

BILL ANALYSIS

C.S.H.B. 1695
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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.H.B. 1695 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 Department of Licensing and Regulation in SECTIONS 1 and 2 of this bill and to the Texas Commission of Licensing and Regulation in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1695 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.H.B. 1695 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);
- providing for certain other specified transfers to TCLR or TDLR, as applicable; and
- establishing that 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.H.B. 1695, 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.H.B. 1695 amends the Occupations Code to require TDLR to enforce the bill's provisions and to supervise all motor fuel metering devices sold or offered for sale in Texas. The bill sets out the TDLR and TCLR rulemaking authority applicable to such supervision.

C.S.H.B. 1695 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.H.B. 1695 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, licensing of motor fuel metering device service technicians and motor fuel metering device service companies, and the sale, delivery, and quality of motor fuel.

C.S.H.B. 1695 amends the Agriculture Code and the Tax Code to make conforming changes.

C.S.H.B. 1695 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 13.1151(b)
- Chapter 17

EFFECTIVE DATE

Except as otherwise provided, September 1, 2020.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1695 may differ from the original in minor or nonsubstantive ways by

conforming to certain bill drafting conventions, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes the following provisions:

- specifies that a person who refuses to allow a TDLR representative to collect samples or to conduct motor fuel testing at any location where motor fuel is kept, transferred, sold, or offered for sale to verify that the motor fuel complies with the required minimum standards commits a Class C misdemeanor offense;
- sets out TCLR's rulemaking authority with regard to provisions relating to the sale, delivery, and quality of motor fuel for the regulation of the sale of motor fuels, including imposition of a fee and related reporting and remitting provisions;
- makes a person who sells or offers for sale motor fuel in violation of those provisions or a rule so adopted liable to the state for a civil penalty in a specified amount; and
- authorizes TCLR to impose an administrative penalty on a person for such a violation.

The substitute includes the commissioner of agriculture among the applicable entities with regard to rules, fees, policies, procedures, decisions, and forms transferred under the bill's provisions.

The substitute changes the effective date of the bill.

The substitute revises provisions relating to standard weights and measures for motor fuel by, among others things, including the following provisions:

- making provisions relating to the standard for liquid motor fuel inapplicable to compressed and liquefied natural gas; and
- requiring compressed natural gas and liquefied natural gas to be sold by weight.