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By:  Schwertner S.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of electric vehicle charging equipment by the Texas Department of Licensing and Regulation; authorizing a fee; providing a civil penalty.

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

SECTION 1.  Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2311 to read as follows:

CHAPTER 2311. ELECTRIC VEHICLE CHARGING EQUIPMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2311.0101.  DEFINITIONS. In this chapter:

(1)  "Charging provider" means a person who provides another person with the use of electric vehicle charging equipment in a commercial transaction.

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

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

(4)  "Electric vehicle charging equipment" means equipment manufactured for transferring electric energy from electric supply to an electric vehicle.

(5)  "Executive director" means the executive director of the department.

(6)  "Metering device" means a commercial device used to measure electric energy transferred by electric vehicle charging equipment and compute the charge for the energy.

Sec. 2311.0102.  ENFORCEMENT OF CHAPTER. The department shall administer and enforce the provisions of this chapter and shall regulate all metering devices in this state. The department may purchase apparatus as necessary for the administration of this chapter.

Sec. 2311.0103.  CIVIL PENALTY; INJUNCTION. (a)  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. Each day a violation continues may be considered a separate violation for purposes of a civil penalty assessment.

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

(c)  A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund. A civil penalty recovered in a suit first instituted by one or more local governments under this section shall 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)  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. On request of the executive director, the attorney general or the county or district attorney of the county in which the alleged violation is threatened or is occurring shall file suit for the injunctive relief. Venue is in the county in which the alleged violation is threatened or is occurring.

(e)  The department and the attorney general may 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. The expenses recovered by the department may be appropriated only to the department for the administration and enforcement of this chapter. The expenses recovered by the attorney general may be appropriated only to the attorney general.

SUBCHAPTER B. REGULATION OF METERING DEVICES

Sec. 2311.0201.  STANDARDS. The commission by rule may adopt standards for the sale of electric energy from electric vehicle charging equipment for transfer to an electric vehicle. The standards may 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. The commission by rule may exempt a metering device from a requirement established under this chapter if the commission determines that imposing or enforcing the requirement:

(1)  is not cost-effective for the department;

(2)  is not feasible with current resources or standards; or

(3)  will not substantially benefit or protect consumers.

Sec. 2311.0203.  STOP-SALE ORDER. (a) If the department 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, the executive director may issue an order to stop the sale of electric energy using the metering device. The executive director shall issue the order to the owner or custodian of the metering device or seller of the electric energy. The person receiving the order may not sell 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)  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)  This section does not limit the right of the department 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)  If the department has reason to believe that a metering device is being used for a commercial transaction and the device is not registered with the department, the department may 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)  The department 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. Unless a metering device is exempt from the application of this section by commission rule, a metering device shall be inspected, tested, and calibrated for correctness by the department 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) Unless a metering device is exempt from the application of this section by commission rule, a person who owns or operates a metering device shall register the device with the department before using the device for a commercial transaction.

(b)  An application for a device registration must:

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

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

(3)  include any fees required under Section 2311.0307; and

(4)  include documentation of compliance with Section 2311.0302.

(c)  A registration under this section is valid for one or two years as established by commission 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 2311.0302.

(d)  If a person fails to register or renew a registration as required by this section, the department may not issue a certificate to operate the metering device. The department shall issue the certificate when the operator submits to the department the items required by Subsection (b).

(e)  The department may 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. The amount of the late fee may not exceed $50 per device, with a maximum penalty amount of $500 per year for the premises.

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

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

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

(c)  The owner, operator, or user of a metering device may not destroy, replace, or otherwise dispose of a device declared to be incorrect or condemned under this section except as provided by commission rule.

Sec. 2311.0306.  DISPOSING OF CONDEMNED METERING DEVICE. A person may not dispose of a metering device condemned under Section 2311.0305 in a manner contrary to that section.

Sec. 2311.0307.  FEES. The commission by rule shall 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)  A person may not refuse to allow a metering device under the person's control or in the person's possession to be inspected, tested, or examined by the department when the inspection, test, or examination is required or authorized by this chapter.

(b)  A person may not hinder or obstruct in any way the department, a department inspector, or other department employee in the performance of official duties.

(c)  A person may not remove or obliterate a tag or device placed or required by the department to be placed on a metering device under this chapter.

SECTION 2.  The Texas Department of Licensing and Regulation shall 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.  This Act takes effect September 1, 2021.