

By: King of Zavala

H.B. No. 2997

A BILL TO BE ENTITLED

AN ACT

relating to regulation by the Texas Commission on Environmental  
Quality of the land application of Class B sludge.

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

SECTION 1. The heading to Section 361.121, Health and  
Safety Code, is amended to read as follows:

Sec. 361.121. LAND APPLICATION OF CERTAIN SLUDGE;  
REGISTRATION [~~PERMIT~~] REQUIRED.

SECTION 2. Sections 361.121(b), (c), (d), (e), (f), (g),  
(h), (j), (k), (l), (n), and (o), Health and Safety Code, are  
amended to read as follows:

(b) A [~~Except as provided by Subsection (m), a~~] responsible  
person may not apply Class B sludge on a land application unit  
unless the responsible person has obtained a registration  
certificate [~~permit~~] for that land application unit issued by the  
commission under this section [~~on or after September 1, 2003~~].

(c) The notice and hearing provisions of Subchapter M,  
Chapter 5, Water Code, do not [~~as added by Chapter 1350, Acts of the~~  
~~76th Legislature, Regular Session, 1999,~~] apply to an application  
under this section for registration or for an [~~a permit, a permit~~]  
amendment[~~7~~] or [~~a permit~~] renewal of registration. [~~In addition,~~  
~~at the time published notice of intent to obtain a permit is~~  
~~required under Section 5.552, Water Code, an applicant for a~~  
~~permit, permit amendment, or permit renewal under this section must~~

1 ~~notify by registered or certified mail each owner of land located~~  
2 ~~within one-quarter mile of the proposed land application unit who~~  
3 ~~lives on that land of the intent to obtain the permit, amendment, or~~  
4 ~~renewal. Notice to landowners must include the information~~  
5 ~~required by Section 5.552(c), Water Code, and information regarding~~  
6 ~~the anticipated date of the first application of the sludge to the~~  
7 ~~proposed land application unit. An owner of land located within~~  
8 ~~one-quarter mile of the proposed land application unit who lives on~~  
9 ~~that land is an affected person for purposes of Section 5.115, Water~~  
10 ~~Code.]~~

11 (d) In each registration certificate [~~permit~~], the  
12 commission shall prescribe the conditions under which it is issued,  
13 including:

- 14 (1) the duration of the registration [~~permit~~];  
15 (2) the location of the land application unit;  
16 (3) the maximum quantity of Class B sludge that may be  
17 applied or disposed of under the registration [~~permit~~];

18 (4) a requirement that the registration certificate  
19 [~~permit~~] holder submit quarterly to the commission a  
20 computer-generated report that includes, at a minimum, information  
21 regarding:

22 (A) the source, quality, and quantity of sludge  
23 applied to the land application unit;

24 (B) the location of the land application unit,  
25 either in terms of longitude and latitude or by physical address,  
26 including the county;

27 (C) the date of delivery of Class B sludge;

1 (D) the date of application of Class B sludge;

2 (E) the cumulative amount of metals applied to  
3 the land application unit through the application of Class B  
4 sludge;

5 (F) crops grown at the land application unit  
6 site; and

7 (G) the suggested agronomic application rate for  
8 the Class B sludge;

9 (5) a requirement that the registration certificate  
10 [~~permit~~] holder submit annually to the commission evidence that the  
11 [~~permit~~] holder is complying with the nutrient management plan and  
12 the practice standards described by Subsection (h)(4);

13 (6) a requirement that the registration certificate  
14 [~~permit~~] holder post a sign that is visible from a road or sidewalk  
15 that is adjacent to the premises on which the land application unit  
16 is located stating that a beneficial application site is located on  
17 the premises;

18 (7) any other monitoring and reporting requirements  
19 prescribed by the commission for the registration certificate  
20 [~~permit~~] holder; and

21 (8) a requirement that the registration certificate  
22 [~~permit~~] holder must report to the commission any noncompliance by  
23 the [~~permit~~] holder with the registration [~~permit~~] conditions or  
24 applicable commission rules.

25 (e) A registration [~~permit~~] does not become a vested right  
26 in the registration certificate [~~permit~~] holder.

