

THE ATTORNEY GENERAL

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Opinions

Opinion No. KP-0082

Mr. Allen Cline, Chairman

Texas State Board of Acupuncture Examiners

Post Office Box 2018

Austin, Texas 78768-2018

Re: Whether licensed physical therapists are authorized to practice trigger point dry needling (RQ-068-KP)

S U M M A R Y

A court would likely conclude that the Board of Physical Therapy Examiners has authority to determine that trigger point dry needling is within the scope of practice of physical therapy.

Opinion No. KP-0083

Ms. Jean L. Olinger, D.M., Presiding Officer

Texas Funeral Service Commission

Post Office Box 12217

Austin, Texas 78711

Re: Whether a county is responsible for costs associated with transporting a body from an autopsy to its final destination (RQ-0069-KP)

S U M M A R Y

A commissioners court is authorized to pay the cost of transporting a body to its final destination following an autopsy ordered by a justice of the peace only if a body is not claimed for burial or is to be buried at public expense and if the Anatomical Board of the State of Texas does not require the body. Otherwise, the cost of transporting the body to its final destination is the responsibility of the person with the legal duty to inter the deceased, or that person's agent.

Opinion No. KP-0084

The Honorable J.D. Lambright

Montgomery County Attorney

501 North Thompson, Suite 300

Conroe, Texas 77301

Re: Questions related to an emergency services district's sales and use tax election that failed to exclude territory where the sales tax was already capped at two percent (RQ-0070-KP)

S U M M A R Y

No relevant statutory provision authorizes the Montgomery County Emergency Services District #7, the East Montgomery County Improvement District, or the Economic Development Zone #4 to retroactively exclude from the May 2015 election territory with a tax rate that, when combined with the increased tax rate from the election, exceeds the two percent statutory cap on sales and use tax rates. The Texas Comptroller is without authority to selectively collect the sales tax in only the territory in which the combined sales tax rate does not exceed the cap.

Any of the districts are authorized to conduct a future election to, upon approval of its voters, abolish the sales and use tax or change the rate of a sales and use tax.

Opinion No. KP-0085

Ms. Kimberly Corley, Executive Director

Railroad Commission of Texas

Post Office Box 12967

Austin, Texas 78711-2967

Re: Whether the tax on crude oil petroleum produced in this State remains in effect in light of the Eighty-fourth Legislature's passage of Senate Bill 757 and House Bill 7 (RQ-0072-KP)

S U M M A R Y

Because the Legislature repealed section 81.111 of the Natural Resources Code and the authority to levy a tax was not reenacted or revived by other legislation, the tax on crude oil petroleum formerly levied by section 81.111 does not remain in effect after the effective date of its repeal.

Opinion No. KP-0086

The Honorable Drew Darby, Chair

Committee on Energy Resources

Texas House of Representatives

Post Office Box 2910

Austin, Texas 78768-2910

Re: The effect of section 113.054 of the Natural Resources Code on a political subdivision's authority to adopt ordinances relating to the liquefied petroleum gas industry (RQ-0073-KP)

S U M M A R Y

Section 113.054 of the Natural Resources Code preempts and supersedes existing local ordinances, orders, or rules without regard to their level of restriction or date of enactment, and without regard to whether the Texas Railroad Commission has adopted rules or standards governing a particular aspect or phase of the liquefied petroleum gas ("LPG") industry, absent the Commission's permission as otherwise provided by section 113.054.

A political subdivision may petition the Commission under section 113.054 for permission to promulgate local provisions relating to any aspect or phase of the LPG industry only when such local provisions would be more restrictive than the rules or standards adopted by the Commission.

For further information, please access the website at www.texasattorneygeneral.gov or call the Opinion Committee at (512) 463-2110.

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Office of the Attorney General
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