

SUBJECT: Repealing provisions relating to refrigerants and refrigerant substitutes

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — Smith, Kuempel, Geren, Guillen, Gutierrez, Miles, Price, S. Thompson  
0 nays  
1 absent — Gooden

SENATE VOTE: On final passage, March 13 — 31-0

WITNESSES: For — (*Registered, but did not testify*: David Mintz, Texas Apartment Association; Dan Shelley, Plumbing Heating Cooling Contractors)  
Against — None  
On — (*Registered, but did not testify*: William Kuntz, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code, ch. 1302, subch. H governs the sale and use of refrigerants. It requires purchasers, sellers, or users of refrigerants in the state to comply with the Clean Air Act, and requires that a person purchasing refrigerant have a license or a TDLR-issued certificate to purchase refrigerant.  
  
Sec. 1302.355 requires that a purchaser provide to the seller evidence of compliance with the applicable license or registration requirement. Sec. 1302.452(b) allows municipal air conditioning or refrigeration inspectors to issue citations to a person violating section 1302.355 (a).  
  
Sec. 1302.356 prohibits a person from selling a flammable refrigerant or refrigerant substitute containing liquid petroleum product for use in automotive, commercial, or residential air conditioning systems or from using these substances in any system relating to aircraft. Under sec. 1302.453, the purchase of such a refrigerant is a class C misdemeanor

(maximum fine of \$500). A person who purchases such a refrigerant for use in a motor vehicle in a manner authorized by the Environmental Protection Agency is excepted from prosecution.

Occupations Code, sec. 1302.002 (16) defines “refrigerant” as a class I or class II substance listed in 42 U.S.C. sec. 7671a, which includes substances that have an ozone depletion potential of 0.2 or greater and substances that reasonably may be anticipated to harm the stratospheric ozone layer.

**DIGEST:** SB 383 would repeal Occupations Code, ch. 1302, subch. H, governing the sale and use of refrigerants.

It would eliminate language from sec. 1302.453(a) that currently makes certain purchases of refrigerants or equipment containing refrigerants without the applicable license or registration an offense, and would repeal Occupations Code, sec. 1302.453(b), removing the exception from prosecution for the purchase of refrigerants.

The bill would repeal sec. 1302.452(b), removing the provision that currently allows a municipal inspector to issue a citation to a purchaser who attempts to purchase refrigerants without a license or certificate from TDLR.

The bill also would repeal the definition of “refrigerants” in Occupations Code, sec. 1302.002(16).

The Texas Commission of Licensing and Regulation would adopt rules necessary to implement the bill by May 1, 2014.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

**SUPPORTERS SAY:** SB 383 would eliminate provisions in Texas law that are redundant in light of federal regulations. Currently, refrigerant purchasers must have both a Texas license and a license issued by the Environmental Protection Agency (EPA) in order to buy such a chemical. In order to obtain the Texas license, applicants first must be certified by the EPA to handle refrigerants. SB 383 would require that these purchasers complied only with the federal rules and not the state requirements, saving TDLR time

and the license holders money.

The EPA is best equipped to issue rulings on the sale and use of refrigerants because it has more scientific expertise invested in determining which refrigerants and refrigerant substitutes pose a threat and which do not. The EPA also carries out enforcement actions against violators of regulations governing the sale of refrigerants, once again making redundant the enforcement actions in Occupations Code, ch. 1302.

**OPPONENTS  
SAY:**

Texas should not dismantle its separate licensing procedures for sellers of refrigerant. Current law gives the state more flexibility should legislators in the future direct TDLR to go further than the rules and guidelines set in place by the EPA on the sale of refrigerants.