

AN ACT

relating to the regulation of motor fuel quality and motor fuel metering devices; authorizing fees.

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

SECTION 1. Section 13.001(a), Agriculture Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Motor fuel metering device" means a commercial weighing or measuring device used for motor fuel sales with a maximum flow rate of 20 gallons per minute or less.

SECTION 2. Section 13.029, Agriculture Code, is amended to read as follows:

Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES.

(a) The department by rule may exempt a weighing or measuring device from a requirement established by this chapter if the department 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.

(b) A motor fuel metering device is exempt from the requirements of this chapter if the motor fuel metering device is not used to:

(1) calculate the amount of fuel sold in a commercial

1 transaction; or

2 (2) compute the charge for service.

3 SECTION 3. Section 13.101, Agriculture Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) This section does not apply to a motor fuel metering
6 device.

7 SECTION 4. Section 13.1011, Agriculture Code, is amended by
8 adding Subsection (e) to read as follows:

9 (e) This section does not apply to a motor fuel metering
10 device.

11 SECTION 5. Subchapter C, Chapter 13, Agriculture Code, is
12 amended by adding Sections 13.1015, 13.1016, and 13.1017 to read as
13 follows:

14 Sec. 13.1015. INSPECTION OF MOTOR FUEL METERING DEVICES.

15 (a) Unless a motor fuel metering device is exempt from the
16 application of this section by department rule, a motor fuel
17 metering device shall be inspected, tested, and calibrated for
18 correctness by a license holder under Subchapter I at least once
19 every two years if the device is:

20 (1) kept for sale, sold, or used by a proprietor,
21 agent, lessee, or employee in proving the measure of motor fuel; or

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

24 (b) Inspection, testing, and calibration under this section
25 must be performed by a license holder under Subchapter I under
26 contract with the operator or user of the motor fuel metering
27 device.

1 Sec. 13.1016. REQUIRED REGISTRATION OF MOTOR FUEL METERING
2 DEVICES. (a) Unless a motor fuel metering device is exempt from
3 the application of this section by department rule, a person who
4 owns or operates a motor fuel metering device shall register the
5 device with the department before using the device for a commercial
6 transaction.

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

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

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

12 (3) include the registration fee required under
13 Section 13.1151; and

14 (4) include documentation of compliance with Section
15 13.1015.

16 (c) A registration under this section is valid for one year
17 unless a different period is established by department rule. The
18 registration must be renewed at or before the end of each
19 registration period and the application for renewal must include
20 documentation of compliance with Section 13.1015.

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

26 (e) The department may assess a late fee if the registration
27 of one or more devices located on a premises is renewed after the

1 end of the registration period because of a registration error,
2 including one or more devices not properly registered, failure to
3 register the correct type of device, or failure to timely register a
4 previously registered device. The amount of the penalty may not
5 exceed \$50 per device, with a maximum penalty amount of \$500 per
6 year for the premises.

7 Sec. 13.1017. COMPLAINTS REGARDING MOTOR FUEL METERING
8 DEVICES. (a) The department shall receive complaints regarding
9 motor fuel metering devices.

10 (b) After receiving a complaint regarding a motor fuel
11 metering device, the department shall determine the date the device
12 was last inspected under Section 13.1015 and the number of
13 complaints received by the department in the previous 12 months
14 regarding motor fuel metering devices at the premises where the
15 device subject to the complaint is located.

16 (c) The department shall notify the person who last
17 registered the motor fuel metering device and take no further
18 action on the complaint if:

19 (1) the motor fuel metering device was last inspected
20 not more than 18 months before the date the complaint is received;
21 and

22 (2) the department received not more than two
23 complaints in the previous 12 months regarding motor fuel metering
24 devices at the premises where the device is located.

25 (d) The department shall notify the person who last
26 registered the motor fuel metering device and require the device to
27 be inspected by a license holder under Section 13.1015 not later

1 than one month after the notification date if:

2 (1) the motor fuel metering device was last inspected
3 more than 18 months before the date the complaint is received; or

4 (2) the department received at least three complaints
5 in the previous 12 months regarding motor fuel metering devices at
6 the premises where the device is located.

7 SECTION 6. Section 13.114, Agriculture Code, is amended to
8 read as follows:

9 Sec. 13.114. TOLERANCES. The department shall establish
10 specifications and tolerances for commercial weighing or measuring
11 devices used in this state. The specifications and tolerances
12 shall be similar to those recommended by the National Institute of
13 Standards and Technology, except that the specifications and
14 tolerances for motor fuel metering devices shall be the same as
15 those recommended by the National Institute of Standards and
16 Technology.

17 SECTION 7. Section 13.1151, Agriculture Code, is amended to
18 read as follows:

19 Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a)
20 The department may charge the owner or operator of a weighing or
21 measuring device a fee, as provided by department rule, to recover
22 the costs of registration and inspection of a weighing or measuring
23 device required to be registered or inspected under this chapter.

24 (b) Notwithstanding any other law, the department may not in
25 a state fiscal biennium increase a fee under Subsection (a) for a
26 motor fuel metering device by an amount that exceeds 10 percent of
27 the amount of the fee at the end of the preceding state fiscal

1 biennium.

2 SECTION 8. Section 17.072, Agriculture Code, is amended by
3 amending Subsections (a) and (b) and adding Subsection (a-1) to
4 read as follows:

5 (a) The department or a representative of the department may
6 collect samples and conduct testing at any location where motor
7 fuel is kept, transferred, sold, or offered for sale, to verify that
8 the motor fuel complies with the minimum standards required by
9 Section 17.071.

10 (a-1) The collection of samples and conducting of testing at
11 a dealer's location must be performed by a license holder under
12 Subchapter I, Chapter 13, under contract with the dealer. The
13 license holder is considered a representative of the department for
14 purposes of this section.

15 (b) On arriving at a facility to conduct testing under
16 Subsection (a), a representative of the department shall notify the
17 owner or manager of the facility of the representative's presence
18 and purpose. The department representative shall follow the most
19 recent applicable procedures specified by ASTM International
20 Standard D4057, D4177, D5842, or D5854 for the collection,
21 sampling, and handling of fuel to prepare for laboratory analysis.

22 SECTION 9. Section 17.073(a), Agriculture Code, is amended
23 to read as follows:

24 (a) If the department has laboratory results to confirm
25 ~~[reason to believe]~~ that motor fuel is in violation of this chapter
26 or a rule adopted under this chapter, or that the motor fuel is
27 being sold or offered for sale in a manner that violates this

1 chapter or a rule adopted under this chapter, the department may:

2 (1) issue and enforce a written order to stop the sale
3 of the motor fuel;

4 (2) place on a device used to dispense the motor fuel a
5 tag or other mark with the words "Out of Order"; or

6 (3) stop the sale of the motor fuel and mark a device
7 used to dispense the motor fuel as out of order.

8 SECTION 10. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I certify that H.B. No. 2174 was passed by the House on May 3, 2017, by the following vote: Yeas 144, Nays 1, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2174 on May 25, 2017, by the following vote: Yeas 134, Nays 11, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2174 was passed by the Senate, with amendments, on May 23, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor