

By: Alvarado

S.B. No. 2119

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the regulation of motor fuel metering and motor fuel quality from the Department of Agriculture to the Texas Department of Licensing and Regulation; providing civil and administrative penalties; creating criminal offenses; requiring occupational licenses; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2310 to read as follows:

CHAPTER 2310. MOTOR FUEL METERING AND QUALITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2310.001. DEFINITIONS. (a) In this chapter:

(1) "Commercial weighing or measuring device" means a weighing or measuring device used in a commercial transaction.

(2) "Commission" means the Texas Commission of Licensing and Regulation.

(3) "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.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Motor fuel" has the meaning assigned by Section

1 162.001, Tax Code.

2 (6) "Motor fuel metering device" means a commercial
3 weighing or measuring device used for motor fuel sales.

4 (7) "Operator" or "user" means a person in possession
5 or control of a weighing or measuring device.

6 (8) "Sell" includes barter or exchange.

7 (9) "Weighing or measuring device" means a scale or a
8 mechanical or electronic device used to dispense or deliver a motor
9 fuel by weight, volume, flow rate, or other measure or to compute
10 the charge for a service related to motor fuel.

11 (10) "Weight or measure of a motor fuel" means the
12 weight or measure of a motor fuel as determined by a weighing or
13 measuring device.

14 (b) A reference to the weight of a motor fuel in this chapter
15 is a reference to the net weight of the motor fuel.

16 Sec. 2310.002. ENFORCEMENT OF CHAPTER.

17 (a) Notwithstanding any other law, the department shall enforce
18 the provisions of this chapter and shall supervise all motor fuel
19 metering devices sold or offered for sale in this state. The
20 department may purchase apparatus as necessary for the
21 administration of this chapter.

22 (b) To the extent this chapter conflicts with Chapter 13,
23 Agriculture Code, with regard to motor fuel metering devices, this
24 chapter controls.

25 (c) The department may contract with one or more license
26 holders under Subchapter D of this chapter or Subchapter I, Chapter
27 13, Agriculture Code, to perform the department's duties under this

1 chapter related to motor fuel metering devices. A reference in this
2 chapter to the commission or department in the context of a
3 contracted service means the contractor.

4 Sec. 2310.003. CIVIL PENALTY; INJUNCTION. (a) A person
5 who violates Subchapter B or C or a rule adopted under Subchapter B
6 or C is liable to the state for a civil penalty not to exceed \$500
7 for each violation. Each day a violation continues may be
8 considered a separate violation for purposes of a civil penalty
9 assessment.

10 (b) On request of the department, the attorney general or
11 the county attorney or district attorney of the county in which the
12 violation is alleged to have occurred shall file suit to collect the
13 penalty.

14 (c) A civil penalty collected under this section shall be
15 deposited in the state treasury to the credit of the general revenue
16 fund. A civil penalty recovered in a suit first instituted by one
17 or more local governments under this section shall be equally
18 divided between this state and each local government that first
19 instituted the suit, with 50 percent of the recovery deposited to
20 the credit of the general revenue fund and the other 50 percent
21 distributed equally to each local government.

22 (d) The department is entitled to appropriate injunctive
23 relief to prevent or abate a violation of this chapter or a rule
24 adopted under this chapter. On request of the department, the
25 attorney general or the county or district attorney of the county in
26 which the alleged violation is threatened or is occurring shall
27 file suit for the injunctive relief. Venue is in the county in

1 which the alleged violation is threatened or is occurring.

2 (e) The department and the attorney general may each recover
3 reasonable expenses incurred in obtaining injunctive relief and
4 civil penalties under this section, including investigative costs,
5 court costs, reasonable attorney's fees, witness fees, and
6 deposition expenses. The expenses recovered by the department may
7 be appropriated only to the department for the administration and
8 enforcement of this chapter. The expenses recovered by the
9 attorney general may be appropriated only to the attorney general.

10 SUBCHAPTER B. STANDARD WEIGHTS AND MEASURES FOR MOTOR FUEL

11 Sec. 2310.051. LEGAL STANDARDS. (a) The legal standard
12 for the weight or measure of a motor fuel in this state is the
13 standard weight or measure adopted and used by the government of the
14 United States for that motor fuel. If the United States does not
15 provide a standard weight or measure for a motor fuel, the standard
16 for the motor fuel is that established by this subchapter.

17 (b) The commission may adopt rules for the purpose of
18 administering this subchapter and bringing about uniformity
19 between the standards established under this subchapter and the
20 standards established by federal law.

21 (c) Except as otherwise provided by an express contract, a
22 contract for work or sales by weight or measure of a motor fuel
23 shall be construed in accordance with the standards of this
24 subchapter.

25 (d) The standards of this subchapter shall be the guide for
26 making any adjustment of weighing or measuring devices under the
27 law of this state.

1 Sec. 2310.052. STANDARD FOR LIQUID MOTOR FUEL. (a) This
2 section does not apply to compressed natural gas or liquefied
3 natural gas.

4 (b) The standard unit of measure of capacity for liquid
5 motor fuels is the gallon.

6 (c) Except as provided by Subsections (d) and (e), all other
7 measures of capacity for liquid motor fuels are derived from the
8 gallon by continual division by two, making half gallons, quarts,
9 pints, half pints, and gills.

10 (d) A mechanism or machine that is adapted to measure and
11 deliver liquid motor fuels by volume and that indicates fractional
12 parts of a gallon shall indicate the fractional parts either in
13 terms of binary submultiple subdivisions or in terms of tenths of a
14 gallon.

15 (e) For purposes of the retail sale of motor fuel only, the
16 liquid gallon contains 231 cubic inches without adjustment based on
17 the temperature of the liquid.

