

## **BILL ANALYSIS**

Senate Research Center  
87R8540 JXC-D

S.B. 839  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Many Texans are choosing alternatively fueled vehicles (AFVs) to go about their daily commute. At the end of 2018, the total number of alternatively fueled vehicles increased 9.8 percent from 2017 and 21 percent from 2016. As more of these vehicles are driven on Texas roads, there are concerns about access to charging stations. Currently, the Texas Department of Licensing and Regulation (TDLR) has oversight of gas pumps across the state. However, no state agency has a comprehensive oversight structure for electric charging stations. With the growing use of AFVs, the companies providing charging services must be regulated for consumer protection and accuracy of services. TDLR is best equipped to carry this oversight alongside their existing framework for gas pumps.

S.B. 839 addresses these concerns by authorizing TDLR to develop an oversight structure for electric vehicle charging stations. This aims to solve a growing problem where charging services are only federally regulated and not widely available.

As proposed, S.B. 839 amends current law relating to the regulation of electric vehicle charging equipment by the Texas Department of Licensing and Regulation, authorizes a fee, and provides a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 (Sections 2311.0201, 2311.0202, 2311.0302, 2311.0303, 2311.0305, and 2311.0307, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 2 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle A, Title 14, Occupations Code, by adding Chapter 2311, as follows:

#### CHAPTER 2311. ELECTRIC VEHICLE CHARGING EQUIPMENT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2311.0101. DEFINITIONS. Defines "charging provider," "commission," "department," "electric vehicle charging equipment," "executive director," and "metering device."

Sec. 2311.0102. ENFORCEMENT OF CHAPTER. Requires the Texas Department of Licensing and Regulation (TDLR) to administer and enforce the provisions of this chapter and to regulate all metering devices in this state. Authorizes TDLR to purchase apparatus as necessary for the administration of this chapter.

Sec. 2311.0103. CIVIL PENALTY; INJUNCTION. (a) Provides that a person who violates this chapter or a rule adopted under this chapter is liable to the state for a civil

penalty not to exceed \$500 for each violation. Authorizes each day a violation continues be considered a separate violation for purposes of a civil penalty assessment.

(b) Requires the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred, on request of the executive director of TDLR (executive director), to file suit to collect the penalty.

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

(d) Provides that the executive director is entitled to appropriate injunctive relief to prevent or abate a violation of this chapter or a rule adopted under this chapter. Requires the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring, on request of the executive director, to file suit for the injunctive relief. Provides that venue is in the county in which the alleged violation is threatened or is occurring.

(e) Authorizes TDLR and the attorney general to each recover reasonable expenses incurred in obtaining injunctive relief and civil penalties under this section, including investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition expenses. Authorizes the expenses recovered by TDLR to be appropriated only to TDLR for the administration and enforcement of this chapter. Authorizes the expenses recovered by the attorney general to be appropriated only to the attorney general.

#### SUBCHAPTER B. REGULATION OF METERING DEVICES

Sec. 2311.0201. STANDARDS. Authorizes the Texas Commission of Licensing and Regulation (TCLR) by rule to adopt standards for the sale of electric energy from electric vehicle charging equipment for transfer to an electric vehicle. Authorizes the standards to include:

- (1) specifications, tolerances, and other technical requirements for metering devices;
- (2) provisions on the accuracy of metering devices;
- (3) recordkeeping requirements;
- (4) provisions for consumer protection; and
- (5) provisions to promote fair competition among charging providers.

Sec. 2311.0202. EXEMPTION OF CERTAIN METERING DEVICES. Authorizes TCLR by rule to exempt a metering device from a requirement established under this chapter if TCLR determines that imposing or enforcing the requirement is not cost-effective for TDLR, is not feasible with current resources or standards, or will not substantially benefit or protect consumers.

Sec. 2311.0203. STOP-SALE ORDER. (a) Authorizes the executive director, if TDLR has reason to believe that a metering device is being used in commercial transactions in violation of this chapter or rules adopted under this chapter, to issue an order to stop the sale of electric energy using the metering device. Requires the executive director to issue the order to the owner or custodian of the metering device or seller of the electric energy. Prohibits the person receiving the order from selling electric energy using the metering

device until authorized by a court under Subsection (b) or until the executive director finds that the device is in compliance with this chapter.

(b) Provides that the owner or custodian of the metering device or seller of electric energy prohibited from sale by an order of the executive director is entitled to sue in a court with jurisdiction in a county where the metering device is found or the electric energy is being sold or offered for sale for a judgment as to the justification of the order and for an authorization to use the metering device in accordance with the findings of the court.

