

By: Whitmire  
(Hardcastle)

S.B. No. 893

Substitute the following for S.B. No. 893:

By: Anderson of McLennan

C.S.S.B. No. 893

A BILL TO BE ENTITLED

1 AN ACT

2 relating to motor fuel quality and testing.

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

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

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

8	Provision	Amount of Penalty
9	<del>[Chapter 41</del>	<del>not more than \$5,000]</del>
10	Chapters 13, 14A, 17, 18, 19, 41,	
11	46, 61, 72, 73, 74, 76, 94, 95, 101,	
12	102, 103, 121, 125, 132,	
13	and 134	not more than \$5,000
14	<del>[Subchapter B, Chapter 71</del>	
15	<del>[Chapter 19</del>	
16	<del>[Chapter 76</del>	<del>not more than \$5,000]</del>
17	Subchapters A, B, and C, Chapter 71	
18	<del>[Chapters 72, 73, and 74]</del>	not more than \$5,000
19	Chapter 14	not more than \$10,000
20	Chapter 1951, Occupations Code	not more than \$5,000
21	Chapter 153, Natural Resources	
22	Code	not more than \$5,000.

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

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

31 [~~(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 fourth ~~first~~ anniversary of the delivery date. ~~[During the first~~  
18 ~~60 days following delivery of a fuel mixture subject to this~~  
19 ~~chapter, the dealer shall keep a copy at the station or retail~~  
20 ~~outlet where the 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 fourth ~~first~~ anniversary of the delivery  
25 date.

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

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

9 (d) The commissioner by rule may:

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

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

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

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

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

1 jobber; and

2 (2) prescribe:

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

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

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

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

20 (d) The commissioner by rule may:

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

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

27 (B) invoices, receipts, work orders, reports, or

1 other documents, including electronically stored information,  
2 showing or describing the installation, maintenance, or repair of:

3 (i) motor fuel dispensing devices; and

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

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

11 (2) prescribe:

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

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

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

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

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

26 (2) the National Institute of Standards and  
27 Technology, [~~as those standards existed on September 1, 2009, other~~

1 ~~than the standard vapor to liquid ratio specification]~~ for motor  
2 fuels blended with ethanol.

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

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

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

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

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

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

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

1 placed a tag or other mark under Subsection (a)(2) or (3) until the  
2 department determines that the motor fuel or device is in  
3 compliance with this chapter and department rules.

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

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

11 SECTION 8. Subsections (c) and (d), Section 17.051, and  
12 Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section  
13 17.155, Agriculture Code, are repealed.

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

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