



TEXAS DEPARTMENT OF AGRICULTURE

RICK PERRY
Commissioner

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October 6, 1993

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The Honorable Dan Morales
Attorney General of Texas
209 West 14th Street
Austin, Texas 78701

ATTENTION:

Madeleine B. Johnson
Opinion Committee

RO-623

Dear General Morales:

There is some ambiguity concerning a Texas statute that deals with refueling services to disabled persons. TEX. REV. CIV. STAT. ANN. § 8613 (Vernon Supp. 1993). This section obligates operators of gasoline stations with both "full-serve" and "self-serve" facilities to provide refueling services at "self-serve" prices. These services must be provided to "a disabled driver of a vehicle that displays a special device or disabled person card." *Id.* (emphasis added). The statute seems to require that the driver must actually be disabled as well as display the disabled placard. Consequently, the statute may imply that a service station operator has the authority, or the duty, to determine whether the driver is actually disabled or the person to whom the disabled placard was issued. Additionally, § 8613(4)(a) requires the department to "provide a notice setting forth the provisions of this Act to each person . . . that operates a gasoline service station"

Another statute provides the requirements for obtaining a disabled placard and/or a special license plate, and it creates parking privileges as well as the offenses related to violations of the privilege. TEX. REV. CIV. STAT. ANN. § 6675a-5e.1 (Vernon Supp. 1993). This statute does not create any offenses regarding the use of the placard or license plate other than those related to parking, and § 8613 is silent regarding the unauthorized use of a disabled placard to obtain refueling services.

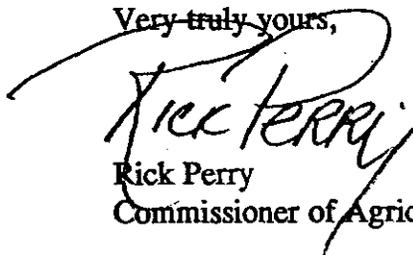
The department has received several questions regarding the application of § 8613. The questions have related to a driver requesting refueling services where the driver had no apparent disability, but the vehicle being driven has a disabled placard or license plate. We have had numerous constituents complain about alleged abuses of this law and we would like to be able to respond to their concerns.

Please provide us with your opinion on the following questions:

1. Is there any permissible means by which the operator of a gasoline service station may inquire as to whether the driver is disabled, or is the placard or license plate sufficient proof of disability?
2. Is it an offense for a person who is not disabled to obtain refueling services under § 8613 through the use of another person's disabled placard or license plate?

Thank you in advance for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rick Perry". The signature is written in a cursive, somewhat stylized font. It is positioned above the printed name and title.

Rick Perry
Commissioner of Agriculture

RP/GSC/KKZ/ppg