

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2174
By: Darby (Nichols)
Transportation
5/17/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Texas Department of Agriculture (TDA) inspects, tests, and calibrates motor fuel metering devices (gas pumps). Concerns have been raised about the efficiency and effectiveness of the inspection process. H.B. 2174 transfers the responsibility of that process from TDA and requires that all motor fuel metering devices be inspected by TDA-licensed third-party inspectors. All motor fuel metering devices would still be required to register with TDA, but the inspection of these devices would be conducted by a licensed inspector. H.B. 2174 maintains a process by which citizens can report complaints to TDA and protect consumers. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 2174 amends current law relating to the regulation of motor fuel quality and motor fuel metering devices and authorizes fees.

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 Section 13.001(a), Agriculture Code, by adding Subdivision (1-a), to define "motor fuel metering device."

SECTION 2. Amends Section 13.029, Agriculture Code, as follows:

Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Provides that a motor fuel metering device (metering device) is exempt from the requirements of this chapter (Weights and Measures) if the metering device is not used to calculate the amount of fuel sold in a commercial transaction or to compute the charge for service.

SECTION 3. Amends Section 13.101, Agriculture Code, by adding Subsection (e) to provide that this section (Inspection of Devices) does not apply to a metering device.

SECTION 4. Amends Section 13.1011, Agriculture Code, by adding Subsection (e) to provide that this section (Required Registration) does not apply to a metering device.

SECTION 5. Amends Subchapter C, Chapter 13, Agriculture Code, by adding Sections 13.1015, 13.1016, and 13.1017, as follows:

Sec. 13.015. INSPECTION OF MOTOR FUEL METERING DEVICES. (a) Requires that a metering device, unless a metering device is exempt from the application of this section by Texas Department of Agriculture (TDA) rule, be inspected, tested, and calibrated for correctness by a license holder under Subchapter I (Licensing of Service Technicians and Service Companies) at least once every two years if the metering device meets certain criteria.

(b) Requires that inspection, testing, and calibration be performed by a license holder under Subchapter I under contract with the operator or user of the metering device.

Sec. 13.1016. REQUIRED REGISTRATION OF MOTOR FUEL METERING DEVICES. (a) Requires a person who owns or operates a metering device, unless a metering device is exempt from the application of this section by TDA rule, to register the metering device with TDA before using the metering device for a commercial transaction.

(b) Requires that an application for a metering device registration be submitted to TDA on a form prescribed by TDA, be accompanied by any other document or form required by TDA, include the registration fee required under Section 13.1151 (Fees for Registration and Inspection), and include documentation of compliance with Section 13.1015.

(c) Provides that a registration is valid for one year unless a different period is established by TDA rule. Requires that the registration be renewed at or before the end of each registration period and requires that the application for renewal include documentation of compliance with Section 13.1015.

(d) Prohibits TDA, if a person fails to register or renew a required registration, from issuing a certificate to operate the metering device. Requires TDA to issue the certificate when the operator submits to TDA the items required by Subsection (b).

(e) Authorizes TDA to 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 certain registration errors. Prohibits the amount of the penalty from exceeding \$50 per device, with a maximum penalty amount of \$500 per year for the premises.

Sec. 13.1017. COMPLAINTS REGARDING MOTOR FUEL METERING DEVICES.

(a) Requires TDA to receive complaints regarding metering devices.

(b) Requires TDA, after receiving a complaint regarding a metering device, to determine the date the device was last inspected under Section 13.1015 and the number of complaints received by TDA in the previous 12 months regarding metering devices at the premises where the metering device subject to the complaint is located.

(c) Requires TDA to notify the person who last registered the metering device and take no further action on the complaint under certain circumstances.

(d) Requires TDA to notify the person who last registered the metering device and require the device to be inspected by a license holder under Section 13.1015 not later than one month after the notification date under certain circumstances.

SECTION 6. Amends Section 13.114, Agriculture Code, to require that certain specifications and tolerances be similar to those recommended by the National Institute of Standards and Technology (NIST), except that the specifications and tolerances for metering devices are required to be the same as those recommended by NIST.

SECTION 7. Amends Section 13.1151, Agriculture Code, as follows:

Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a) Creates this subsection from existing text and makes no further changes to this subsection.

(b) Prohibits TDA, notwithstanding any other law, from increasing a fee under Subsection (a) in a state fiscal biennium for a metering device by an amount that exceeds 10 percent of the amount of the fee at the end of the preceding state fiscal biennium.

SECTION 8. Amends Section 17.072, Agriculture Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Authorizes TDA or a representative of TDA to collect samples and conduct testing at any location where motor fuel is kept, transferred, sold, or offered for sale, to verify that the motor fuel complies with certain standards.

(a-1) Requires that the collection of samples and conducting of testing at a dealer's location be performed by a license holder under Subchapter I, Chapter 13, under contract with the dealer and provides that the license holder is considered a TDA representative for purposes of this section (Testing of Motor Fuel Quality).

(b) Requires the TDA representative to follow the most recent applicable procedures specified by ASTM International Standard D4057, D4177, D5842, or D5854 for the collection, sampling, and handling of fuel to prepare for laboratory analysis.

SECTION 9. Amends Section 17.073(a), Agriculture Code, to authorize TDA to take certain actions if TDA has laboratory results to confirm, rather than has reason to believe, that motor fuel is in violation of this chapter (Sale and Regulation of Certain Fuel Mixtures) or a rule adopted under this chapter, or that the motor fuel is being sold or offered for sale in a manner that violates this chapter or a rule adopted under this chapter.

SECTION 10. Effective date: September 1, 2017.