

By: Darby, et al.

H.B. No. 2174

Substitute the following for H.B. No. 2174:

By: Kuempel

C.S.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 13.101, Agriculture Code, is amended by adding Subsection (e) to read as follows:

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

SECTION 3. Section 13.1011, Agriculture Code, is amended by adding Subsection (e) to read as follows:

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

SECTION 4. Subchapter C, Chapter 13, Agriculture Code, is amended by adding Sections 13.1015 and 13.1016 to read as follows:

Sec. 13.1015. INSPECTION OF MOTOR FUEL METERING DEVICES.

(a) Unless a motor fuel metering device is exempt from the application of this section by department rule, a motor fuel metering device shall be inspected, tested, and calibrated for correctness by a license holder under Subchapter I at least once

every two years if the device is:

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

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

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

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

(b) An application for a device registration must:

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

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

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

(4) include documentation of compliance with Section 13.1015.

(c) A registration under this section is valid for one year unless a different period is established by department rule. The registration must be renewed at or before the end of each

1 registration period and the application for renewal must include
2 documentation of compliance with Section 13.1015.

3 (d) If a person fails to register or renew a registration as
4 required by this section, the department may not issue a
5 certificate to operate the motor fuel metering device. The
6 department shall issue the certificate when the operator submits to
7 the department the items required by Subsection (b).

8 (e) The department may assess a late fee if the registration
9 of one or more devices located on a premises is renewed after the
10 end of the registration period because of a registration error,
11 including one or more devices not properly registered, failure to
12 register the correct type of device, or failure to timely register a
13 previously registered device. The amount of the penalty may not
14 exceed \$250 per year for the premises.

15 SECTION 5. Section 13.114, Agriculture Code, is amended to
16 read as follows:

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

25 SECTION 6. Section 13.1151, Agriculture Code, is amended to
26 read as follows:

27 Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a)

1 The department may charge the owner or operator of a weighing or
2 measuring device a fee, as provided by department rule, to recover
3 the costs of registration and inspection of a weighing or measuring
4 device required to be registered or inspected under this chapter.

5 (b) Notwithstanding any other law, the department may not in
6 a state fiscal biennium increase a fee under Subsection (a) for a
7 motor fuel metering device by an amount that exceeds five percent of
8 the amount of the fee at the end of the preceding state fiscal
9 biennium.

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

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

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

23 (b) On arriving at a facility to conduct testing under
24 Subsection (a), a representative of the department shall notify the
25 owner or manager of the facility of the representative's presence
26 and purpose. The department representative shall follow the most
27 recent applicable procedures specified by ASTM International

1 Standard D4057, D4177, D5842, or D5854 for the collection,
2 sampling, and handling of fuel to prepare for laboratory analysis.

3 SECTION 8. Section 17.073(a), Agriculture Code, is amended
4 to read as follows:

5 (a) If the department has laboratory results to confirm
6 ~~[reason to believe]~~ that motor fuel is in violation of this chapter
7 or a rule adopted under this chapter, or that the motor fuel is
8 being sold or offered for sale in a manner that violates this
9 chapter or a rule adopted under this chapter, the department may:

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

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

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

16 SECTION 9. This Act takes effect September 1, 2017.