18 Sec. 2310.053. EXEMPTION OF CERTAIN MOTOR FUEL METERING
19 DEVICES. (a) The commission by rule may exempt a motor fuel
20 metering device from a requirement established by this chapter if
21 the commission determines that imposing or enforcing the
22 requirement:

- 23 (1) is not cost-effective for the department;
24 (2) is not feasible with current resources or
25 standards; or
26 (3) will not substantially benefit or protect
27 consumers.

1 (b) A motor fuel metering device is exempt from the
2 requirements of this chapter if the motor fuel metering device is
3 not used to:

4 (1) calculate the amount of motor fuel sold in a
5 commercial transaction; or

6 (2) compute the charge for service.

7 Sec. 2310.054. SALE OF MOTOR FUEL BY PROPER MEASURE.

8 (a) Except as otherwise provided by this section, motor fuel shall
9 be sold by liquid measure.

10 (b) Compressed natural gas and liquefied natural gas shall
11 be sold by weight.

12 (c) A person violates this chapter if, in violation of this
13 section, the person sells motor fuel by other than weight or liquid
14 measure.

15 Sec. 2310.055. PRICE ADVERTISEMENT; MISREPRESENTATION OF
16 PRICE OR QUANTITY. (a) If a price sign, card, tag, poster, or
17 other advertisement displaying the price of motor fuel includes a
18 whole number and a fraction, the figures in the fraction shall be of
19 proportionate size and legibility to those of the whole number.

20 (b) A person violates this chapter if the person:

21 (1) misrepresents the price of motor fuel sold or
22 offered or exposed for sale; or

23 (2) represents the price or the quantity of motor fuel
24 sold or offered or exposed for sale in a manner intended or tending
25 to mislead or deceive an actual or prospective customer.

26 Sec. 2310.056. FALSE REPRESENTATION OF MOTOR FUEL QUANTITY.

27 A person violates this chapter if the person or the person's

1 representative or agent:

2 (1) sells or offers or exposes for sale a quantity of
3 motor fuel that is less than the quantity the person represents; or

4 (2) as a buyer furnishing the weight or measure of a
5 motor fuel by which the amount of the motor fuel is determined,
6 takes or attempts to take more than the quantity the person
7 represents.

8 Sec. 2310.057. USE OF INCORRECT MOTOR FUEL METERING DEVICE.

9 (a) A person commits an offense if the person or the person's
10 representative or agent knowingly uses an incorrect weighing or
11 measuring device in:

12 (1) buying or selling motor fuel;

13 (2) computing a charge for services rendered on the
14 basis of weight or measure; or

15 (3) determining the weight or measure of motor fuel,
16 if a charge is made for the determination.

17 (b) For the purpose of this section, a weighing or measuring
18 device is incorrect if it:

19 (1) does not conform as closely as practicable to the
20 official standards;

21 (2) is not accurate;

22 (3) is of a construction that is not reasonably
23 permanent in adjustment or does not correctly repeat its
24 indications;

25 (4) facilitates the perpetration of fraud; or

26 (5) does not conform to the specifications and
27 tolerances established by the department under Section 2310.108.

1 Sec. 2310.058. SALE OF MOTOR FUEL IN VIOLATION OF
2 SUBCHAPTER. A person violates this chapter if the person or the
3 person's representative or agent sells or keeps, offers, or exposes
4 for sale motor fuel in violation of this subchapter.

5 Sec. 2310.059. TESTING BY DEPARTMENT. (a) The department
6 shall from time to time weigh or measure an amount of motor fuel
7 that is kept or offered for sale, sold, or in the process of
8 delivery, in order to determine:

9 (1) if the motor fuel is of the amount or quantity
10 represented; or

11 (2) if the motor fuel is being offered for sale or sold
12 in accordance with law.

13 (b) If the department finds that any lot of motor fuel
14 contains less of the motor fuel than the amount represented, the
15 department may seize the motor fuel as evidence.

16 (c) A person commits an offense if the person or the
17 person's employee or agent refuses to exhibit motor fuel being sold
18 or offered for sale at a given weight or quantity, or ordinarily
19 sold in that manner, to the department for testing and proving as to
20 quantity.

21 Sec. 2310.060. STOP-SALE ORDER. (a) If the department has
22 reason to believe that motor fuel is being sold or kept, offered, or
23 exposed for sale in violation of this chapter or that motor fuel is
24 being sold or offered for sale by or through the use of a motor fuel
25 metering device that is in violation of this chapter, the
26 department may issue and enforce a written or printed order to stop
27 the sale of the motor fuel. The department shall present the order

1 to the owner or custodian of the motor fuel or seller of the motor
2 fuel. The person receiving the order may not sell the motor fuel or
3 provide the service until discharged by a court under Subsection
4 (b) or until the commission finds that the motor fuel or motor fuel
5 metering device is in compliance with this chapter.

6 (b) The owner or custodian of motor fuel or a person selling
7 or offering for sale a service prohibited from sale by an order of
8 the department is entitled to sue in a court where the motor fuel is
9 found or the service is being sold or offered for sale for a
10 judgment as to the justification of the order and for the discharge
11 of the motor fuel in accordance with the findings of the court.

12 (c) This section does not limit the right of the department
13 to proceed as authorized by other sections of this code.

14 Sec. 2310.061. PENALTIES; DEFENSE. (a) An offense under
15 Section 2310.057 or 2310.059 is a Class C misdemeanor.

16 (b) It is a defense to prosecution or to the imposition of a
17 civil or administrative penalty for a violation of Section 2310.057
18 or 2310.059 that a discrepancy between the actual weight or volume
19 at the time of sale to a consumer or a discrepancy between the fill
20 of a container and the capacity of the container is due to
21 unavoidable leakage, shrinkage, evaporation, waste, or causes
22 beyond the control of the seller acting in good faith.

23 SUBCHAPTER C. INSPECTION AND REGISTRATION OF MOTOR FUEL METERING
24 DEVICES

25 Sec. 2310.101. AUTHORITY TO INSPECT. (a) If the
26 department has reason to believe that a motor fuel metering device
27 is being used for a commercial transaction and the device is not

1 registered with the department, the department may inspect the
2 device and the records of the owner, operator, or user of the device
3 that relate to use of the device to determine whether the device is
4 in compliance with this chapter.

5 (b) The department has reason to believe a motor fuel
6 metering device is being used for a commercial transaction if:

7 (1) the motor fuel metering device is found in close
8 proximity to motor fuel being sold or offered for sale by weight or
9 measure and the device appears to be under the control or in the
10 possession of the person selling the motor fuel or offering the
11 motor fuel for sale; or

12 (2) other available evidence is sufficient for a
13 prudent person to believe that the motor fuel metering device is
14 being used for a commercial transaction.

15 Sec. 2310.105. REPAIR OR DESTRUCTION OF INCORRECT MOTOR
16 FUEL METERING DEVICES. (a) If, in the judgment of the department,
17 a motor fuel metering device found to be incorrect is not capable of
18 being repaired, the department may condemn, seize, and destroy the
19 device.

20 (b) If, in the judgment of the department, an incorrect
21 motor fuel metering device is capable of being repaired, the
22 department shall place on the device a tag or other mark with the
23 words "Out of Order." The owner or user of the motor fuel metering
24 device may not use it until it is reinspected and released for use
25 by the department or inspected and released for use in any other
26 manner authorized by department rule.

27 (c) The owner, operator, or user of a motor fuel metering

1 device may not destroy, replace, or otherwise dispose of a device
2 declared to be incorrect or condemned under this section except as
3 provided by department rule.

4 Sec. 2310.106. TESTS FOR STATE INSTITUTIONS. As requested
5 by the comptroller or the governing body of a state institution, the
6 department shall test each motor fuel metering device used by a
7 state institution for any purpose, including a motor fuel metering
8 device used in checking the receipt and distribution of supplies.
9 The department shall report results of the test to the chair of the
10 governing body of the institution.

11 Sec. 2310.107. INSPECTION OF STANDARDS USED TO PERFORM
12 DEVICE MAINTENANCE ACTIVITIES. (a) The commission may adopt rules
13 to regulate the frequency and place of inspection and correction of
14 the standards for motor fuel used by an individual or business
15 licensed by the department to perform device maintenance activities
16 under Subchapter D or an individual or business licensed under
17 Subchapter I, Chapter 13, Agriculture Code.

18 (b) The department may inspect any standard for motor fuel
19 used by an individual or business licensed by the department to
20 perform device maintenance activities described by Subchapter D or
21 an individual or business licensed under Subchapter I, Chapter 13,
22 Agriculture Code, if the department has reason to believe a
23 standard is no longer in compliance with this chapter.

24 (c) The department shall keep a record of the inspection and
25 character of standards for motor fuel inspected under this section.

26 Sec. 2310.108. TOLERANCES. Specifications and tolerances
27 for motor fuel metering devices shall be the same as those

1 recommended by the National Institute of Standards and Technology.

2 Sec. 2310.109. FEES. (a) The commission by rule shall
3 establish fees in amounts reasonable and necessary to cover the
4 cost of administering this chapter.

5 (b) Notwithstanding any other law, the commission 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 10 percent of
8 the amount of the fee at the end of the preceding state fiscal
9 biennium.

10 Sec. 2310.110. REFUSING TO ALLOW TEST OF MOTOR FUEL
11 METERING DEVICE. (a) A person commits an offense if the person
12 refuses to allow a motor fuel metering device under the person's
13 control or in the person's possession to be inspected, tested, or
14 examined by the department, and the inspection, test, or
15 examination is required or authorized by this chapter.

16 (b) A person commits an offense if the person hinders or
17 obstructs in any way the department, a department inspector, or
18 other department employee in the performance of official duties.

19 (c) A person commits an offense if the person removes or
20 obliterates a tag or device placed or required by the department to
21 be placed on a motor fuel metering device under this chapter.

22 Sec. 2310.111. SALE OR USE OF INCORRECT MOTOR FUEL METERING
23 DEVICE. (a) The department may condemn and prohibit the sale or
24 distribution of any incorrect motor fuel metering device that is
25 sold, offered for sale, or about to be sold in this state.

26 (b) A person commits an offense if the person or the
27 person's representative or agent knowingly:

1 (1) offers or exposes for sale, hire, or award or sells
2 an incorrect motor fuel metering device;

3 (2) possesses an incorrect motor fuel metering device;
4 or

5 (3) sells, offers for sale, uses, or possesses for the
6 purpose of sale or use a device or instrument to be used to falsify
7 or intended to falsify a weight or measure for motor fuel.

8 Sec. 2310.112. DISPOSING OF CONDEMNED MOTOR FUEL METERING
9 DEVICE. A person commits an offense if the person or the person's
10 representative or agent disposes of a motor fuel metering device
11 condemned under Section 2310.105 or 2310.111 in a manner contrary
12 to those sections.

13 Sec. 2310.113. PENALTIES. An offense under Section
14 2310.110, 2310.111, or 2310.112 is a Class C misdemeanor.

15 SUBCHAPTER D. LICENSING OF MOTOR FUEL METERING DEVICE SERVICE
16 TECHNICIANS AND MOTOR FUEL METERING DEVICE SERVICE COMPANIES

17 Sec. 2310.151. DEFINITIONS. In this subchapter:

18 (1) "Device maintenance activities" means activities
19 described by Section 2310.152.

20 (2) "License holder" means a person who holds a motor
21 fuel metering device service company license or a motor fuel
22 metering device service technician license.

23 (3) "Service company" means a person who holds a motor
24 fuel metering device service company license issued by the
25 department under this subchapter.

26 (4) "Service technician" means an individual who holds
27 a motor fuel metering device service technician license issued by

1 the department under this subchapter.

2 Sec. 2310.152. DEVICE MAINTENANCE ACTIVITIES. A person
3 performs device maintenance activities if the person or the
4 person's employee:

5 (1) places a motor fuel metering device in service;

6 (2) installs, calibrates, inspects, tests, or repairs
7 a motor fuel metering device; or

8 (3) removes an out-of-order tag, stop-sale order,
9 security seal, lock, condemnation notice, or other form of use
10 prohibition placed on a motor fuel metering device by the
11 department.

12 Sec. 2310.153. POWERS AND DUTIES OF DEPARTMENT. (a) To
13 verify compliance with licensing requirements, trade practices,
14 department rules, and this chapter, the department may periodically
15 or in response to a complaint or previous violation inspect an
16 applicant's or license holder's:

17 (1) facilities;

18 (2) inspecting and testing equipment and procedures;

19 (3) repair and calibration equipment, standards, and
20 procedures;

21 (4) transportation equipment; and

22 (5) invoices, work orders, and other records related
23 to device maintenance activities.

24 (b) The department may periodically or in response to a
25 complaint or previous violation monitor and inspect or test motor
26 fuel metering devices that have been inspected and tested by a
27 license holder and any standards used by the license holder during

1 an inspection or test.

2 (c) The commission by rule may adopt additional
3 requirements for the issuance of a license and for the denial of an
4 application for a license or renewal of a license. Rules adopted by
5 the commission under this subsection must be designed to protect
6 the public health, safety, and welfare and ensure the proper
7 inspection, testing, and operation of motor fuel metering devices.

8 (d) The commission may adopt other rules necessary for the
9 regulation of device maintenance activities, for the proper
10 operation of motor fuel metering devices, and to protect the
11 health, safety, and welfare of the public and license holders.

12 (e) The department may specify the date, time, and place for
13 any inspection authorized by this section.

14 Sec. 2310.154. EXEMPTIONS FROM LICENSE REQUIREMENTS.

15 (a) A person is not required to hold a license issued under this
16 subchapter if the person:

17 (1) is a department employee who is performing device
18 maintenance activities in the scope of the person's duties for the
19 department;

20 (2) is the owner or operator of a motor fuel metering
21 device or an employee of the owner or operator of a motor fuel
22 metering device and the person:

23 (A) completely removes the motor fuel metering
24 device from the location at which the device was installed,
25 including a device subject to an out-of-order tag, stop-sale order,
26 security seal, lock, condemnation notice, or other item placed on
27 the device by the department to prohibit use of the device; and

1 (B) notifies the department of the motor fuel
2 metering device's removal not later than the 10th day after the date
3 the device was removed in the manner provided by department rule;

4 (3) performs device maintenance activities only on a
5 motor fuel metering device that is:

6 (A) exempt from the registration requirements of
7 Section 2310.103 under department rules;

8 (B) exempt from the inspection requirements of
9 Section 2310.102 under department rules; and

10 (C) not required to be inspected by other
11 department rules; or

12 (4) is a license holder under Subchapter I, Chapter
13 13, Agriculture Code.

14 (b) The department is not required to hold a license issued
15 under this subchapter or Subchapter I, Chapter 13, Agriculture
16 Code.

17 Sec. 2310.155. SERVICE TECHNICIAN LICENSE REQUIRED. Unless
18 the individual is exempt from the licensing requirement, an
19 individual may not perform or offer to perform device maintenance
20 activities unless the individual holds a service technician license
21 issued by the department under this subchapter.

22 Sec. 2310.156. SERVICE COMPANY LICENSE REQUIRED.

23 (a) Unless the person is exempt from the license requirement, a
24 person may not employ an individual who performs or offers to
25 perform device maintenance activities unless the person holds a
26 service company license issued by the department under this
27 subchapter.

1 (b) Unless the individual is exempt from the licensing
2 requirement, an individual may not perform or offer to perform
3 device maintenance activities as a sole proprietor unless the
4 individual holds a service technician license and a service company
5 license issued by the department under this subchapter.

6 Sec. 2310.157. APPLICATION FOR LICENSE. An applicant for a
7 license under this subchapter must submit to the department:

8 (1) an application form prescribed by the department;

9 (2) any other information required by the department;

10 and

11 (3) a fee in an amount set by the department.

12 Sec. 2310.158. SERVICE TECHNICIAN LICENSE REQUIREMENTS.

13 (a) The department shall issue a license to each qualified
14 applicant who applies for a service technician license.

15 (b) The commission by rule may require an applicant for the
16 issuance or renewal of a service technician license to meet one or
17 more of the following requirements:

18 (1) provide to the department proof that the applicant
19 has completed an academic, trade, or professional course of
20 instruction approved by the department;

21 (2) pass a written test; or

22 (3) pass a practical skills test.

23 Sec. 2310.159. SERVICE COMPANY LICENSE REQUIREMENTS.

24 (a) The department shall issue a license to each qualified
25 applicant who applies for a service company license.

26 (b) An applicant for the issuance or renewal of a license
27 under this section must:

1 (1) submit to the department a certificate of
2 insurance evidencing that the applicant has an insurance policy
3 that meets the requirements of Section 2310.160 effective for the
4 period for which the license is to be issued or renewed; and

5 (2) meet any other requirements provided by department
6 rule.

7 Sec. 2310.160. INSURANCE POLICY REQUIRED FOR SERVICE
8 COMPANY. A service company shall maintain at all times while the
9 service company performs device maintenance activities a current
10 effective operations liability insurance policy issued by an
11 insurance company authorized to do business in this state or by a
12 surplus lines insurer that meets the requirements of Chapter 981,
13 Insurance Code, and rules adopted by the commissioner of insurance
14 in an amount set by the department and based on the type of licensed
15 activities to be performed.

16 Sec. 2310.161. TERM OF LICENSE. A license issued under this
17 subchapter is valid for one year unless a different term is
18 established by department rule.

19 Sec. 2310.162. LICENSE RENEWAL. A person licensed under
20 this subchapter must periodically renew the person's license. The
21 license expires unless the license holder submits an application
22 for renewal accompanied by the renewal fee set by the department or
23 by the late fee set by the department and meets the requirements for
24 renewal.

25 Sec. 2310.163. PRACTICE BY LICENSE HOLDER. (a) A license
26 holder shall perform device maintenance activities in compliance
27 with department rules.

1 (b) A license holder may use only equipment approved by the
2 department, as provided by department rules, when performing device
3 maintenance activities.

4 Sec. 2310.164. CRIMINAL PENALTY. (a) A person commits an
5 offense if the person violates Section 2310.155 or 2310.156 or
6 causes another person to violate Section 2310.155 or 2310.156.

7 (b) An offense under Subsection (a) is a Class B
8 misdemeanor, unless the person has been previously convicted of an
9 offense under this section, in which case the offense is a Class A
10 misdemeanor.

11 SUBCHAPTER E. SALE, DELIVERY, AND QUALITY OF MOTOR FUEL

12 Sec. 2310.201. NOTICE OF SALE OF ALCOHOL AND FUEL MIXTURE.

13 (a) A dealer may not sell or offer for sale motor fuel from a motor
14 fuel pump supplied by a storage tank into which motor fuel, in a
15 mixture in which at least one percent of the mixture measured by
16 volume is ethanol or methanol, has been delivered within the 60-day
17 period preceding the date of sale or offer of sale unless the dealer
18 prominently displays on the pump from which the mixture is sold a
19 sign that complies with Subsection (b).

20 (b) A sign required by Subsection (a) must:

21 (1) be displayed on each face of the motor fuel pump on
22 which the price of the motor fuel mixture sold from the pump is
23 displayed;

24 (2) state "Contains Ethanol" or "Contains Methanol,"
25 as applicable;

26 (3) appear in contrasting colors with block letters at
27 least one-half inch high and one-fourth inch wide; and

1 (4) be displayed in a clear, conspicuous, and
2 prominent manner, visible to customers using either side of the
3 pump.

4 (c) This section does not prohibit the posting of any other
5 alcohol or additive information. Other alcohol or additive
6 information and any relevant posting are subject to regulation by
7 the department.

8 Sec. 2310.202. MINIMUM MOTOR FUEL QUALITY AND TESTING
9 STANDARDS. (a) The commission by rule shall adopt minimum motor
10 fuel quality and testing standards for motor fuel that is sold or
11 offered for sale in this state. The standards must comply with the
12 nationally recognized minimum standards established by:

13 (1) the American Society for Testing and Materials,
14 for motor fuels other than motor fuels blended with ethanol; and

15 (2) the National Institute of Standards and
16 Technology, for motor fuels blended with ethanol.

17 (b) The commission may adopt rules as necessary to bring
18 about uniformity between the standards established under this
19 subchapter and the nationally recognized standards described by
20 Subsection (a).

21 Sec. 2310.203. TESTING OF MOTOR FUEL QUALITY. (a) The
22 department or a representative of the department may collect
23 samples and conduct testing at any location where motor fuel is
24 kept, transferred, sold, or offered for sale to verify that the
25 motor fuel complies with the minimum standards required by Section
26 2310.202.

27 (b) The collection of samples and conducting of testing at a

1 dealer's location must be performed by a license holder under
2 Subchapter D of this chapter or Subchapter I, Chapter 13,
3 Agriculture Code, under contract with the dealer. The license
4 holder is considered a representative of the department for
5 purposes of this section.

6 (c) On arriving at a facility to conduct testing under
7 Subsection (a), a representative of the department shall notify the
8 owner or manager of the facility of the representative's presence
9 and purpose. The department representative shall follow the most
10 recent applicable procedures specified by ASTM International
11 Standard D4057, D4177, D5842, or D5854 for the collection,
12 sampling, and handling of fuel to prepare for laboratory analysis.

13 (d) A person commits an offense if the person refuses to
14 allow a department representative to collect samples or conduct
15 motor fuel testing under Subsection (a).

16 (e) An offense under Subsection (d) is a Class C
17 misdemeanor.

18 Sec. 2310.204. RULES; FEES. (a) The commission may adopt
19 rules consistent with this subchapter for the regulation of the
20 sale of motor fuels, including motor fuels that contain ethanol and
21 methanol.

22 (b) The commission by rule may impose a fee for testing,
23 inspection, or the performance of other services provided as
24 determined necessary by the commission in the administration of
25 this subchapter. A fee imposed under this subsection shall be
26 collected from each dealer, distributor, and supplier, as defined
27 by Section 162.001, Tax Code, on a periodic basis determined by the

1 commission without regard to whether the motor fuel is subject to
2 regulation under this subchapter.