27 (f) A registration certificate [~~permit~~] may be issued under

1 this section for a term set by the board not to exceed six years from  
2 the date of issuance.

3 (g) The commission shall charge a fee for the issuance of a  
4 registration certificate [~~permit~~] under this section in an amount  
5 not less than \$1,000 and not more than \$5,000. In determining the  
6 fee under this subsection, the commission shall consider the amount  
7 of sludge to be applied under the registration [~~permit~~].

8 (h) The commission by rule shall require an applicant for  
9 registration [~~a permit~~] under this section to submit with the  
10 application, at a minimum:

11 (1) information regarding:

12 (A) the applicant;

13 (B) the source, quality, and quantity of sludge  
14 to be applied; and

15 (C) the hydrologic characteristics of the  
16 surface water and groundwater at and within one-quarter of a mile of  
17 the land application unit;

18 (2) proof evidencing that the applicant has a  
19 commercial liability insurance policy that:

20 (A) is issued by an insurance company authorized  
21 to do business in this state that has a rating by the A. M. Best  
22 Company of A- or better;

23 (B) designates the commission as an additional  
24 insured; and

25 (C) is in an amount of not less than \$3 million;

26 (3) proof evidencing that the applicant has an  
27 environmental impairment insurance policy or similar insurance

1 policy that:

2 (A) is issued by an insurance company authorized  
3 to do business in this state that has a rating by the A. M. Best  
4 Company of A- or better;

5 (B) designates the commission as an additional  
6 insured; and

7 (C) is in an amount of not less than \$3 million;  
8 and

9 (4) proof that the applicant has minimized the risk of  
10 water quality impairment caused by nitrogen applied to the land  
11 application unit through the application of Class B sludge by  
12 having had a nutrient management plan prepared by a certified  
13 nutrient management specialist in accordance with the practice  
14 standards of the Natural Resources Conservation Service of the  
15 United States Department of Agriculture.

16 (j) A registration certificate [~~permit~~] holder must  
17 maintain an insurance policy required by Subsection (h) in effect  
18 for the duration of the registration [~~permit~~].

19 (k) The commission shall create and operate a tracking  
20 system for the land application of Class B sludge. The commission  
21 shall require a registration certificate [~~permit~~] holder to report  
22 deliveries and applications of Class B sludge using the tracking  
23 system and shall post the reported information on its website. The  
24 tracking system must allow a registration certificate [~~permit~~]  
25 holder to report electronically:

26 (1) the date of delivery of Class B sludge to a land  
27 application unit; and

1           (2) for each application of Class B sludge to a land  
2 application unit:

3                   (A) the date of the application; and

4                   (B) the source, quality, and quantity of the  
5 sludge applied.

6           (1) A registration certificate [~~permit~~] holder may not  
7 accept Class B sludge unless the sludge has been transported to the  
8 land application unit in a covered container with the covering  
9 firmly secured at the front and back.

10           (n) The insurance requirements under Subsections (h)(2) and  
11 (3) do not apply to an applicant that is:

12                   (1) a political subdivision; or

13                   (2) a small business, as defined by Section 2006.001,  
14 Government Code, that owns the land application unit.

15           (o) The commission may not issue a registration certificate  
16 [~~permit~~] under this section for a land application unit that is  
17 located both:

18                   (1) in a county that borders the Gulf of Mexico; and

19                   (2) 500 feet or less from any water well or surface  
20 water.

21           SECTION 3. Section 361.121(m), Health and Safety Code, is  
22 repealed.

23           SECTION 4. (a) The changes in law made by this Act apply  
24 only to an application to apply Class B sludge to a land application  
25 unit that is:

26                   (1) filed with the Texas Commission on Environmental  
27 Quality on or after the effective date of this Act; or

1           (2) filed with the Texas Commission on Environmental  
2 Quality before the effective date of this Act but not found to be  
3 administratively complete before that date.

4           (b) A person who holds a permit for the application of Class  
5 B sludge approved by the Texas Commission on Environmental Quality  
6 before the effective date of this Act may apply Class B sludge in  
7 accordance with the terms of the permit.

8           SECTION 5. This Act takes effect September 1, 2013.