

BILL ANALYSIS

Senate Research Center

C.S.S.B. 665
By: Haywood
State Affairs
3-24-97
Committee Report (Substituted)

DIGEST

Currently, the Federal Trade Commission (FTC) has the authority to test fuel for octane content and bring enforcement actions against those retailers selling sub-octane fuel. However, because of budgetary concerns, the FTC rarely tests fuel and instead limits enforcement to the investigation of complaints. S.B. 665 would allow the Texas Department of Agriculture to test motor fuel for octane content when it tests fuel dispensers for accurate calibration.

PURPOSE

As proposed, C.S.S.B. 665 outlines provisions and provides criminal, administrative and civil penalties regarding the sale and delivery of certain motor fuel.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the commissioner of agriculture under SECTIONS 2, 4, 5, and 10 (Sections 2, 4(c), 5(b), and 9(a), Article 8614, V.T.C.S.), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 8614, V.T.C.S., to define "automotive fuel rating." Makes conforming changes.

SECTION 2. Amends Section 2, Article 8614, V.T.C.S., to authorize the commissioner of agriculture (commissioner), rather than the comptroller of public accounts (comptroller), or an authorized representative of the commissioner, rather than the comptroller, any law enforcement officer at the direction of a prosecuting attorney, or the attorney general, to test any motor fuel sold in this state in order to determine compliance with the standards and for the enforcement of rules adopted under Sections 3, 3A, 3B, 4, and 5 of this Act. Provides that nothing under this section shall prohibit the commissioner from adopting rules relating to the frequency of testing motor fuels. Requires the commissioner to consider the nature of the violation, history of past violations, and funds available as provided by Section 9(e) of this Act in adopting such rules.

SECTION 3. Amends Article 8614, V.T.C.S., by adding Sections 3A and 3B, as follows:

Sec. 3A. SALE OF MOTOR FUEL WITH AUTOMOTIVE FUEL RATING LOWER THAN RATING POSTED ON PUMP LABEL. Prohibits a motor fuel dealer in this state from selling or offering for sale motor fuel from a motor fuel pump if the motor fuel contains an automotive fuel rating that is lower than the automotive fuel rating for that motor fuel posted on the motor fuel pump.

Sec. 3B. DELIVERY OF MOTOR FUEL WITH AUTOMOTIVE FUEL RATING LOWER THAN RATING CERTIFIED BY TRANSFER. Prohibits a distributor or supplier of motor fuel, as those persons are defined by Section 153.001, Tax Code, from delivering or transferring motor fuel to a motor fuel dealer in this state if the fuel contains an automotive fuel rating the distributor or supplier is required to make to the motor fuel dealer under federal law.

SECTION 4. Amends Sections 4(c)-(e), Article 8614, V.T.C.S., to make conforming changes.

SECTION 5. Amends Section 5, Article 8614, V.T.C.S., to require each motor dealer in this state to keep for one year, rather than four years, a copy of certain documents. Makes conforming changes.

SECTION 6. Amends Article 8614, V.T.C.S., by adding Section 5A, as follows:

Sec. 5A. DOCUMENTS RELATING TO POSTINGS OR CERTIFICATION OF AUTOMOTIVE FUEL RATINGS. Requires each motor fuel dealer in this state to keep a copy of certain records for at least one year. Requires each distributor or supplier to keep, for at least one year at the principal place of business, a copy of each delivery ticket or letter of certification required to be delivered by the distributor or supplier to a motor fuel dealer in this state under 16 C.F.R. Part 306. Provides that a document required to be kept under this section is subject to inspection by the commissioner or an authorized representative of the commissioner.

SECTION 7. Amends Section 6, Article 8614, V.T.C.S., to authorize any motor fuel user who has purchased fuel and who has suffered damages or has a complaint about the product obtained from a motor fuel dealer or a distributor, supplier, wholesaler, or jobber of motor fuel in violation of Section 3, 3A, 3B, 4, 5, or 5A to maintain a civil action against the individual in violation. Requires the trier of fact to award not more than three times the amount of actual damages if the trier of fact finds that a violation of Section 3, 4, or 5 of this Act was committed wilfully or knowingly by the defendant. Makes conforming changes.

SECTION 8. Amends Section 7, Article 8614, V.T.C.S., to set forth penalties for a violation of a provision of Section 3, 3A, 3B, 4, 5, or 5A of this Act.

SECTION 9. Amends Sections 8(a), (b), and (e), Article 8614, V.T.C.S., to set forth instances in which a person commits an offense. Authorizes the commissioner, rather than the comptroller, or the authorized representative of the commissioner, rather than the comptroller's representative, to request the appropriate prosecuting attorney to prosecute a violation of a provision of this Act, rather than authorizing any law enforcement officer, or the attorney general to file a complaint under this section. Makes conforming changes.

SECTION 10. Amends Sections 9(a)-(c), (e), and (f), Article 8614, V.T.C.S., to authorize the comptroller, by rule, to impose fees for the performance of services provided as determined necessary by the commissioner in the administration of this Act. Outlines provisions regarding the fees collected under this section. Deletes text authorizing the fees collected under this section to be used only for the administration and enforcement of this Act by the comptroller and requiring the fees to be deposited in the Comptroller's Operating Fund 062. Makes conforming changes.

SECTION 11. Amends Section 10, Article 8614, V.T.C.S., to make conforming changes.

SECTION 12. Amends Article 8614, V.T.C.S., by adding Section 11, as follows:

Sec. 11. DELIVERY OF DOCUMENTS TO FEDERAL GOVERNMENT. Outlines provisions regarding the duplication and delivery of certain documents to the federal government.

SECTION 13. Amends Section 12.020(c), Agriculture Code, to provide that provisions of this code are subject to this section and to set forth applicable penalty amounts.

SECTION 14. Makes application of this Act prospective.

SECTION 15. Makes application of this Act prospective.

SECTION 16. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 17. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amends the proposed relating clause.

Amends SECTION 2, Section 2, Article 8614, V.T.C.S., regarding motor fuel testing and rulemaking authority.

Amends SECTION 5, Section 5, Article 8614, V.T.C.S., regarding the archiving of dealer and delivery documents.

Amends SECTION 6, Section 5A(c), Article 8614, V.T.C.S., to add text regarding documents relating to postings or certification of automotive fuel ratings.

Amends SECTION 7, Section 6(a), (b), (d), and (e), Article 8614, V.T.C.S., regarding civil actions as a result of violations of certain sections.

Amends SECTION 8, Section 7, Article 8614, V.T.C.S., regarding a civil penalty as a result of violations of certain sections.

Amends SECTION 9, Section 8, Article 8614, V.T.C.S., regarding violations of certain sections or rules.

Amends SECTION 13, Section 12.020(c), Agriculture Code, regarding penalty amounts for violations of certain provisions.