3 (c) The commission by rule shall prescribe the form for
4 reporting and remitting the fees imposed under this section.

5 (d) Fees collected under this section may be used only to
6 administer and enforce this subchapter.

7 Sec. 2310.205. CIVIL PENALTY. A person who sells or offers
8 for sale motor fuel in violation of this subchapter or a rule
9 adopted under this subchapter is liable to this state for a civil
10 penalty of not less than \$200 and not more than \$2,500.

11 Sec. 2310.206. ADMINISTRATIVE PENALTY. The commission may
12 impose an administrative penalty on a person under Subchapter F,
13 Chapter 51, if the person sells or offers for sale motor fuel in
14 violation of this subchapter or a rule adopted under this
15 subchapter.

16 SECTION 2. Sections 13.1015, 13.1016, and 13.1017,
17 Agriculture Code, are transferred to Subchapter C, Chapter 2310,
18 Occupations Code, as added by this Act, redesignated as Sections
19 2310.102, 2310.103, and 2310.104, Occupations Code, and amended to
20 read as follows:

21 Sec. 2310.102 [~~13.1015~~]. INSPECTION OF MOTOR FUEL METERING
22 DEVICES. (a) Unless a motor fuel metering device is exempt from
23 the application of this section by department rule, a motor fuel
24 metering device shall be inspected, tested, and calibrated for
25 correctness by a license holder under Subchapter D of this chapter
26 or Subchapter I, Chapter 13, Agriculture Code, at least once every
27 two years if the device is:

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

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

5 (b) Inspection, testing, and calibration under this section
6 must be performed by a license holder under Subchapter D of this
7 chapter or Subchapter I, Chapter 13, Agriculture Code, under
8 contract with the operator or user of the motor fuel metering
9 device.

10 Sec. 2310.103 [~~13.1016~~]. REQUIRED REGISTRATION OF MOTOR
11 FUEL METERING DEVICES. (a) Unless a motor fuel metering device is
12 exempt from the application of this section by department rule, a
13 person who owns or operates a motor fuel metering device shall
14 register the device with the department before using the device for
15 a commercial transaction.

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

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

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

21 (3) include any fees [~~the registration fee~~] required
22 under Section 2310.109 [~~13.1151~~]; and

23 (4) include documentation of compliance with Section
24 2310.102 [~~13.1015~~].

25 (c) A registration under this section is valid for one year
26 unless a different period is established by department rule. The
27 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 2310.102 [~~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 \$50 per device, with a maximum penalty amount of \$500 per
15 year for the premises.

16 Sec. 2310.104 [~~13.1017~~]. COMPLAINTS REGARDING MOTOR FUEL
17 METERING DEVICES. (a) The department shall receive complaints
18 regarding motor fuel metering devices.

19 (b) After receiving a complaint regarding a motor fuel
20 metering device, the department shall determine the date the device
21 was last inspected under Section 2310.102 [~~13.1015~~] and the number
22 of complaints received by the department in the previous 12 months
23 regarding motor fuel metering devices at the premises where the
24 device subject to the complaint is located.

25 (c) The department shall notify the person who last
26 registered the motor fuel metering device and take no further
27 action on the complaint if:

1 (1) the motor fuel metering device was last inspected
2 not more than 18 months before the date the complaint is received;
3 and

4 (2) the department received not more than two
5 complaints in the previous 12 months regarding motor fuel metering
6 devices at the premises where the device is located.

7 (d) The department shall notify the person who last
8 registered the motor fuel metering device and require the device to
9 be inspected by a license holder under Section 2310.102 [~~13.1015~~]
10 not later than one month after the notification date if:

11 (1) the motor fuel metering device was last inspected
12 more than 18 months before the date the complaint is received; or

13 (2) the department received at least three complaints
14 in the previous 12 months regarding motor fuel metering devices at
15 the premises where the device is located.

16 SECTION 3. Section 12.020(c), Agriculture Code, is amended
17 to read as follows:

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

Provision	Amount of Penalty
23 Chapters 13, 14A, [17] 18, 19, 41, 24 46, 61, 72, 73, 74, 76, 94, 95, 101, 25 102, 103, 125, 132, 26 and 134	not more than \$5,000
30 Subchapters A, B, and C, Chapter 71	not more than \$5,000
31 Chapter 14	not more than \$10,000
32 Chapter 1951, Occupations Code	not more than \$5,000
33 Chapter 153, Natural Resources 34 Code	not more than \$5,000
35 Section 91.009	not more than \$5,000.

1 SECTION 4. Section 13.001, Agriculture Code, is amended by
2 adding Subsection (c) to read as follows:

3 (c) In this chapter, "commodity" does not include motor
4 fuel.

5 SECTION 5. Section 13.024(b), Agriculture Code, is amended
6 to read as follows:

7 (b) Except as provided by Subsection [~~Subsections~~] (c) [~~and~~
8 ~~(d)~~], all other measures of capacity for liquids are derived from
9 the gallon by continual division by two, making half gallons,
10 quarts, pints, half pints, and gills.

11 SECTION 6. Section 13.114, Agriculture Code, is amended to
12 read as follows:

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

21 SECTION 7. Section 162.009, Tax Code, is amended to read as
22 follows:

23 Sec. 162.009. AUTHORITY TO STOP AND EXAMINE. To enforce
24 this chapter, the comptroller or a peace officer may stop a motor
25 vehicle that appears to be operating with or transporting motor
26 fuel to examine the shipping document, cargo manifest, or invoices
27 required to be carried, examine a license or copy of a license that

1 may be required to be carried, take samples from the fuel supply or
2 cargo tanks, and make any other investigation that could reasonably
3 be made to determine whether the taxes have been paid or accounted
4 for by a license holder or a person required to be licensed. The
5 comptroller, a peace officer, an employee of the attorney general's
6 office, an employee of the Texas Commission on Environmental
7 Quality, or an employee of the Texas Department of Licensing and
8 Regulation [~~Agriculture~~] may take samples of motor fuel from a
9 storage tank or container to:

10 (1) determine if the fuel contains hazardous waste or
11 is adulterated; or

12 (2) allow the comptroller to determine whether taxes
13 on the fuel have been paid or accounted for to this state.

