

Provision	Amount of Penalty
<del>[Chapter 41]</del>	<del>not more than \$5,000]</del>
Chapters 13, 14A, 17, 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, 121, 125, 132, and 134	not more than \$5,000
<del>[Subchapter B, Chapter 71]</del>	
<del>[Chapter 19]</del>	
<del>[Chapter 76]</del>	<del>not more than \$5,000]</del>
Subchapters A, B, and C, Chapter 71	not more than \$5,000
<del>[Chapters 72, 73, and 74]</del>	not more than \$10,000
Chapter 14	not more than \$5,000
Chapter 1951, Occupations Code	not more than \$5,000
Chapter 153, Natural Resources Code	not more than \$5,000.

SECTION 2. Subsection (a), Section 17.052, Agriculture Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a distributor, supplier, wholesaler, or jobber of motor fuel may not deliver to an outlet in this state a motor fuel mixture that contains ethanol or methanol exceeding one percent by volume of the mixture unless, at the time of the delivery of the mixture, the person also delivers to the outlet receiving the delivery[+

~~[(1) signs required by Section 17.051 in a number~~

1 ~~sufficient for the dealer receiving the mixture to comply with that~~  
2 ~~section; and~~

3           ~~[(2)]~~ a manifest, bill of sale, bill of lading, or  
4 other document evidencing delivery of the mixture, that~~+~~

5                   ~~[(A)]~~ includes a statement containing:

6                   (1) ~~[(i)]~~ the percentage of ethanol or methanol  
7 contained in the mixture; and

8                   (2) ~~[(ii)]~~ the types and percentages of any associated  
9 cosolvents contained in the mixture~~;~~ and

10                   ~~[(B) evidences delivery of the signs required~~  
11 ~~under Subdivision (1)].~~

12           SECTION 3. Section 17.053, Agriculture Code, is amended to  
13 read as follows:

14           Sec. 17.053. RECORD OF DELIVERY DOCUMENTS; INSPECTION  
15 AUTHORIZED. (a) Each dealer shall keep a copy of each document  
16 required to be delivered to the dealer by Section 17.052 until the  
17 first anniversary of the delivery date. ~~[During the first 60 days~~  
18 ~~following delivery of a fuel mixture subject to this chapter, the~~  
19 ~~dealer shall keep a copy at the station or retail outlet where the~~  
20 ~~motor fuel was delivered.]~~

21           (b) Each distributor, supplier, wholesaler, and jobber of  
22 motor fuel shall keep ~~[at the person's principal place of business]~~  
23 a copy of each document required to be delivered to the dealer by  
24 Section 17.052 until the first anniversary of the delivery date.

25           (c) The commissioner or an authorized representative of the  
26 commissioner may inspect documents described by this section. On  
27 written notice presented by the commissioner or an authorized

1 representative of the commissioner to any employee at a dealer's  
2 station or retail outlet or mailed to the principal place of  
3 business of a dealer, distributor, supplier, wholesaler, or jobber,  
4 the dealer, distributor, supplier, wholesaler, or jobber shall  
5 provide the commissioner or authorized representative of the  
6 commissioner with the documents described by this section within  
7 the period specified in the notice.

8 (d) The commissioner by rule may:

9 (1) require each dealer, distributor, supplier,  
10 wholesaler, and jobber to maintain and make available to the  
11 department:

12 (A) invoices, receipts, or other transmittal  
13 documents or records, including electronically stored information,  
14 showing or describing the purchase, sale, delivery, or distribution  
15 of motor fuel;

16 (B) invoices, receipts, work orders, reports, or  
17 other documents, including electronically stored information,  
18 showing or describing the installation, maintenance, or repair of:

19 (i) motor fuel dispensing devices; and

20 (ii) any equipment used in connection with  
21 motor fuel dispensing devices to record, display, or produce  
22 receipts or audit trails concerning the purchase, sale, delivery,  
23 or distribution of motor fuel; and

24 (C) any record or other document related to the  
25 sampling and testing of motor fuel purchased, sold, delivered, or  
26 distributed by the dealer, distributor, supplier, wholesaler, or  
27 jobber; and

1           (2) prescribe:

2           (A) [~~(1)~~] the manner of filing documents or  
3 records required to be kept under this section or by department  
4 rule; and

5           (B) [~~(2)~~] the time, place, and manner of  
6 inspection of the documents or records.

7           SECTION 4. Section 17.054, Agriculture Code, is amended by  
8 amending Subsection (c) and adding Subsection (d) to read as  
9 follows:

10           (c) The commissioner or an authorized representative of the  
11 commissioner may inspect a document required to be kept under this  
12 section. On written notice presented by the commissioner or an  
13 authorized representative of the commissioner to any employee at a  
14 dealer's station or retail outlet or mailed to the dealer's  
15 principal place of business, the dealer shall provide the  
16 commissioner or authorized representative of the commissioner with  
17 the documents described by this section within the period specified  
18 in the notice.

