

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Hancock

H.B. No. 3827

A BILL TO BE ENTITLED

AN ACT

relating to the delivery of regulated substances into underground storage tanks; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7.156(c), Water Code, is amended to read as follows:

(c) A person commits an offense if the person:

(1) is an owner or operator of an underground storage tank regulated under Chapter 26 into which any regulated substance is delivered unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346; or

(2) physically delivers any regulated substance into an underground storage tank regulated under Chapter 26 unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346.

SECTION 2. Subchapter F, Chapter 7, Water Code, is amended by adding Section 7.256 to read as follows:

Sec. 7.256. DEFENSE TO DELIVERY OF REGULATED SUBSTANCE INTO UNDERGROUND STORAGE TANK. It is an affirmative defense to prosecution under Section 7.156(c)(2) that the person delivering a regulated substance into an underground storage tank relied on:

(1) a valid paper delivery certificate presented by

1 the owner or operator of the underground storage tank or displayed  
2 at the facility associated with the underground storage tank;

3           (2) a temporary delivery authorization presented by  
4 the owner or operator of the underground storage tank or displayed  
5 at the facility associated with the underground storage tank; or

6           (3) registration and self-certification information  
7 for the underground storage tank obtained from the commission's  
8 Internet website not more than 30 days before the date of delivery.

9           SECTION 3. This Act takes effect September 1, 2009.

# ADOPTED

FLOOR AMENDMENT NO. 1

MAY 27 2009

BY: William

*Patry Spaul*  
Secretary of the Senate

1 Amend H.B. 3827 (senate committee printing) by adding the  
2 appropriately numbered SECTION to the bill and renumbering  
3 subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. Subchapter F, Chapter 7, Water Code, is  
5 amended by adding Sec. 16.007 to read as follows:

6 Sec. 7.257. DEFENSE TO MANUFACTURE OF REGULATED SUBSTANCE.

7 (a) Notwithstanding any other law, a manufacturer of a substance  
8 delivered into a tank regulated under Sec. 7.156 may raise as an  
9 affirmative defense to any claims for responsibility for the  
10 properties of the substance that the substance was manufactured  
11 in strict accordance with state or federal specifications.

# ADOPTED

MAY 27 2009

FLOOR AMENDMENT NO. 2

*Atay Law* BY: *Nichols*  
Secretary of the Senate

1 Amend H.B. 3827 (senate committee report) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly

4 SECTION \_\_\_\_ (a) As soon as practicable after the  
5 effective date of this Act, the Texas Commission on  
6 Environmental Quality shall adopt rules regulating the surface  
7 facilities associated with new commercial wells that propose to  
8 accept nonhazardous industrial waste for which a permit has not  
9 been issued on or before the effective date of this Act. In  
10 this section:

11 (1) "Commercial well" means a Class I injection well,  
12 as defined by commission rule, that a person may use to dispose  
13 of hazardous or nonhazardous industrial solid wastes for a  
14 charge. The term does not include:

15 (A) an injection well that is part of an  
16 integrated waste management unit of a captured facility; or

17 (B) an injection well at which only waste from  
18 facilities owned or effectively controlled by the same person is  
19 disposed.

20 (2) "Captured facility" means a manufacturing or  
21 production facility that generates an industrial solid waste or  
22 hazardous waste that is routinely stored, processed, or disposed  
23 of on a shared basis in an integrated waste management unit  
24 owned by, operated by, and located within a contiguous  
25 manufacturing complex.

26 (b) The rules adopted under Subsection (a) of this section  
27 may not apply to an application for a permit for an injection  
28 well:

29 (1) used solely for the sequestration or capture of

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1 carbon dioxide; or

2 (2) for which the surface facilities are associated  
3 with a well for which a permit is issued before the effective  
4 date of this Act.

5 (c) The Texas Commission on Environmental Quality shall  
6 provide that the rules adopted under Subsection (a) apply to  
7 every application for a permit for a new commercial underground  
8 injection control well that proposes to accept industrial or  
9 municipal waste that is filed on or after the effective date of  
10 this Act.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 28, 2009**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3827** by Hancock (Relating to the delivery of regulated substances into underground storage tanks; providing a penalty. ), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would create a criminal penalty for any person who physically delivers regulated substance into an underground storage tank (UST) regulated under Texas Water Code, Chapter 26, which has not been issued a valid, current registration and certificate of compliance. Violation of this proposed criminal sanction would be punishable as a Class A misdemeanor. The bill would also provide a defense to prosecution in certain cases, including if the substance was manufactured in strict accordance with state or federal specifications.

The bill would require the Texas Commission on Environmental Quality (TCEQ) to adopt rules regulating the surface facilities associated with new commercial injection wells that propose to accept nonhazardous industrial waste for which a permit has not been issued on or before the effective date of the bill. The rules would apply to every application for a permit for a new well that is filed on or after the effective date.

No significant fiscal impact to the state is expected as a result of the bill's passage.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, SZ, TL





**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**May 20, 2009**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3827** by Hancock (Relating to the delivery of regulated substances into underground storage tanks; providing a penalty.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
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This bill would create a criminal penalty for any person who physically delivers regulated substance into an underground storage tank (UST) regulated under Texas Water Code, Chapter 26, which has not been issued a valid, current registration and certificate of compliance. Violation of this proposed criminal sanction would be punishable as a Class A misdemeanor. The bill would also provide a defense to prosecution in certain cases.

No significant fiscal impact to the state is expected as a result of the bill's passage.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SD, SZ, TL



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 10, 2009**

**TO:** Honorable Byron Cook, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3827** by Hancock (relating to the delivery of regulated substances into underground storage tanks; providing a penalty.), **Committee Report 1st House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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This bill would create a criminal penalty for any person who physically delivers regulated substance into an underground storage tank (UST) regulated under Texas Water Code, Chapter 26, which has not been issued a valid, current registration and certificate of compliance. Violation of this proposed criminal sanction would be punishable as a Class A misdemeanor. The bill would also provide a defense to prosecution in certain cases.

No significant fiscal impact to the state is expected as a result of the bill's passage.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, SZ, TL, WK

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 30, 2009**

**TO:** Honorable Byron Cook, Chair, House Committee on Environmental Regulation

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3827** by Hancock (Relating to the delivery of regulated substances into underground storage tanks; providing a penalty.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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This bill would create a criminal penalty for any person who physically delivers regulated substance into an underground storage tank (UST) regulated under Texas Water Code, Chapter 26, which has not been issued a valid, current registration and certificate of compliance. Violation of this proposed criminal sanction would be punishable as a Class A misdemeanor.

No significant fiscal impact to the state is expected as a result of the bill's passage.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 582 Commission on Environmental Quality

**LBB Staff:** JOB, WK, TL

