

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

1 equipment and compute the charge for the energy.

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

7 Sec. 2311.0103. CIVIL PENALTY; INJUNCTION. (a) A person  
8 who violates this chapter or a rule adopted under this chapter is  
9 liable to the state for a civil penalty not to exceed \$500 for each  
10 violation. Each day a violation continues may be considered a  
11 separate violation for purposes of a civil penalty assessment.

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

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

24 (d) The executive director is entitled to appropriate  
25 injunctive relief to prevent or abate a violation of this chapter or  
26 a rule adopted under this chapter. On request of the executive  
27 director, the attorney general or the county or district attorney

1 of the county in which the alleged violation is threatened or is  
2 occurring shall file suit for the injunctive relief. Venue is in  
3 the county in which the alleged violation is threatened or is  
4 occurring.

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

13 SUBCHAPTER B. REGULATION OF METERING DEVICES

14 Sec. 2311.0201. STANDARDS. The commission by rule may  
15 adopt standards for the sale of electric energy from electric  
16 vehicle charging equipment for transfer to an electric vehicle. The  
17 standards may include:

18 (1) specifications, tolerances, and other technical  
19 requirements for metering devices;

20 (2) provisions on the accuracy of metering devices;

21 (3) recordkeeping requirements;

22 (4) provisions for consumer protection; and

23 (5) provisions to promote fair competition among  
24 charging providers.

25 Sec. 2311.0202. EXEMPTION OF CERTAIN METERING DEVICES. The  
26 commission by rule may exempt a metering device from a requirement  
27 established under this chapter if the commission determines that

1 imposing or enforcing the requirement:

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

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

5 (3) will not substantially benefit or protect  
6 consumers.

7 Sec. 2311.0203. STOP-SALE ORDER. (a) If the department has  
8 reason to believe that a metering device is being used in commercial  
9 transactions in violation of this chapter or rules adopted under  
10 this chapter, the executive director may issue an order to stop the  
11 sale of electric energy using the metering device. The executive  
12 director shall issue the order to the owner or custodian of the  
13 metering device or seller of the electric energy. The person  
14 receiving the order may not sell electric energy using the metering  
15 device until authorized by a court under Subsection (b) or until the  
16 executive director finds that the device is in compliance with this  
17 chapter.

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

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

27 SUBCHAPTER C. INSPECTION AND REGISTRATION OF METERING DEVICES

1       Sec. 2311.0301. AUTHORITY TO INSPECT.       (a) If the  
2 department has reason to believe that a metering device is being  
3 used for a commercial transaction and the device is not registered  
4 with the department, the department may inspect the device and the  
5 records of the owner, operator, or user of the device that relate to  
6 use of the device to determine whether the device and associated  
7 devices are in compliance with this chapter.

8       (b) The department has reason to believe a metering device  
9 is being used for a commercial transaction if:

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

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

16       Sec. 2311.0302. INSPECTION OF METERING DEVICES. Unless a  
17 metering device is exempt from the application of this section by  
18 commission rule, a metering device shall be inspected, tested, and  
19 calibrated for correctness by the department at least once every  
20 two years if the device is:

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

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

26       Sec. 2311.0303. REQUIRED REGISTRATION OF METERING DEVICES.

27 (a) Unless a metering device is exempt from the application of this

1 section by commission rule, a person who owns or operates a metering  
2 device shall register the device with the department before using  
3 the device for a commercial transaction.

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

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

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

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

10 and

11 (4) include documentation of compliance with Section  
12 2311.0302.

13 (c) A registration under this section is valid for one or  
14 two years as established by commission rule. The registration must  
15 be renewed at or before the end of each registration period and the  
16 application for renewal must include documentation of compliance  
17 with Section 2311.0302.

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

23 (e) The department may assess a late fee if the registration  
24 of one or more devices located on a premises is renewed after the  
25 end of the registration period because of a registration error,  
26 including one or more devices not properly registered, failure to  
27 register the correct type of device, or failure to timely register a

1 previously registered device. The amount of the late fee may not  
2 exceed \$50 per device, with a maximum penalty amount of \$500 per  
3 year for the premises.

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

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

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

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

1       Sec. 2311.0306. DISPOSING OF CONDEMNED METERING DEVICE. A  
2 person may not dispose of a metering device condemned under Section  
3 2311.0305 in a manner contrary to that section.

4       Sec. 2311.0307. FEES. The commission by rule shall  
5 establish fees in amounts reasonable and necessary to cover the  
6 cost of administering this chapter.

7       Sec. 2311.0308. REFUSING TO ALLOW TEST OF METERING DEVICE.

8       (a) A person may not refuse to allow a metering device under the  
9 person's control or in the person's possession to be inspected,  
10 tested, or examined by the department when the inspection, test, or  
11 examination is required or authorized by this chapter.

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

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

18       SECTION 2. The Texas Department of Licensing and Regulation  
19 shall adopt any rules necessary for the administration of Chapter  
20 2311, Occupations Code, as added by this Act, not later than  
21 September 1, 2022.

22       SECTION 3. This Act takes effect September 1, 2021.