

## **BILL ANALYSIS**

C.S.H.B. 2366

By: Darby

International Relations & Economic Development  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the implementation of motor fuel industry regulation, particularly in relation to the handling of consumer complaints. It has been suggested that complaint notices provided to gas station owners may not include sufficient information to enable the business to address such a complaint. C.S.H.B. 2366 seeks to address these concerns by requiring those notices to include a proof of purchase and dispenser identification, as applicable, and by revising certain inspection and testing requirements and certain penalties.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 2366 amends the Agriculture Code to lower the cap on the administrative penalty for a violation of statutory provisions or of a Department of Agriculture (TDA) rule or order relating to the sale and regulation of certain fuel mixtures from \$5,000 to \$2,500. The bill caps the total civil penalty for a continuous violation of statutory provisions relating to standard weights and measures or the inspection and registration of commercial weighing or measuring devices at \$2,500 if the violation is related to one or more motor fuel metering devices. The bill extends the registration period for a motor fuel metering device from one year to two years.

C.S.H.B. 2366 requires a complaint to the TDA regarding a measurement by a motor fuel metering device to include a proof of purchase for the transaction that led to the complaint. The bill requires the TDA notice informing the person who last registered the device of such a complaint to be provided by email not more than 24 hours after the complaint is received and to identify the specific device that led to the complaint.

C.S.H.B. 2366 restricts the use of registration and inspection fees for motor fuel metering devices to the administration and enforcement of motor fuel metering device inspections.

C.S.H.B. 2366 excludes from the conduct constituting the offense of removing or obliterating a TDA registration tag or device on a weighing or measuring device such conduct regarding a motor fuel metering device with a valid registration, if the person who removed or obliterated the tag owns or operates the metering device and did not intentionally remove or obliterate the tag. The bill requires the TDA to replace tags for such metering devices.

C.S.H.B. 2366 requires the TDA, using fees collected for testing, inspection, or the performance of other services relating to the sale and regulation of certain fuel mixtures, to pay all costs associated with motor fuel quality testing. The bill prohibits the TDA from increasing such a fee for a dealer in a state fiscal biennium by an amount that exceeds 10 percent of the amount of the fee at the end of the preceding state fiscal biennium. The bill prohibits the TDA from issuing a stop-sale order for a violation of motor fuel quality standards unless laboratory results confirm that the motor fuel is out of compliance with applicable statutory provisions.

C.S.H.B. 2366 limits the authority of an authorized representative of the commissioner of agriculture to test motor fuel sold in Texas to such testing in response to a complaint about the fuel. The bill includes the distance to the nearest motor fuel quality testing laboratory and the octane of the fuel among the required considerations in the commissioner's adoption of rules relating to fuel testing. The bill requires the TDA to contract with at least five laboratories in Texas to conduct such testing and prohibits the TDA from testing motor fuel based on a complaint made about fuel with an octane rating less than 88 under ASTM standards.

C.S.H.B. 2366 requires the TDA to require a person who submits a complaint regarding the quality of motor fuel purchased from a dealer to provide a proof of purchase for the transaction that led to the complaint. The bill requires the TDA to notify the dealer by email within 24 hours of receipt of the complaint and to identify in the notice the specific motor fuel pump that led to the complaint.

C.S.H.B. 2366 decreases from \$10,000 to \$2,500 the maximum civil penalty for a dealer, distributor, supplier, wholesaler, or jobber who violates statutory provisions relating to certain notice and documentation requirements regarding motor fuel mixtures and ratings.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2366 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute specifies that the \$2,500 cap on the civil penalty for a continuous violation of statutory provisions relating to standard weights and measures or the inspection and registration of commercial weighing or measuring devices applies with respect to the total penalty for such a continuous violation related to one or more motor fuel metering devices.

The substitute replaces references to a receipt in requirements regarding documentation of certain complaints with references to a proof of purchase.

The substitute specifies that the registration and inspection fees whose use is restricted by the bill are such fees attributable to motor fuel metering devices.

The substitute changes the 10 percent limitation on a certain fee increase for a motor fuel metering device to such a limitation on such fee increase for a dealer.

The substitute includes procedural provisions providing for the continuation in effect of applicable law, as that law existed before amendment by the bill, to govern a violation, issuance or renewal of a registration, complaint, or offense, as applicable, that occurred before the bill's effective date.