

By: Darby, et al.

H.B. No. 2174

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of motor fuel quality and motor fuel metering devices.

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

SECTION 1. Section 13.001(a), Agriculture Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Motor fuel metering device" means a commercial weighing or measuring device used for motor fuel sales with a maximum flow rate of 20 gallons per minute or less.

SECTION 2. Section 13.029, Agriculture Code, is amended to read as follows:

Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES.

(a) The department by rule may exempt a weighing or measuring device from a requirement established by this chapter if the department determines that imposing or enforcing the requirement:

- (1) is not cost-effective for the department;
- (2) is not feasible with current resources or standards; or
- (3) will not substantially benefit or protect consumers.

(b) A motor fuel metering device is exempt from the requirements of this chapter if the motor fuel metering device is not used to:

- (1) calculate the amount of fuel sold in a commercial

1 transaction; or

2 (2) compute the charge for service.

3 SECTION 3. Section 13.101, Agriculture Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) This section does not apply to a motor fuel metering
6 device.

7 SECTION 4. Section 13.1011, Agriculture Code, is amended by
8 adding Subsection (e) to read as follows:

9 (e) This section does not apply to a motor fuel metering
10 device.

11 SECTION 5. Subchapter C, Chapter 13, Agriculture Code, is
12 amended by adding Sections 13.1015, 13.1016, and 13.1017 to read as
13 follows:

14 Sec. 13.1015. INSPECTION OF MOTOR FUEL METERING DEVICES.

15 (a) Unless a motor fuel metering device is exempt from the
16 application of this section by department rule, a motor fuel
17 metering device shall be inspected, tested, and calibrated for
18 correctness by a license holder under Subchapter I at least once
19 every two years if the device is:

20 (1) kept for sale, sold, or used by a proprietor,
21 agent, lessee, or employee in proving the measure of motor fuel; or

22 (2) purchased, offered, or submitted by a proprietor,
23 agent, lessee, or employee for sale, hire, or award.

24 (b) Inspection, testing, and calibration under this section
25 must be performed by a license holder under Subchapter I under
26 contract with the operator or user of the motor fuel metering
27 device.

1 Sec. 13.1016. REQUIRED REGISTRATION OF MOTOR FUEL METERING
2 DEVICES. (a) Unless a motor fuel metering device is exempt from
3 the application of this section by department rule, a person who
4 owns or operates a motor fuel metering device shall register the
5 device with the department before using the device for a commercial
6 transaction.

7 (b) An application for a device registration must:

8 (1) be submitted to the department on a form
9 prescribed by the department;

10 (2) be accompanied by any other document or form
11 required by the department;

12 (3) include the registration fee required under
13 Section 13.1151; and

14 (4) include documentation of compliance with Section
15 13.1015.

16 (c) A registration under this section is valid for one year
17 unless a different period is established by department rule. The
18 registration must be renewed at or before the end of each
19 registration period and the application for renewal must include
20 documentation of compliance with Section 13.1015.

21 (d) If a person fails to register or renew a registration as
22 required by this section, the department may not issue a
23 certificate to operate the motor fuel metering device. The
24 department shall issue the certificate when the operator submits to
25 the department the items required by Subsection (b).

26 (e) The department may assess a late fee if the registration
27 of one or more devices located on a premises is renewed after the

end of the registration period because of a registration error, including one or more devices not properly registered, failure to register the correct type of device, or failure to timely register a previously registered device. The amount of the penalty may not exceed \$250 per year for the premises.

Sec. 13.1017. COMPLAINTS REGARDING MOTOR FUEL METERING DEVICES. (a) The department shall receive complaints regarding motor fuel metering devices.

(b) After receiving a complaint regarding a motor fuel metering device, the department shall determine the date the device was last inspected under Section 13.1015 and the number of complaints received by the department in the previous 12 months regarding motor fuel metering devices at the premises where the device subject to the complaint is located.

(c) The department shall notify the person who last registered the motor fuel metering device and take no further action on the complaint if:

(1) the motor fuel metering device was last inspected not more than 18 months before the date the complaint is received; and

(2) the department received not more than two complaints in the previous 12 months regarding motor fuel metering devices at the premises where the device is located.

(d) The department shall notify the person who last registered the motor fuel metering device and require the device to be inspected by a license holder under Section 13.1015 not later than one month after the notification date if:

1 (1) the motor fuel metering device was last inspected
2 more than 18 months before the date the complaint is received; or

3 (2) the department received at least three complaints
4 in the previous 12 months regarding motor fuel metering devices at
5 the premises where the device is located.

6 (e) The operator or user of a motor fuel metering device who
7 fails to have the device inspected in the time required by
8 Subsection (d) is subject to an administrative penalty in the
9 amount of \$250.

10 SECTION 6. Section 13.114, Agriculture Code, is amended to
11 read as follows:

12 Sec. 13.114. TOLERANCES. The department shall establish
13 specifications and tolerances for commercial weighing or measuring
14 devices used in this state. The specifications and tolerances
15 shall be similar to those recommended by the National Institute of
16 Standards and Technology, except that the specifications and
17 tolerances for motor fuel metering devices shall be the same as
18 those recommended by the National Institute of Standards and
19 Technology.

20 SECTION 7. Section 13.1151, Agriculture Code, is amended to
21 read as follows:

22 Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a)
23 The department may charge the owner or operator of a weighing or
24 measuring device a fee, as provided by department rule, to recover
25 the costs of registration and inspection of a weighing or measuring
26 device required to be registered or inspected under this chapter.

27 (b) Notwithstanding any other law, the department may not in

1 a state fiscal biennium increase a fee under Subsection (a) for a
2 motor fuel metering device by an amount that exceeds five percent of
3 the amount of the fee at the end of the preceding state fiscal
4 biennium.

5 SECTION 8. Section 17.072, Agriculture Code, is amended by
6 amending Subsections (a) and (b) and adding Subsection (a-1) to
7 read as follows:

8 (a) The department or a representative of the department may
9 collect samples and conduct testing at any location where motor
10 fuel is kept, transferred, sold, or offered for sale, to verify that
11 the motor fuel complies with the minimum standards required by
12 Section 17.071.

13 (a-1) The collection of samples and conducting of testing at
14 a dealer's location must be performed by a license holder under
15 Subchapter I, Chapter 13, under contract with the dealer. The
16 license holder is considered a representative of the department for
17 purposes of this section.

18 (b) On arriving at a facility to conduct testing under
19 Subsection (a), a representative of the department shall notify the
20 owner or manager of the facility of the representative's presence
21 and purpose. The department representative shall follow the most
22 recent applicable procedures specified by ASTM International
23 Standard D4057, D4177, D5842, or D5854 for the collection,
24 sampling, and handling of fuel to prepare for laboratory analysis.

25 SECTION 9. Section 17.073(a), Agriculture Code, is amended
26 to read as follows:

27 (a) If the department has laboratory results to confirm

1 ~~[reason to believe]~~ that motor fuel is in violation of this chapter
2 or a rule adopted under this chapter, or that the motor fuel is
3 being sold or offered for sale in a manner that violates this
4 chapter or a rule adopted under this chapter, the department may:

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

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

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

11 SECTION 10. This Act takes effect September 1, 2017.