

By: Darby

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 13.007(a), Agriculture Code, is amended to read as follows:

Sec. 13.007. CIVIL PENALTY; INJUNCTION. (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, up to a maximum penalty of \$2,500.

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

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

SECTION 3. Section 13.1017, Agriculture Code, is amended by adding Subsections (a-1) and (e) to read as follows:

(a-1) A complaint under this section must include a receipt of the transaction that led to the complaint.

1 (e) Notice required by this section must:

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

5 (2) identify the specific motor fuel metering device
6 that led to the complaint.

7 SECTION 4. Section [13.1151](#), Agriculture Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) Fees collected under this section may be used only to
10 administer and enforce motor fuel metering device inspections under
11 Section [13.1015](#).

12 SECTION 5. Section [13.119](#), Agriculture Code, is amended to
13 read as follows:

14 Sec. 13.119. REMOVAL OF REGISTRATION TAG. (a) A person
15 commits an offense if the person removes or obliterates a tag or
16 device placed or required by the department to be placed on a
17 weighing or measuring device under this chapter.

18 (b) It is not an offense under this section if the person who
19 owns or operates the motor fuel metering device:

20 (1) has a valid registration; and

21 (2) did not intentionally remove or obliterate the
22 tag.

23 (c) The department shall replace tags described by
24 Subsection (b).

25 SECTION 6. Section [17.072](#), Agriculture Code, is amended by
26 adding Subsection (d) to read as follows:

27 (d) Using fees collected under Section [17.104](#), the

1 department shall pay all costs associated with testing under this
2 section, including sampling costs, transportation costs, and
3 shipping costs.

4 SECTION 7. Section 17.073, Agriculture Code, is amended by
5 adding Subsection (c) to read as follows:

6 (c) The department shall not issue an order under this
7 section for a violation of motor fuel quality standards unless
8 laboratory results confirm that motor fuel is out of compliance
9 with this chapter.

10 SECTION 8. Section 17.102, Agriculture Code, is amended to
11 read as follows:

12 Sec. 17.102. TESTING[~~, RULES RELATING TO TESTING~~
13 ~~FREQUENCY~~]. (a) To determine compliance with the standards and
14 enforce rules adopted under Sections 17.051, 17.052, 17.053,
15 17.055, and 17.103, [~~the commissioner or~~] an authorized
16 representative of the commissioner may test any motor fuel sold in
17 this state, only in response to [~~regardless of the existence of~~] a
18 complaint about the fuel. [~~This section does not prohibit the~~
19 ~~commissioner from adopting rules relating to the frequency of~~
20 ~~testing motor fuels.~~] In adopting [~~the~~] rules under this section,
21 the commissioner shall consider:

- 22 (1) the nature of the violation;
- 23 (2) the history of past violations; [~~and~~]
- 24 (3) available funds under Section 17.104(d);
- 25 (4) distance to nearest fuel quality laboratory; and
- 26 (5) the octane of the fuel.

27 (b) The department shall contract with five or more

1 laboratories in the state of Texas to conduct fuel quality testing.

2 (c) The department shall not test motor fuel based on
3 complaints made about fuel registered to be below 88 octanes under
4 ASTM standards.

5 SECTION 9. Section 17.104, Agriculture Code, is amended by
6 adding Subsection (e) to read as follows:

7 (e) Notwithstanding any other law, the department may not in
8 a state fiscal biennium increase a fee under Subsection (b) for a
9 motor fuel metering device by an amount that exceeds 10 percent of
10 the amount of the fee at the end of the preceding state fiscal
11 biennium.

12 SECTION 10. Subchapter C, Chapter 17, Agriculture Code, is
13 amended by adding Subsection 17.105 to read as follows:

14 Section 17.105. COMPLAINTS REGARDING MOTOR FUEL QUALITY.

15 (a) The department shall require the complainant to provide a
16 receipt of the transaction that led to the complaint.

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

19 (c) In a notice required by Subsection (b), the department
20 shall identify the specific motor fuel metering device that led to
21 the complaint.

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

24 Sec. 17.153. CIVIL PENALTY. A dealer, distributor,
25 supplier, wholesaler, or jobber who violates Section 17.051,
26 17.052, 17.053, 17.054, or 17.055 is liable to this state for a
27 civil penalty of not less than \$200 and not more than \$2,500

1 [~~\$10,000~~].

2 SECTION 12. Section 17.155(a), Agriculture Code, is amended
3 to read as follows:

4 Sec. 17.155. ADMINISTRATIVE PENALTY. (a) The department
5 may impose an administrative penalty not to exceed \$2,500 against a
6 person regulated under this chapter who violates this chapter or a
7 rule or order adopted under this chapter. An administrative penalty
8 is imposed and collected in the manner provided by Section 12.020.

9 SECTION 13. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2019.