

By: Nichols

S.B. No. 1744

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 (2-a) to read as follows:

(2-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 13.002, Agriculture Code, is amended by adding Subsection (c) to read as follows:

(c) The department shall contract with one or more license holders under Subchapter I to perform the department's duties under this chapter related to motor fuel metering devices. A reference in this chapter to the commissioner or department in the context of a contracted service means the contractor.

SECTION 3. 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 4. 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.

1 SECTION 5. Subchapter C, Chapter 13, Agriculture Code, is
2 amended by adding Section 13.1015 to read as follows:

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

4 Unless a motor fuel metering device is exempt from the application
5 of this section by department rule, a motor fuel metering device
6 shall be inspected, tested, and calibrated for correctness by a
7 license holder under Subchapter I at least once every two years if
8 the device is:

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

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

13 SECTION 6. Subchapter C, Chapter 13, Agriculture Code, is
14 amended by adding Section 13.1016 to read as follows:

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

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

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

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

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

1 (4) include documentation of compliance with Section
2 13.1015.

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

8 (d) If a person fails to register or renew a registration as
9 required by this section, the department may not issue a
10 certificate to operate the motor fuel metering device. The
11 department shall issue the certificate when the operator submits to
12 the department the items required by Subsection (b).

13 SECTION 7. Section 13.114, Agriculture Code, is amended to
14 read as follows:

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

23 SECTION 8. Subchapter A, Chapter 17, Agriculture Code, is
24 amended by adding Section 17.002 to read as follows:

25 Sec. 17.002. PERFORMANCE OF DUTIES UNDER CONTRACT. (a) The
26 department shall contract with one or more license holders under
27 Subchapter I, Chapter 13, to perform the department's duties under

1 this chapter, including collecting samples and conducting testing
2 under Section 17.072.

3 (b) A reference in this chapter to the commissioner or
4 department in the context of a contracted service means the
5 contractor.

6 SECTION 9. Sections 17.072(a) and (b), Agriculture Code,
7 are amended to 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 (b) On arriving at a facility to conduct testing under
14 Subsection (a), a representative of the department shall notify the
15 owner or manager of the facility of the representative's presence
16 and purpose. The department representative shall follow the most
17 recent applicable procedures specified by ASTM International
18 Standard D4057, D4177, D5842, or D5854 for the collection,
19 sampling, and handling of fuel to prepare for laboratory analysis.

20 SECTION 10. Section 17.073(a), Agriculture Code, is amended
21 to read as follows:

22 (a) If the department has laboratory results to confirm
23 ~~[reason to believe]~~ that motor fuel is in violation of this chapter
24 or a rule adopted under this chapter, or that the motor fuel is
25 being sold or offered for sale in a manner that violates this
26 chapter or a rule adopted under this chapter, the department may:

27 (1) issue and enforce a written order to stop the sale

1 of the motor fuel;

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

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

6 SECTION 11. Section [17.151](#), Agriculture Code, is repealed.

7 SECTION 12. This Act takes effect September 1, 2017.