14 SECTION 8. Section 162.403, Tax Code, is amended to read as
15 follows:

16 Sec. 162.403. CRIMINAL OFFENSES. Except as provided by
17 Section 162.404, a person commits an offense if the person:

18 (1) refuses to stop and permit the inspection and
19 examination of a motor vehicle transporting or using motor fuel on
20 the demand of a peace officer or the comptroller;

21 (2) is required to hold a valid trip permit or
22 interstate trucker's license, but operates a motor vehicle in this
23 state without a valid trip permit or interstate trucker's license;

24 (3) transports gasoline or diesel fuel in any cargo
25 tank that has a connection by pipe, tube, valve, or otherwise with
26 the fuel injector or carburetor or with the fuel supply tank feeding
27 the fuel injector or carburetor of the motor vehicle transporting

1 the product;

2 (4) sells or delivers gasoline or diesel fuel from a
3 fuel supply tank that is connected with the fuel injector or
4 carburetor of a motor vehicle;

5 (5) owns or operates a motor vehicle for which reports
6 or mileage records are required by this chapter without an
7 operating odometer or other device in good working condition to
8 record accurately the miles traveled;

9 (6) sells or delivers dyed diesel fuel for the
10 operation of a motor vehicle on a public highway;

11 (7) uses dyed diesel fuel for the operation of a motor
12 vehicle on a public highway except as allowed under Section
13 162.235;

14 (8) refuses to permit the comptroller or the attorney
15 general to inspect, examine, or audit a book or record required to
16 be kept by a license holder, other user, or any person required to
17 hold a license under this chapter;

18 (9) refuses to permit the comptroller or the attorney
19 general to inspect or examine any plant, equipment, materials, or
20 premises where motor fuel is produced, processed, blended, stored,
21 sold, delivered, or used;

22 (10) refuses to permit the comptroller, the attorney
23 general, an employee of either of those officials, a peace officer,
24 an employee of the Texas Commission on Environmental Quality, or an
25 employee of the Texas Department of Licensing and Regulation
26 [~~Agriculture~~] to measure or gauge the contents of or take samples
27 from a storage tank or container on premises where motor fuel is

1 produced, processed, blended, stored, sold, delivered, or used;

2 (11) is a license holder, a person required to be
3 licensed, or another user and fails or refuses to make or deliver to
4 the comptroller a report required by this chapter to be made and
5 delivered to the comptroller;

6 (12) is an importer who does not obtain an import
7 verification number when required by this chapter;

8 (13) purchases motor fuel for export, on which the tax
9 imposed by this chapter has not been paid, and subsequently diverts
10 or causes the motor fuel to be diverted to a destination in this
11 state or any other state or country other than the originally
12 designated state or country without first obtaining a diversion
13 number;

14 (14) conceals motor fuel with the intent of engaging
15 in any conduct proscribed by this chapter or refuses to make sales
16 of motor fuel on the volume-corrected basis prescribed by this
17 chapter;

18 (15) refuses, while transporting motor fuel, to stop
19 the motor vehicle the person is operating when called on to do so by
20 a person authorized to stop the motor vehicle;

21 (16) refuses to surrender a motor vehicle and cargo
22 for impoundment after being ordered to do so by a person authorized
23 to impound the motor vehicle and cargo;

24 (17) mutilates, destroys, or secretes a book or record
25 required by this chapter to be kept by a license holder, other user,
26 or person required to hold a license under this chapter;

27 (18) is a license holder, other user, or other person

1 required to hold a license under this chapter, or the agent or
2 employee of one of those persons, and makes a false entry or fails
3 to make an entry in the books and records required under this
4 chapter to be made by the person or fails to retain a document as
5 required by this chapter;

6 (19) transports in any manner motor fuel under a false
7 cargo manifest or shipping document, or transports in any manner
8 motor fuel to a location without delivering at the same time a
9 shipping document relating to that shipment;

10 (20) engages in a motor fuel transaction that requires
11 that the person have a license under this chapter without then and
12 there holding the required license;

13 (21) makes and delivers to the comptroller a report
14 required under this chapter to be made and delivered to the
15 comptroller, if the report contains false information;

16 (22) forges, falsifies, or alters an invoice or
17 shipping document prescribed by law;

18 (23) makes any statement, knowing said statement to be
19 false, in a claim for a tax refund filed with the comptroller;

20 (24) furnishes to a licensed supplier or distributor a
21 signed statement for purchasing diesel fuel tax-free and then uses
22 the tax-free diesel fuel to operate a diesel-powered motor vehicle
23 on a public highway;

24 (25) holds an aviation fuel dealer's license and makes
25 a taxable sale or use of any gasoline or diesel fuel;

26 (26) fails to remit any tax funds collected or
27 required to be collected by a license holder, another user, or any

1 other person required to hold a license under this chapter;

2 (27) makes a sale of dyed diesel fuel tax-free into a
3 storage facility of a person who:

4 (A) is not licensed as a distributor, as an
5 aviation fuel dealer, or as a dyed diesel fuel bonded user; or

6 (B) does not furnish to the licensed supplier or
7 distributor a signed statement prescribed in Section 162.206;

8 (28) makes a sale of gasoline tax-free to any person
9 who is not licensed as an aviation fuel dealer;

10 (29) purchases any motor fuel tax-free when not
11 authorized to make a tax-free purchase under this chapter;

12 (30) purchases motor fuel with the intent to evade any
13 tax imposed by this chapter or accepts a delivery of motor fuel by
14 any means and does not at the same time accept or receive a shipping
15 document relating to the delivery;

16 (31) transports motor fuel for which a cargo manifest
17 or shipping document is required to be carried without possessing
18 or exhibiting on demand by an officer authorized to make the demand
19 a cargo manifest or shipping document containing the information
20 required to be shown on the manifest or shipping document;

21 (32) imports, sells, uses, blends, distributes, or
22 stores motor fuel within this state on which the taxes imposed by
23 this chapter are owed but have not been first paid to or reported by
24 a license holder, another user, or any other person required to hold
25 a license under this chapter;

26 (33) blends products together to produce a blended
27 fuel that is offered for sale, sold, or used and that expands the

1 volume of the original product to evade paying applicable motor
2 fuel taxes;

3 (34) evades or attempts to evade in any manner a tax
4 imposed on motor fuel by this chapter;

5 (35) delivers compressed natural gas or liquefied
6 natural gas into the fuel supply tank of a motor vehicle and the
7 person does not hold a valid compressed natural gas and liquefied
8 natural gas dealer's license; or

9 (36) makes a tax-free delivery of compressed natural
10 gas or liquefied natural gas into the fuel supply tank of a motor
11 vehicle, unless the delivery is exempt from tax under Section
12 162.356.

13 SECTION 9. The following provisions of the Agriculture Code
14 are repealed:

- 15 (1) Section 13.001(a)(1-a);
- 16 (2) Section 13.024(d);
- 17 (3) Section 13.029(b);
- 18 (4) Section 13.101(e);
- 19 (5) Section 13.1011(e);
- 20 (6) Section 13.1151(b); and
- 21 (7) Chapter 17.

22 SECTION 10. (a) All rules, fees, policies, procedures,
23 decisions, and forms of the commissioner of agriculture or the
24 Department of Agriculture that relate to a program or activity
25 transferred under this Act and that are in effect on the effective
26 date of the transfer remain in effect until changed by the Texas
27 Commission of Licensing and Regulation.

1 (b) A license, permit, certificate of registration, or
2 other authorization issued by the Department of Agriculture for a
3 program or activity transferred under this Act is continued in
4 effect as a license, permit, certificate, or other authorization of
5 the Texas Department of Licensing and Regulation after the
6 effective date of the transfer.

7 (c) A complaint, investigation, contested case, or other
8 proceeding before the commissioner of agriculture, the Department
9 of Agriculture, or the State Office of Administrative Hearings
10 relating to a program or activity transferred under this Act that is
11 pending on the effective date of the transfer is transferred
12 without change in status to the Texas Commission of Licensing and
13 Regulation or Texas Department of Licensing and Regulation, as
14 appropriate.

15 (d) All money, contracts, leases, property, records, and
16 obligations of the Department of Agriculture relating to a program
17 or activity transferred under this Act are transferred to the Texas
18 Department of Licensing and Regulation.

19 (e) The unexpended and unobligated balance of any money
20 appropriated by the legislature relating to a program or activity
21 transferred under this Act is transferred to the Texas Department
22 of Licensing and Regulation.

23 (f) Unless the context indicates otherwise, a reference in
24 law or administrative rule to the commissioner of agriculture or
25 the Department of Agriculture with respect to a program or activity
26 transferred under this Act means the Texas Commission of Licensing
27 and Regulation or Texas Department of Licensing and Regulation, as

1 appropriate.

2 SECTION 11. (a) As soon as practicable after the effective
3 date of this Act, the Department of Agriculture and the Texas
4 Department of Licensing and Regulation shall adopt a transition
5 plan to provide for the orderly transfer of powers, duties,
6 functions, programs, and activities under this Act. The transition
7 plan must provide for the transfer to be completed not later than
8 September 1, 2020.

9 (b) The Department of Agriculture shall provide the Texas
10 Department of Licensing and Regulation with access to any systems,
11 facilities, or information necessary for the Texas Department of
12 Licensing and Regulation to accept a program or activity
13 transferred under this Act.

14 (c) The Texas Department of Licensing and Regulation may
15 establish and lead a stakeholder workgroup to provide input,
16 advice, and recommendations to the Department of Agriculture and
17 Texas Department of Licensing and Regulation on the orderly
18 transfer of powers, duties, functions, programs, and activities
19 under this Act. The Texas Department of Licensing and Regulation
20 shall establish the size, composition, and scope of the stakeholder
21 workgroup.

22 (d) On the date specified in the transition plan required
23 under Subsection (a) of this section for the transfer of a program
24 or activity transferred by this Act to the Texas Department of
25 Licensing and Regulation, all full-time equivalent employee
26 positions at the Department of Agriculture that directly and
27 indirectly concern the administration or enforcement of the program

1 or activity being transferred become positions at the Texas
2 Department of Licensing and Regulation. The Texas Department of
3 Licensing and Regulation shall post the positions for hiring and,
4 when filling the positions, shall give consideration to, but is not
5 required to hire, an applicant who, immediately before the date of
6 the transfer, was an employee at the Department of Agriculture
7 involved in administering or enforcing the transferred program or
8 activity.

9 (e) Subsection (c) of this section and this subsection
10 expire October 1, 2020.

11 SECTION 12. (a) Except as provided by Subsection (b) of
12 this section, this Act takes effect September 1, 2020.

13 (b) Section 11 of this Act takes effect September 1, 2019.