

1-1 By: Whitmire S.B. No. 893  
1-2 (In the Senate - Filed February 23, 2011; March 1, 2011,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 March 28, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 28, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 893 By: Eltife

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

1-10 relating to motor fuel quality and testing.  
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-12 SECTION 1. Subsection (c), Section 12.020, Agriculture  
1-13 Code, is amended to read as follows:  
1-14 (c) The provisions of law subject to this section and the  
1-15 applicable penalty amounts are as follows:

1-16	Provision	Amount of Penalty
1-17	<del>[Chapter 41]</del>	<del>not more than \$5,000]</del>
1-18	Chapters 13, 14A, 17, 18, 19, 41,	
1-19	46, 61, 72, 73, 74, 76, 94, 95, 101,	
1-20	102, 103, 121, 125, 132,	
1-21	and 134	not more than \$5,000
1-22	<del>[Subchapter B, Chapter 71]</del>	
1-23	<del>[Chapter 19]</del>	
1-24	<del>[Chapter 76]</del>	<del>not more than \$5,000]</del>
1-25	Subchapters A, B, and C, Chapter 71	
1-26	<del>[Chapters 72, 73, and 74]</del>	not more than \$5,000
1-27	Chapter 14	not more than \$10,000
1-28	Chapter 1951, Occupations Code	not more than \$5,000
1-29	Chapter 153, Natural Resources	
1-30	Code	not more than \$5,000.

1-31 SECTION 2. Subsection (a), Section 17.052, Agriculture  
1-32 Code, is amended to read as follows:

1-33 (a) Except as provided by Subsection (b), a distributor,  
1-34 supplier, wholesaler, or jobber of motor fuel may not deliver to an  
1-35 outlet in this state a motor fuel mixture that contains ethanol or  
1-36 methanol exceeding one percent by volume of the mixture unless, at  
1-37 the time of the delivery of the mixture, the person also delivers to  
1-38 the outlet receiving the delivery[+]

1-39 ~~[(1) signs required by Section 17.051 in a number~~  
1-40 ~~sufficient for the dealer receiving the mixture to comply with that~~  
1-41 ~~section, and~~

1-42 ~~[(2)] a manifest, bill of sale, bill of lading, or~~  
1-43 ~~other document evidencing delivery of the mixture, that[+]~~

1-44 ~~[(A)] includes a statement containing:~~

1-45 ~~(1) [(i)] the percentage of ethanol or methanol~~  
1-46 ~~contained in the mixture; and~~

1-47 ~~(2) [(ii)] the types and percentages of any associated~~  
1-48 ~~cosolvents contained in the mixture[, and~~

1-49 ~~[(B) evidences delivery of the signs required~~  
1-50 ~~under Subdivision (1)].~~

1-51 SECTION 3. Section 17.053, Agriculture Code, is amended to  
1-52 read as follows:

1-53 Sec. 17.053. RECORD OF DELIVERY DOCUMENTS; INSPECTION  
1-54 AUTHORIZED. (a) Each dealer shall keep a copy of each document  
1-55 required to be delivered to the dealer by Section 17.052 until the  
1-56 first anniversary of the delivery date. ~~[During the first 60 days~~  
1-57 ~~following delivery of a fuel mixture subject to this chapter, the~~  
1-58 ~~dealer shall keep a copy at the station or retail outlet where the~~  
1-59 ~~motor fuel was delivered.]~~

1-60 (b) Each distributor, supplier, wholesaler, and jobber of  
1-61 motor fuel shall keep ~~[at the person's principal place of business]~~  
1-62 a copy of each document required to be delivered to the dealer by

2-1 Section 17.052 until the first anniversary of the delivery date.  
2-2 (c) The commissioner or an authorized representative of the  
2-3 commissioner may inspect documents described by this section. On  
2-4 written notice presented by the commissioner or an authorized  
2-5 representative of the commissioner to any employee at a dealer's  
2-6 station or retail outlet or mailed to the principal place of  
2-7 business of a dealer, distributor, supplier, wholesaler, or jobber,  
2-8 the dealer, distributor, supplier, wholesaler, or jobber shall  
2-9 provide the commissioner or authorized representative of the  
2-10 commissioner with the documents described by this section within  
2-11 the period specified in the notice.

2-12 (d) The commissioner by rule may:  
2-13 (1) require each dealer, distributor, supplier,  
2-14 wholesaler, and jobber to maintain and make available to the  
2-15 department:

2-16 (A) invoices, receipts, or other transmittal  
2-17 documents or records, including electronically stored information,  
2-18 showing or describing the purchase, sale, delivery, or distribution  
2-19 of motor fuel;

2-20 (B) invoices, receipts, work orders, reports, or  
2-21 other documents, including electronically stored information,  
2-22 showing or describing the installation, maintenance, or repair of:

2-23 (i) motor fuel dispensing devices; and

2-24 (ii) any equipment used in connection with  
2-25 motor fuel dispensing devices to record, display, or produce  
2-26 receipts or audit trails concerning the purchase, sale, delivery,  
2-27 or distribution of motor fuel; and

2-28 (C) any record or other document related to the  
2-29 sampling and testing of motor fuel purchased, sold, delivered, or  
2-30 distributed by the dealer, distributor, supplier, wholesaler, or  
2-31 jobber; and

2-32 (2) prescribe:  
2-33 (A) [~~1~~] the manner of filing documents or  
2-34 records required to be kept under this section or by department  
2-35 rule; and

2-36 (B) [~~2~~] the time, place, and manner of  
2-37 inspection of the documents or records.

