

BILL ANALYSIS

C.S.H.B. 3827
By: Hancock
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law requires owners and operators of underground storage tanks (USTs), such as gasoline retailers, to register the tank systems and self-certify compliance with TCEQ regulations in order to receive a certificate from TCEQ that indicates they can receive deliveries of fuel or other regulated substances. Under current law, tank owners or operators commit a Class A misdemeanor if they accept a delivery of fuel without having a proper delivery certificate.

Prior to the passage of S.B. 485 by the 79th Legislature, Regular Session, 2003, fuel transporters (also known as “common carriers”) also committed a Class A misdemeanor if they delivered fuel into a UST that did not have a proper delivery certificate.

Subsequent to passage of S.B. 485, the Federal Energy Act of 2005 required all states with EPA-approved delegated UST Programs to have a “delivery prohibition” that makes common carriers liable for delivery to uncertified tanks. C.S.H.B. 3827 is intended to bring Texas into compliance with current federal requirements. C.S.H.B. 3827 also provides a person an affirmative defense to prosecution if the person relied on certain information for delivering a regulated substance into a UST that does not have a proper delivery certificate.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 7.156 (c), Water Code, by adding subsection (c)(2) to make it an offense for a person to physically deliver any regulated substance into an underground storage tank that has not been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346, Water Code.

SECTION 2. Amends Subchapter F, Chapter 7, Water Code, by adding Section 7.256 DEFENSE TO DELIVERY OF REGULATED SUBSTANCE INTO UNDERGROUND STORAGE TANK to provide an affirmative defense to prosecution under Section 7.156(c)(2) that the person delivering a regulated substance into a UST relied on either a valid paper delivery certificate or a temporary delivery authorization presented by either the owner or operator of the UST or displayed at the facility associated with the UST; or relied on registration and self-certification information for the UST obtained from TCEQ's Internet website not more than 30 days before the date of delivery.

SECTION 3. Effective date.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. No change.

SECTION 2. C.S.H.B. 3827 differs from the original by adding Section 7.256 to provide an affirmative defense to prosecution that the person delivering a regulated substance into a UST relied either on a valid paper delivery certificate or temporary delivery authorization presented by either the owner or operator of the UST or displayed at the facility associated with the UST; or relied on registration and self-certification information for the UST displayed on TCEQ's website not more than 30 days before the date of delivery. C.S.H.B. 3827 also differs from the original by moving the effective date clause to SECTION 3.

SECTION 3. C.S.H.B. 3827 differs from the original by adding SECTION 3 and moving the effective date clause to this section. The effective date remains unchanged from the original.