

Amend CSSB 2119 as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber the SECTIONS of the bill as appropriate:

SECTION _____. Sections 17.001, 17.0515, 17.052, 17.053, 17.054, 17.055, 17.152, 17.153, and 17.154, Agriculture Code, are transferred to Subchapter E, Chapter 2310, Occupations Code, as added by this Act, redesignated as Sections 2310.2001, 2310.2011, 2310.2012, 2310.2013, 2310.2014, 2310.2015, 2310.207, 2310.208, and 2310.209, Occupations Code, and amended to read as follows:

Sec. 2310.2001 [~~17.001~~]. DEFINITIONS. In this subchapter [~~chapter~~]:

(1) "Automotive fuel rating" has the meaning assigned by 15 U.S.C. Section 2821.

(2) "Dealer" means a person who:

(A) is the operator of a service station or other retail outlet; and

(B) delivers motor fuel into the fuel tanks of motor vehicles or motor boats.

(3) "Distributor" has the meaning assigned by Section 162.001, Tax Code.

(4) "Jobber" means a person who purchases tax-paid gasoline for resale or distribution at wholesale.

(5) "Motor fuel" has the meaning assigned by Section 162.001, Tax Code.

(6) "Supplier" has the meaning assigned by Section 162.001, Tax Code.

(7) "Wholesaler" means a person who purchases tax-paid gasoline for resale or distribution at wholesale.

Sec. 2310.2011 [~~17.0515~~]. NOTICE OF MOTOR FUEL TAX RATES.

(a) The department shall display on each motor fuel pump from which motor fuel is sold at retail a notice of the current rates of the federal and state motor fuel taxes. The notice must:

(1) display the current rate of each tax, in cents per gallon, for each type of motor fuel;

(2) be displayed on each face of the motor fuel pump on which the price of the motor fuel sold from the pump is displayed; and

(3) be displayed in a clear, conspicuous, and prominent manner.

(b) The department shall include the notice required under Subsection (a) with any other notice displayed or required by commission [~~department~~] rule to be displayed [~~, including a "Fuel Feedback?" sticker~~].

Sec. 2310.2012 [~~17.052~~]. DOCUMENTATION OF MOTOR FUEL MIXTURE SALES. (a) Except as provided by Subsection (b), a distributor, supplier, wholesaler, or jobber of motor fuel may not deliver to an outlet in this state a motor fuel mixture that contains ethanol or methanol exceeding one percent by volume of the mixture unless, at the time of the delivery of the mixture, the person also delivers to the outlet receiving the delivery a manifest, bill of sale, bill of lading, or other document evidencing delivery of the mixture, that includes a statement containing:

(1) the percentage of ethanol or methanol contained in the mixture; and

(2) the types and percentages of any associated cosolvents contained in the mixture.

(b) Subsection (a) does not apply to a delivery made into the fuel supply tanks of a motor vehicle.

(c) The commission [~~commissioner~~] by rule may prescribe the form of the statement required by Subsection (a).

Sec. 2310.2013 [~~17.053~~]. RECORD OF DELIVERY DOCUMENTS; INSPECTION AUTHORIZED. (a) Each dealer shall keep a copy of each document required to be delivered to the dealer by Section 2310.2012 [~~17.052~~] until the fourth anniversary of the delivery date.

(b) Each distributor, supplier, wholesaler, and jobber of motor fuel shall keep a copy of each document required to be delivered to the dealer by Section 2310.2012 [~~17.052~~] until the fourth anniversary of the delivery date.

(c) The department [~~commissioner~~] or an authorized representative of the department [~~commissioner~~] may inspect documents described by this section. On written notice issued [~~presented~~] by the department [~~commissioner~~] or an authorized

representative of the department [~~commissioner~~] to any employee at a dealer's station or retail outlet or mailed to the principal place of business of a dealer, distributor, supplier, wholesaler, or jobber, the dealer, distributor, supplier, wholesaler, or jobber shall provide the department [~~commissioner~~] or authorized representative of the department [~~commissioner~~] with the documents described by this section within the period specified in the notice.

(d) The commission [~~commissioner~~] by rule may:

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

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

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

(i) motor fuel dispensing devices; and

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

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

(2) prescribe:

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

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

Sec. 2310.2014 [~~17.054~~]. DOCUMENTS RELATING TO POSTING OR CERTIFICATION OF AUTOMOTIVE FUEL RATINGS. (a) Each dealer shall keep for at least one year a copy of:

(1) each delivery ticket or letter of certification on which the dealer based a posting of the automotive fuel rating of motor fuel contained in a motor fuel pump;

(2) each delivery ticket or letter of certification that is required to be delivered to the dealer under 16 C.F.R. Part 306; and

(3) records of any automotive fuel rating determination made by the dealer under 16 C.F.R. Part 306.

