

By: Darby

H.B. No. 2366

Substitute the following for H.B. No. 2366:

By: Raney

C.S.H.B. No. 2366

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 12.020(c), Agriculture Code, is amended to read as follows:

(c) The provisions of law subject to this section and the applicable penalty amounts are as follows:

Provision	Amount of Penalty
Chapters 13, 14A, [17] 18, 19, 41, 46, 61, 72, 73, 74, 76, 94, 95, 101, 102, 103, 125, 132, and 134	not more than \$5,000
Subchapters A, B, and C, Chapter 71	not more than \$5,000
Chapter 14	not more than \$10,000
Chapter 17	<u>not more than \$2,500</u>
Chapter 1951, Occupations Code	<u>not more than \$5,000</u>
Chapter 153, Natural Resources Code	not more than \$5,000
Section 91.009	not more than \$5,000.

SECTION 2. Section 13.007(a), Agriculture Code, is amended to read as follows:

(a) A person who violates Subchapter B or C or a rule adopted under Subchapter B or C is liable to the state for a civil penalty not to exceed \$500 for each violation. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment, except that the total penalty for a continuous violation related to one or more motor fuel metering devices may not exceed \$2,500.

1 SECTION 3. Section 13.1016(c), Agriculture Code, is amended
2 to read as follows:

3 (c) A registration under this section is valid for two years
4 [~~one year~~] unless a different period of more than two years is
5 established by department rule. The registration must be renewed at
6 or before the end of each registration period and the application
7 for renewal must include documentation of compliance with Section
8 13.1015.

9 SECTION 4. Section 13.1017, Agriculture Code, is amended by
10 adding Subsections (a-1) and (e) to read as follows:

11 (a-1) A complaint under this section must include a proof of
12 purchase for the transaction that led to the complaint.

13 (e) Notice required by this section must:

14 (1) be provided to the person who last registered the
15 motor fuel metering device by electronic mail not more than 24 hours
16 after the complaint is received; and

17 (2) identify the specific motor fuel metering device
18 that led to the complaint.

19 SECTION 5. Section 13.1151, Agriculture Code, is amended by
20 adding Subsection (c) to read as follows:

21 (c) Fees for motor fuel metering devices collected under
22 this section may be used only to administer and enforce motor fuel
23 metering device inspections under Section 13.1015.

24 SECTION 6. Section 13.119, Agriculture Code, is amended to
25 read as follows:

26 Sec. 13.119. REMOVAL OF REGISTRATION TAG. (a) A person
27 commits an offense if the person removes or obliterates a tag or

1 device placed or required by the department to be placed on a
2 weighing or measuring device under this chapter.

3 (b) It is not an offense under this section if:

4 (1) the weighing or measuring device is a motor fuel
5 metering device with a valid registration;

6 (2) the person who removed or obliterated the tag is
7 the person who owns or operates the motor fuel metering device; and

8 (3) the person did not intentionally remove or
9 obliterate the tag.

10 (c) The department shall replace tags described by
11 Subsection (b).

12 SECTION 7. Section 17.072, Agriculture Code, is amended by
13 adding Subsection (d) to read as follows:

14 (d) Using fees collected under Section 17.104, the
15 department shall pay all costs associated with testing under this
16 section, including sampling costs, transportation costs, and
17 shipping costs.

18 SECTION 8. Section 17.073, Agriculture Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) The department may not issue an order under this section
21 for a violation of motor fuel quality standards unless laboratory
22 results confirm that motor fuel is out of compliance with this
23 chapter.

24 SECTION 9. Section 17.102, Agriculture Code, is amended to
25 read as follows:

26 Sec. 17.102. TESTING[~~, RULES RELATING TO TESTING~~
27 ~~FREQUENCY~~]. (a) To determine compliance with the standards and

1 enforce rules adopted under Sections 17.051, 17.052, 17.053,
2 17.055, and 17.103, [~~the commissioner or~~] an authorized
3 representative of the commissioner may test any motor fuel sold in
4 this state, but only in response to [~~regardless of the existence of~~]
5 a complaint about the fuel. [~~This section does not prohibit the~~
6 ~~commissioner from adopting rules relating to the frequency of~~
7 ~~testing motor fuels.~~] In adopting [~~the~~] rules under this section,
8 the commissioner shall consider:

- 9 (1) the nature of the violation;
- 10 (2) the history of past violations; [~~and~~]
- 11 (3) available funds under Section 17.104(d);
- 12 (4) the distance to the nearest motor fuel quality
13 testing laboratory; and
- 14 (5) the octane of the fuel.

15 (b) The department shall contract with at least five
16 laboratories in this state to conduct motor fuel quality testing.

17 (c) The department may not test motor fuel based on a
18 complaint made about fuel with an octane rating less than 88 under
19 ASTM standards.

20 SECTION 10. Section 17.104, Agriculture Code, is amended by
21 adding Subsection (e) to read as follows:

22 (e) Notwithstanding any other law, the department may not in
23 a state fiscal biennium increase a fee under Subsection (b) for a
24 dealer by an amount that exceeds 10 percent of the amount of the fee
25 at the end of the preceding state fiscal biennium.

26 SECTION 11. Subchapter C, Chapter 17, Agriculture Code, is
27 amended by adding Section 17.105 to read as follows:

1 Sec. 17.105. COMPLAINTS REGARDING MOTOR FUEL QUALITY. (a)

2 The department shall require a person who submits a complaint
3 regarding the quality of motor fuel purchased from a dealer to
4 provide a proof of purchase for the transaction that led to the
5 complaint.

6 (b) The department shall notify the dealer by electronic
7 mail within 24 hours of receipt of a complaint.

8 (c) In a notice required by Subsection (b), the department
9 shall identify the specific motor fuel pump that led to the
10 complaint.

11 SECTION 12. Section 17.153, Agriculture Code, is amended to
12 read as follows:

13 Sec. 17.153. CIVIL PENALTY. A dealer, distributor,
14 supplier, wholesaler, or jobber who violates Section 17.051,
15 17.052, 17.053, 17.054, or 17.055 is liable to this state for a
16 civil penalty of not less than \$200 and not more than \$2,500
17 [~~\$10,000~~].

18 SECTION 13. (a) Sections 12.020(c), 13.007(a), and
19 17.153, Agriculture Code, as amended by this Act, apply only to a
20 violation that occurs on or after the effective date of this Act. A
21 violation that occurs before the effective date of this Act is
22 governed by the law in effect on the date the violation occurred,
23 and the former law is continued in effect for that purpose.

24 (b) Section 13.1016(c), Agriculture Code, as amended by
25 this Act, applies only to a registration issued or renewed on or
26 after the effective date of this Act. A registration issued or
27 renewed before the effective date of this Act is governed by the law

1 in effect on the date the registration was issued or renewed, and
2 the former law is continued in effect for that purpose.

3 (c) Section 13.1017, Agriculture Code, as amended by this
4 Act, and Section 17.105, Agriculture Code, as added by this Act,
5 apply only to a complaint received on or after the effective date of
6 this Act. A complaint received before the effective date of this Act
7 is governed by the law in effect on the date the complaint was
8 received, and the former law is continued in effect for that
9 purpose.

10 (d) Section 13.119, Agriculture Code, as amended by this
11 Act, applies only to an offense committed on or after the effective
12 date of this Act. An offense committed before the effective date of
13 this Act is governed by the law in effect on the date the offense was
14 committed, and the former law is continued in effect for that
15 purpose. For purposes of this section, an offense was committed
16 before the effective date of this Act if any element of the offense
17 occurred before that date.

18 SECTION 14. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2019.