

## **BILL ANALYSIS**

Senate Research Center

S.B. 2062  
By: Menéndez  
Business & Commerce  
5/27/2021  
Enrolled

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

#### Background:

S.B. 2119 (86th (R)) transferred the motor fuel metering and quality program (motor fuel program) to the Texas Department of Licensing and Regulation (TDLR) from the Texas Department of Agriculture (TDA). TDLR is responsible for the regulation of motor fuel sold, motor fuel metering devices, and service companies and service technicians in Texas.

S.B. 2119 authorized the creation of a stakeholder workgroup to provide input, advice, and recommendations to TDLR and TDA regarding the transfer of the motor fuel program. The workgroup was only established on a temporary basis through October 1, 2020, after the final transition of the program on September 1, 2020.

TDLR established a 15-member stakeholder group that included three ex-officio members from TDLR, TDA, and the Office of the Attorney General, as well as the following industry representatives:

3 motor fuel retail facility operators; 2 service companies; 2 fuel wholesalers, distributors, or jobbers; 1 bulk meter operator; 1 liquid petroleum gas operator; 1 member of law enforcement; 1 financial institution; 1 credit card issuer.

Members of the motor fuel workgroup met with TDLR staff to develop program rules, a criminal penalty matrix, and criminal conviction guidelines.

#### Solution:

S.B. 2062 would create a permanent nine-member advisory board for the motor fuel program. Members will include:

2 motor fuel retail facility operators; 1 service company licensed by TDLR; 1 wholesaler, distributor, or jobber; 1 service company; 1 supplier; 1 liquid petroleum gas operator; 1 member of law enforcement; 1 financial institution.

Establish six-year staggered terms for all members, with a presiding officer to be appointed by the presiding officer of the Texas Commission of Licensing and Regulation (TCLR) Authorize the board to advise TCLR and TDLR on technical standards of operation and testing, education and examination requirements for licensees, and other issues affecting motor fuel metering and quality. This would take immediate effect or September 1, 2021, based on the vote in the house and senate.

The membership described above has been adjusted in S.B. 2062 to better reflect the voices most needed. S.B. 2062 sets out the following membership:

2 spots for motor fuel retail facility operators to 3 spots specific to the number of devices registered and one at large; 1 service company representative to 2, since those companies interact so much with this program; 1 public member has been added to bring the voice of the consumer; 2 ex officio spots are added, one for representative of a financial institution

and one for law enforcement. While these were previously voting positions, they are now ex officio to allow for more industry-related seats.

S.B. 2062 amends current law relating to the establishment of the Motor Fuel Metering and Quality Advisory Board.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 2310, Occupations Code, by adding Subchapter A-1, as follows:

#### SUBCHAPTER A-1. ADVISORY BOARD

Sec. 2310.031. DEFINITIONS. Defines "board," "distributor," "supplier," and "wholesaler."

Sec. 2310.232. BOARD MEMBERSHIP. (a) Provides that the Motor Fuel Metering and Quality Advisory Board (board) consists of nine members appointed by the presiding officer of the Texas Commission of Licensing and Regulation (TCLR), with TCLR's approval. Sets forth the composition of the board.

(b) Requires the presiding officer of TCLR, with the approval of TCLR, to appoint two ex officio nonvoting members of the board. Provides that an ex officio member is not counted as a member for purposes of establishing a quorum. Sets forth certain requirements of the ex officio members.

(c) Requires that appointments to the board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 2310.033. TERMS; VACANCY. (a) Provides that members of the board serve staggered six-year terms, with the terms of three or four members expiring on February 1 of each odd-numbered year.

(b) Requires the presiding officer of TCLR, if a vacancy occurs during a member's term to, with TCLR's approval, appoint a replacement to fill the unexpired term.

Sec. 2310.034. PRESIDING OFFICER. Requires the presiding officer of TCLR to, with the approval of TCLR, appoint one of the board members to serve as presiding officer of the board for a term of one year.

Sec. 2310.035. DUTIES. Authorizes the board to advise TCLR and the Texas Department of Licensing and Regulation (TDLR) on:

(1) the adoption of appropriate standards for the installation, maintenance, calibration, alteration, operation, testing, or inspection, as applicable, of:

(A) motor fuel dispensing devices;

(B) motor fuel metering devices; and

(C) motor fuel;

(2) education and curricula for applicants for a license issued under Chapter 2310 (Motor Fuel Metering and Quality) and license holders;

(3) the content of examinations;

(4) proposed rules and standards on technical issues related to motor fuel metering and quality and payment card skimmers; and

(5) other issues affecting motor fuel metering and quality.

Sec. 2310.036. MEETINGS. Requires the board to meet at the call of the executive director or the presiding officer of TCLR.

SECTION 2. (a) Requires the presiding officer of TCLR, not later than February 1, 2022, to appoint members to the board in accordance with Section 2310.032, Occupations Code, as added by this Act.

(b) Requires the presiding officer of TCLR, in making the initial appointments to the board, notwithstanding Section 2310.033, Occupations Code, as added by this Act, to designate three members of the advisory board to serve terms expiring February 1, 2023, four members to serve terms expiring February 1, 2025, and four members to serve terms expiring February 1, 2027.

SECTION 3. Effective date: upon passage or September 1, 2021.