(b) Each distributor or supplier shall keep for at least one year at the distributor's or supplier's principal place of business a copy of each delivery ticket or letter of certification required to be delivered by the distributor or supplier to a dealer in this state under 16 C.F.R. Part 306.

(c) The department [~~commissioner~~] or an authorized representative of the department [~~commissioner~~] may inspect a document required to be kept under this section. On written notice issued [~~presented~~] by the department [~~commissioner~~] or an authorized representative of the department [~~commissioner~~] to any employee at a dealer's station or retail outlet or mailed to the dealer's principal place of business, the dealer shall provide the department [~~commissioner~~] or authorized representative of the department [~~commissioner~~] with the documents described by this section within the period specified in the notice.

(d) The commission [~~commissioner~~] by rule may:

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

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

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

(i) motor fuel dispensing devices; and

(ii) any equipment used in connection with motor fuel dispensing devices to record, display, or produce receipts or audit trails concerning the purchase, sale, delivery,

or distribution of motor fuel; and

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

(2) prescribe:

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

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

Sec. 2310.2015 [~~17.055~~]. SALE OF MOTOR FUEL WITH INACCURATE AUTOMOTIVE FUEL RATING. (a) A dealer may not sell or offer for sale from a motor fuel pump motor fuel that has an automotive fuel rating lower than the rating for that motor fuel posted on the pump.

(b) A distributor or supplier of motor fuel may not deliver or transfer to a dealer in this state motor fuel that has an automotive fuel rating lower than the certification of the rating the distributor or supplier is required to make to the dealer under federal law.

Sec. 2310.207 [~~17.152~~]. CIVIL ACTION. (a) If a dealer or a distributor, supplier, wholesaler, or jobber of motor fuel violates Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~], a motor fuel user who purchased the motor fuel and sustained damages or who has a complaint about the product may bring an action against the dealer, distributor, supplier, wholesaler, or jobber.

(b) The action may be brought, without regard to the specific amount of damages, in the district court in any county in which:

(1) the dealer, distributor, supplier, wholesaler, or jobber transacts business; or

(2) the dealer resides.

(c) The court shall award to a motor fuel user who prevails in an action under this section:

(1) the amount of actual damages;

(2) equitable relief as determined by the court to be necessary to remedy the effects of the violation, including a

declaratory judgment, permanent injunctive relief, and temporary injunctive relief; and

(3) court costs and attorney's fees that are reasonable in relation to the amount of work expended.

(d) In addition to the remedies provided under Subsection (c), on finding that the defendant wilfully or knowingly violated Section 2310.201, 2310.2012, or 2310.2013 [~~17.051, 17.052, or 17.053~~], the trier of fact shall award not more than three times the amount of actual damages.

(e) A violation of Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~] also constitutes a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code.

(f) An action alleging a violation of Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~] must be commenced and prosecuted not later than the second anniversary of the date on which the cause of action accrues.

Sec. 2310.208 [~~17.153~~]. CIVIL PENALTY. A dealer, distributor, supplier, wholesaler, or jobber who violates Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~] is liable to this state for a civil penalty of not less than \$200 and not more than \$10,000.

Sec. 2310.209 [~~17.154~~]. CRIMINAL OFFENSES. (a) A person commits an offense if the person knowingly violates Section 2310.201, 2310.2012, 2310.2013, 2310.2014, or 2310.2015 [~~17.051, 17.052, 17.053, 17.054, or 17.055~~] or a rule adopted by the commission [~~commissioner~~] to enforce or implement those sections.

(b) A person commits an offense if the person knowingly:

(1) refuses to permit an authorized [~~a~~] person [~~authorized by Section 17.102~~] to test any motor fuel sold or held for sale in this state;

(2) refuses to permit inspection of any document required to be kept or delivered by this subchapter [~~chapter~~] on request of a person authorized to inspect the documents under Section 2310.2013 or 2310.2014 [~~17.053 or 17.054~~]; or

(3) mutilates, destroys, secretes, forges, or

falsifies any document, record, report, or sign required to be delivered, kept, filed, or posted by this subchapter [~~chapter~~] or any rule adopted by the commission [~~commissioner~~] to enforce this subchapter [~~chapter~~].

(c) An offense under Subsection (a) is a Class C misdemeanor.

(d) An offense under Subsection (b) is a Class B misdemeanor.

(e) The department or executive director [~~commissioner or the authorized representative of the commissioner~~] may request the appropriate prosecuting attorney to prosecute a violation of this chapter.

(2) On page 32, line 16, strike "and".

(3) On page 32, strike line 17 and substitute the following:

(8) the heading to Chapter 17;

(9) the heading to Subchapter A, Chapter 17;

(10) the heading to Subchapter B, Chapter 17;

(11) Section 17.051;

(12) Subchapter B-1, Chapter 17;

(13) Subchapter C, Chapter 17;

(14) the heading to Subchapter D, Chapter 17;

(15) Section 17.151;

(16) Section 17.155; and

(17) Section 17.156.