

## **BILL ANALYSIS**

C.S.S.B. 2119

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International Relations & Economic Development  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been suggested that transferring from the Department of Agriculture to the Texas Department of Licensing and Regulation the oversight and regulation of motor fuel metering and motor fuel quality would be beneficial. C.S.S.B. 2119 seeks to provide for the transfer of such regulation.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTIONS 1 and 2 of this bill.

### **ANALYSIS**

C.S.S.B. 2119 transfers to the Occupations Code the Agriculture Code provisions relating to the regulation of motor fuel metering and motor fuel quality and makes the Texas Department of Licensing and Regulation (TDLR), instead of the Department of Agriculture (TDA), responsible for such regulation. The bill repeals certain Agriculture Code provisions relating to a motor fuel metering device, the standard for liquid capacity for purposes of the retail sale of motor fuel, and the sale and regulation of certain fuel mixtures.

C.S.S.B. 2119, effective September 1, 2019, provides for the bill's transfer of such regulation from the TDA to TDLR by:

- establishing that all rules, fees, policies, procedures, decisions, and forms of the commissioner of agriculture or the TDA that relate to a program or activity transferred under the bill's provisions and that are in effect on the transfer's effective date remain in effect until changed by the Texas Commission of Licensing and Regulation (TCLR) or TDLR, as appropriate;
- providing for certain other specified transfers to TCLR or TDLR, as applicable; and
- establishing that, on or after the effective date of the transfer, a reference in a law or administrative rule to the commissioner of agriculture or the TDA with respect to a program or activity transferred under the bill's provisions means TCLR or TDLR, as appropriate.

C.S.S.B. 2119, effective September 1, 2019, with respect to the transfer:

- requires the TDA and TDLR to adopt a transition plan to provide for the orderly transfer of powers, duties, functions, programs, and activities under the bill's provisions and

requires the transition plan to provide for the transfer to be completed not later than September 1, 2020;

- requires the TDA to provide TDLR with access to any systems, facilities, or information necessary for TDLR to accept a program or activity transferred under the bill's provisions;
- includes a temporary provision set to expire October 1, 2020, authorizing TDLR to establish and lead a stakeholder workgroup to provide input, advice, and recommendations to the TDA and TDLR on the orderly transfer of powers, duties, functions, programs, and activities under the bill's provisions and requiring TDLR to establish the size, composition, and scope of the stakeholder workgroup;
- establishes that, on the date specified in the transition plan for the transfer of a program or activity transferred by the bill's provisions to TDLR, all full-time equivalent employee positions at the TDA that directly and indirectly concern the administration or enforcement of the program or activity being transferred become positions at TDLR; and
- requires TDLR to post the positions for hiring and, when filling the positions, to give consideration to an applicant who was an employee at the TDA immediately before the date of the transfer involved in administering or enforcing the transferred program or activity but establishes that TDLR is not required to hire those employees.

C.S.S.B. 2119 amends the Occupations Code to require TDLR to administer and enforce the bill's provisions and to regulate all motor fuel metering devices sold or offered for sale in Texas. The bill sets out the TDLR rulemaking authority applicable to such supervision.

C.S.S.B. 2119 authorizes TDLR to purchase apparatus as necessary for the administration of the bill's provisions and establishes that the bill's provisions control to the extent the bill's provisions conflict with Agriculture Code provisions relating to weights and measures with regard to motor fuel metering devices.

C.S.S.B. 2119 authorizes TDLR to contract with one or more holders of a service technician license or service company license to perform TDLR's duties under the bill's provisions related to motor fuel metering devices. The bill includes provisions relating to a civil penalty and injunction, standard weights and measures for motor fuel, inspection and registration of motor fuel metering devices, and the sale, delivery, and quality of motor fuel. The bill sets out related licensing provisions, requires TDLR to conduct a criminal background check on each applicant for a service company license and on any controlling person of the applicant, and provides for a one or two year license for motor fuel metering device service technicians and motor fuel metering device service companies. The bill sets out provisions relating to the purchase of additional sets of standards used to perform device maintenance activities by the state metrology laboratory, the inspection and correction of certain standards for motor fuel by the laboratory, and a memorandum of understanding between TDLR and the laboratory relating to access provided to TDA personnel and licensed service technicians and service companies.

C.S.S.B. 2119 amends the Agriculture Code and the Tax Code to make conforming changes.

C.S.S.B. 2119 repeals the following provisions of the Agriculture Code:

- Section 13.001(a)(1-a)
- Section 13.024(d)
- Section 13.029(b)
- Section 13.101(e)
- Section 13.1011(e)
- Section 13.1017

- Section 13.1151(b)
- Chapter 17

### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2020.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 2119 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute provides for the transfer of software source code and documentation of the TDA relating to a program or activity transferred under the bill to TDLR on the effective date of the transfer of the program or activity.

The substitute changes the requirement for TDLR to enforce the bill's provisions and to supervise all motor fuel metering devices sold or offered for sale in Texas to a requirement for TDLR to administer and enforce the bill's provisions and to regulate all such motor fuel metering devices.

The substitute replaces certain references to TDLR with references to the executive director of TDLR in provisions relating to a civil penalty and injunction and provisions relating to a stop-sale order.

The substitute includes the following provisions:

- a requirement for the executive director to establish methods by which consumers and service recipients are notified for purposes of complaints regarding motor fuel metering devices;
- provisions relating to the state metrology laboratory maintained by the TDA regarding the inspection of standards used to perform device maintenance activities and a memorandum of understanding with TDLR;
- a requirement that TDLR conduct a criminal background check on each applicant for a service company license and on any controlling person of the applicant;
- provisions making a motor fuel metering device service technician and motor fuel metering device service company license valid for one or two years.

The substitute does not include the following provisions:

- provisions relating to certain tests for state institutions; and
- a prohibition against TCLR increasing a certain fee for a motor fuel metering device by more than a specified amount at the end of the preceding state fiscal biennium.

The substitute changes the bill's provisions regarding license renewal by requiring TCLR by rule to establish the requirements for renewal and issuance of a renewal license. The bill changes the bill's provisions referencing certain TDLR rulemaking to instead reference TCLR rulemaking.

The substitute changes the bill's effective date for the procedural provision providing for the bill's transfer of regulation from the TDA to TDLR.