19           (d) The commissioner by rule may:

20           (1) require each dealer to maintain and make available  
21 to the department:

22           (A) invoices, receipts, or other transmittal  
23 documents or records, including electronically stored information,  
24 showing or describing the purchase, sale, delivery, or distribution  
25 of motor fuel;

26           (B) invoices, receipts, work orders, reports, or  
27 other documents, including electronically stored information,

1 showing or describing the installation, maintenance, or repair of:

2 (i) motor fuel dispensing devices; and

3 (ii) any equipment used in connection with  
4 motor fuel dispensing devices to record, display, or produce  
5 receipts or audit trails concerning the purchase, sale, delivery,  
6 or distribution of motor fuel; and

7 (C) any record or other document related to the  
8 sampling and testing of motor fuel purchased, sold, delivered, or  
9 distributed by the dealer; and

10 (2) prescribe:

11 (A) the manner of filing documents or records  
12 required to be kept under this section or by department rule; and

13 (B) the time, place, and manner of inspection of  
14 the documents or records.

15 SECTION 5. Section 17.071, Agriculture Code, is amended to  
16 read as follows:

17 Sec. 17.071. MINIMUM MOTOR FUEL QUALITY AND TESTING  
18 STANDARDS. (a) The department by rule shall adopt minimum motor  
19 fuel quality and testing standards for motor fuel that is sold or  
20 offered for sale in this state. The standards must comply with the  
21 nationally recognized minimum standards established by:

22 (1) the American Society for Testing and Materials[~~7~~  
23 ~~as those standards existed on September 1, 2009~~], for motor fuels  
24 other than motor fuels blended with ethanol; and

25 (2) the National Institute of Standards and  
26 Technology, [~~as those standards existed on September 1, 2009, other~~  
27 ~~than the standard vapor to liquid ratio specification~~] for motor

1 fuels blended with ethanol.

2 (b) The department may adopt rules as necessary to bring  
3 about uniformity between the standards established under this  
4 subchapter and the nationally recognized standards described by  
5 Subsection (a).

6 SECTION 6. Section 17.073, Agriculture Code, is amended to  
7 read as follows:

8 Sec. 17.073. STOP-SALE ORDER; SHUTDOWN OF DISPENSING  
9 DEVICES. (a) If the department has reason to believe that motor  
10 fuel is in violation of this chapter or a rule adopted under this  
11 chapter, or that the motor fuel is being sold or offered for sale in  
12 a manner that violates this chapter or a rule adopted under this  
13 chapter, the department may:

14 (1) issue and enforce a written order to stop the sale  
15 of the motor fuel;

16 (2) place on a device used to dispense the motor fuel a  
17 tag or other mark with the words "Out of Order"; or

18 (3) stop the sale of the motor fuel and mark a device  
19 used to dispense the motor fuel as out of order.

20 (b) The department shall present an [the] order issued under  
21 this section to the dealer, distributor, jobber, supplier, or  
22 wholesaler who is in control of the motor fuel at the time the motor  
23 fuel or the dealer, distributor, jobber, supplier, or wholesaler of  
24 the motor fuel is inspected by the commissioner [is tested]. The  
25 person who receives the order may not sell [the] motor fuel subject  
26 to a stop-sale order or use a device on which the department has  
27 placed a tag or other mark under Subsection (a)(2) or (3) until the

1 department determines that the motor fuel or device is in  
2 compliance with this chapter and department rules.

3 SECTION 7. Subsection (a), Section 17.155, Agriculture  
4 Code, is amended to read as follows:

5 (a) The department may impose an administrative penalty  
6 against a person regulated under this chapter who violates this  
7 chapter or a rule or order adopted under this chapter. An [~~Except~~  
8 ~~as otherwise provided by this section, an~~] administrative penalty  
9 is imposed and collected in the manner provided by Section 12.020.

10 SECTION 8. Subsections (c) and (d), Section 17.051, and  
11 Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section  
12 17.155, Agriculture Code, are repealed.

13 SECTION 9. The changes in law made by this Act apply only to  
14 an offense or other violation under Chapter 17, Agriculture Code,  
15 committed on or after the effective date of this Act. An offense or  
16 other violation committed before the effective date of this Act is  
17 governed by the law in effect when the offense or violation was  
18 committed, and the former law is continued in effect for that  
19 purpose. For purposes of this section, an offense or other  
20 violation was committed before the effective date of this Act if any  
21 element of the offense or violation was committed before that date.

22 SECTION 10. This Act takes effect September 1, 2011.