

TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER TODD STAPLES
2010-2011 LEGISLATIVE APPROPRIATIONS REQUEST
CONSUMER PROTECTION

TDA's Role in Consumer Protection

TDA administers a wide range of consumer protection programs to safeguard the interests of consumers and to ensure fairness and equity in the marketplace. The objective of the weights and measures consumer protection program is to assure consumer goods are properly measured, weighed, labeled, and priced. Regulatory activities in the program include inspection and compliance verification of weights and measures devices (fuel pumps, scales, bulk meters, and truck scales), octane testing, price verification and random and standard package inspections.

A recent TDA investigation, called Operation Spotlight, revealed a significant violation pattern leading to concerns of consumer fraud and deceptive trade practices by a regulated entity. In light of the operation, TDA has identified imperative modifications that should be made in the weights and measures program to improve consumer protection, and has developed a revised, more risk-based approach to fulfilling this objective.

LAR Exceptional Item #2 – Consumer Protection

Approximately 95 percent of fuel pumps in Texas are found to be compliant. However, the five percent that are non-compliant pose a significant and unacceptable loss to Texas consumers. For this reason, TDA proposes a new approach to focusing the state's resources on the most egregious and high-risk violations. This exceptional item involves the implementation of a three-tiered approach to weights and measures regulation by 1) conducting routine inspections/audits using risk-assessed data, 2) conducting inspections based upon consumer complaints, and 3) conducting blitz operations (such as Operation Spotlight) based upon trend analysis.

Proposed changes to the regulatory framework include:

- Assigning resources to risk assessments for each retail company, retail location, and device service company;
- Conducting risk assessments based upon various factors including compliance history, consumer complaint history, the frequency of device servicing and calibration, the age of the device, and more;
- Determining routine inspection frequencies based upon this risk assessment;
- Enhancing record keeping requirements on all regulated entities;
- Enhancing octane testing and enforcement;
- And establishing a penalty enhancement schedule based upon repeat violations.

TDA Weights and Measures Funding Summary

| | 2008-2009 Biennium | 2010-2011 Biennium | | |
|------------------------|-----------------------|-----------------------|----------------------|-----------------------|
| | | Base | Exceptional Item #2 | Total LAR |
| General Revenue | \$7.03 million | \$7.66 million | \$1.4 million | \$9.06 million |
| Federal Funds | - | - | - | - |
| Other Funds | - | - | - | - |
| <i>Total</i> | <i>\$7.03 million</i> | <i>\$7.66 million</i> | <i>\$1.4 million</i> | <i>\$9.06 million</i> |