(c) Provides that this section does not limit the right of TDLR to proceed as authorized by other sections of this code.

#### SUBCHAPTER C. INSPECTION AND REGISTRATION OF METERING DEVICES

Sec. 2311.0301. AUTHORITY TO INSPECT. (a) Authorizes TDLR, if TDLR has reason to believe that a metering device is being used for a commercial transaction and the device is not registered with TDLR, to inspect the device and the records of the owner, operator, or user of the device that relate to use of the device to determine whether the device and associated devices are in compliance with this chapter.

(b) Provides that TDLR has reason to believe a metering device is being used for a commercial transaction if:

(1) the metering device appears to be under the control or in the possession of a person selling or offering for sale the use of electric vehicle charging equipment; or

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

Sec. 2311.0302. INSPECTION OF METERING DEVICES. Requires that a metering device, unless a metering device is exempt from the application of this section by TCLR rule, be inspected, tested, and calibrated for correctness by TDLR at least once every two years if the device is:

(1) kept for sale, sold, or used by a proprietor, agent, lessee, or employee in proving the measure of electric energy transferred to a plug-in vehicle; or

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

Sec. 2311.0303. REQUIRED REGISTRATION OF METERING DEVICES. (a) Requires a person who owns or operates a metering device, unless a metering device is exempt from the application of this section by TCLR rule, to register the device with TDLR before using the device for a commercial transaction.

(b) Requires that an application for a device registration be submitted to TDLR on a form prescribed by TDLR, be accompanied by any other document or form required by TDLR, include any fees required under Section 2311.0307, and include documentation of compliance with Section 2311.0302.

(c) Provides that a registration under this section is valid for one or two years as established by TCLR rule. Requires that the registration be renewed at or before the end of each registration period and that the application for renewal include documentation of compliance with Section 2311.0302.

(d) Prohibits TDLR, if a person fails to register or renew a registration as required by this section, from issuing a certificate to operate the metering device. Requires

TDLR to issue the certificate when the operator submits to TDLR the items required by Subsection (b).

(e) Authorizes TDLR to assess a late fee if the registration of one or more devices located on a premises is renewed after the end of the registration period because of a registration error, including one or more devices not properly registered, failure to register the correct type of device, or failure to timely register a previously registered device. Provides that the amount of the late fee is prohibited from exceeding \$50 per device, with a maximum penalty amount of \$500 per year for the premises.

Sec. 2311.0304. COMPLAINTS REGARDING METERING DEVICES. Requires the executive director, in accordance with Chapter 51 (Texas Department of Licensing and Regulation), to establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of TDLR for the purpose of directing complaints to TDLR. Requires TDLR to provide to the person filing the complaint and to each person who is a subject of the complaint information about TDLR's policies and procedures relating to complaint investigation and resolution.

Sec. 2311.0305. REPAIR OR DESTRUCTION OF INCORRECT METERING DEVICES. (a) Authorizes TDLR, if in the judgment of TDLR, a metering device found to be incorrect is not capable of being repaired, to condemn, seize, and destroy the device.

(b) Requires TDLR, if in the judgment of TDLR, an incorrect metering device is capable of being repaired, to place on the device a tag or other mark with the words "Out of Order." Prohibits the owner or user of the metering device from using it until it is reinspected and released for use by TDLR or inspected and released for use in any other manner authorized by TDLR rule.

(c) Prohibits the owner, operator, or user of a metering device from destroying, replacing, or otherwise disposing of a device declared to be incorrect or condemned under this section except as provided by TDLR rule.

Sec. 2311.0306. DISPOSING OF CONDEMNED METERING DEVICE. Prohibits a person from disposing of a metering device condemned under Section 2311.0305 in a manner contrary to that section.

Sec. 2311.0307. FEES. Requires TDLR by rule to establish fees in amounts reasonable and necessary to cover the cost of administering this chapter.

Sec. 2311.0308. REFUSING TO ALLOW TEST OF METERING DEVICE. (a) Prohibits a person from refusing to allow a metering device under the person's control or in the person's possession to be inspected, tested, or examined by TDLR when the inspection, test, or examination is required or authorized by this chapter.

(b) Prohibits a person from hindering or obstructing in any way TDLR, a TDLR inspector, or other TDLR employee in the performance of official duties.

(c) Prohibits a person from removing or obliterating a tag or device placed or required by TDLR to be placed on a metering device under this chapter.

SECTION 2. Requires TDLR to adopt any rules necessary for the administration of Chapter 2311, Occupations Code, as added by this Act, not later than September 1, 2022.

SECTION 3. Effective date: September 1, 2021.