2-38 SECTION 4. Section 17.054, Agriculture Code, is amended by  
2-39 amending Subsection (c) and adding Subsection (d) to read as  
2-40 follows:

2-41 (c) The commissioner or an authorized representative of the  
2-42 commissioner may inspect a document required to be kept under this  
2-43 section. On written notice presented by the commissioner or an  
2-44 authorized representative of the commissioner to any employee at a  
2-45 dealer's station or retail outlet or mailed to the dealer's  
2-46 principal place of business, the dealer shall provide the  
2-47 commissioner or authorized representative of the commissioner with  
2-48 the documents described by this section within the period specified  
2-49 in the notice.

2-50 (d) The commissioner by rule may:  
2-51 (1) require each dealer to maintain and make available  
2-52 to the department:

2-53 (A) invoices, receipts, or other transmittal  
2-54 documents or records, including electronically stored information,  
2-55 showing or describing the purchase, sale, delivery, or distribution  
2-56 of motor fuel;

2-57 (B) invoices, receipts, work orders, reports, or  
2-58 other documents, including electronically stored information,  
2-59 showing or describing the installation, maintenance, or repair of:

2-60 (i) motor fuel dispensing devices; and

2-61 (ii) any equipment used in connection with  
2-62 motor fuel dispensing devices to record, display, or produce  
2-63 receipts or audit trails concerning the purchase, sale, delivery,  
2-64 or distribution of motor fuel; and

2-65 (C) any record or other document related to the  
2-66 sampling and testing of motor fuel purchased, sold, delivered, or  
2-67 distributed by the dealer; and

2-68 (2) prescribe:  
2-69 (A) the manner of filing documents or records

3-1 required to be kept under this section or by department rule; and  
3-2 (B) the time, place, and manner of inspection of  
3-3 the documents or records.

3-4 SECTION 5. Section 17.071, Agriculture Code, is amended to  
3-5 read as follows:

3-6 Sec. 17.071. MINIMUM MOTOR FUEL QUALITY AND TESTING  
3-7 STANDARDS. (a) The department by rule shall adopt minimum motor  
3-8 fuel quality and testing standards for motor fuel that is sold or  
3-9 offered for sale in this state. The standards must comply with the  
3-10 nationally recognized minimum standards established by:

3-11 (1) the American Society for Testing and Materials [~~as those standards existed on September 1, 2009~~], for motor fuels  
3-12 other than motor fuels blended with ethanol; and

3-13 (2) the National Institute of Standards and  
3-14 Technology, [~~as those standards existed on September 1, 2009, other~~  
3-15 ~~than the standard vapor to liquid ratio specification~~] for motor  
3-16 fuels blended with ethanol.

3-17 (b) The department may adopt rules as necessary to bring  
3-18 about uniformity between the standards established under this  
3-19 subchapter and the nationally recognized standards described by  
3-20 Subsection (a).

3-21 SECTION 6. Section 17.073, Agriculture Code, is amended to  
3-22 read as follows:

3-23 Sec. 17.073. STOP-SALE ORDER; SHUTDOWN OF DISPENSING  
3-24 DEVICES. (a) If the department has reason to believe that motor  
3-25 fuel is in violation of this chapter or a rule adopted under this  
3-26 chapter, or that the motor fuel is being sold or offered for sale in  
3-27 a manner that violates this chapter or a rule adopted under this  
3-28 chapter, the department may:

3-29 (1) issue and enforce a written order to stop the sale  
3-30 of the motor fuel;

3-31 (2) place on a device used to dispense the motor fuel a  
3-32 tag or other mark with the words "Out of Order"; or

3-33 (3) stop the sale of the motor fuel and mark a device  
3-34 used to dispense the motor fuel as out of order.

3-35 (b) The department shall present an [the] order issued under  
3-36 this section to the dealer, distributor, jobber, supplier, or  
3-37 wholesaler who is in control of the motor fuel at the time the motor  
3-38 fuel or the dealer, distributor, jobber, supplier, or wholesaler of  
3-39 the motor fuel is inspected by the commissioner [is tested]. The  
3-40 person who receives the order may not sell [the] motor fuel subject  
3-41 to a stop-sale order or use a device on which the department has  
3-42 placed a tag or other mark under Subsection (a)(2) or (3) until the  
3-43 department determines that the motor fuel or device is in  
3-44 compliance with this chapter and department rules.

3-45 SECTION 7. Subsection (a), Section 17.155, Agriculture  
3-46 Code, is amended to read as follows:

3-47 (a) The department may impose an administrative penalty  
3-48 against a person regulated under this chapter who violates this  
3-49 chapter or a rule or order adopted under this chapter. An [Except  
3-50 as otherwise provided by this section, an] administrative penalty  
3-51 is imposed and collected in the manner provided by Section 12.020.

3-52 SECTION 8. Subsections (c) and (d), Section 17.051, and  
3-53 Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section  
3-54 17.155, Agriculture Code, are repealed.

3-55 SECTION 9. The changes in law made by this Act apply only to  
3-56 an offense or other violation under Chapter 17, Agriculture Code,  
3-57 committed on or after the effective date of this Act. An offense or  
3-58 other violation committed before the effective date of this Act is  
3-59 governed by the law in effect when the offense or violation was  
3-60 committed, and the former law is continued in effect for that  
3-61 purpose. For purposes of this section, an offense or other  
3-62 violation was committed before the effective date of this Act if any  
3-63 element of the offense or violation was committed before that date.

3-64 SECTION 10. This Act takes effect September 1, 2011.

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