

BILL ANALYSIS

Senate Research Center
84R21001 JTS-D

H.B. 942
By: Kacal et al. (Birdwell)
Natural Resources & Economic Development
5/12/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recent emergency events in Texas have caused the laws relating to oversight and regulation of certain hazardous chemicals to come under public scrutiny. Such laws are potentially confusing because of the patchwork of various agencies and regulatory bodies to which the laws apply. H.B. 942 seeks to clarify the law in this regard and reduce the possibility of the reoccurrence of a disastrous hazardous chemical event.

In order to clarify the law, H.B. 942 authorizes certified fire marshals to inspect ammonium nitrate facilities to look for common life or safety hazards, authorizes local fire departments to undertake pre-fire planning assessments, transfers the Tier II chemical reporting process from the Department of State Health Services to the more aptly suited Texas Commission on Environmental Quality, and codifies the rules that were created by the State Chemist's Office to ensure safety and proper storage at ammonium nitrate facilities.

H.B. 942 amends current law relating to the storage of certain hazardous chemicals, transfers enforcement of certain reporting requirements, including the imposition of criminal, civil, and administrative penalties, from the Department of State Health Services to the Texas Commission on Environmental Quality, amends provisions subject to a criminal penalty, and reenacts a criminal offense.

[NOTE: While the statutory reference in this bill is to the Texas Department of Health (TDH), the following amendments affect the Department of State Health Services, as the successor to TDH.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Health is transferred to the Texas Commission on Environmental Quality in SECTION 6 (Section 505.006, Health and Safety Code), SECTION 11 (Section 505.016, Health and Safety Code), SECTION 20 (Section 506.017, Health and Safety Code), and SECTION 30 (Section 507.013, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 63.151, Agriculture Code, by adding Subdivisions (3), (4), and (5) to define "ammonium nitrate storage facility," "fire marshal," and "operator."

SECTION 2. Amends Subchapter I, Chapter 63, Agriculture Code, by adding Section 63.158, as follows:

Sec. 63.158. FIRE PREVENTION AT AMMONIUM NITRATE STORAGE FACILITIES. (a) Requires the owner or operator of an ammonium nitrate storage facility on request to, at a reasonable time, allow a fire marshal to enter the facility to make a thorough examination of the facility, and allow the local fire department access to the facility to perform a pre-fire planning assessment.

(b) Requires a fire marshal who determines the presence of one or more of the following hazardous conditions that endangers the safety of a structure or its

occupants by promoting or causing fire or combustion to notify the owner or operator of the facility of the need to correct the condition and sets forth those hazardous conditions.

(c) Requires the owner or operator of an ammonium nitrate storage facility to, on request by a fire marshal or Texas Feed and Fertilizer Control Service (service) provide evidence of compliance with Chapter 505 (Manufacturing Facility Community Right-To-Know Act) or 507 (Nonmanufacturing Facilities Community Right-To-Know Act), Health and Safety Code, as applicable, and United States Department of Homeland Security registration requirements; post National Fire Protection Association 704 warning placards on the outside of the storage area; store ammonium nitrate or ammonium nitrate material in a fertilizer storage compartment or bin constructed of wood, metal, or concrete that is protected against impregnation by the ammonium nitrate or ammonium nitrate material, and separately from any non-fertilizer materials; and separate ammonium nitrate or ammonium nitrate material from combustible or flammable material by 30 feet or more.

(d) Requires a fire marshal who identifies the existence of a hazardous condition under Subsection (b) or a violation of Subsection (a) or (c) to notify the service of the condition or violation.

(e) Authorizes the service to direct the owner or operator of the facility to correct the condition, if notified by a fire marshal of a hazardous condition under Subsection (b).

(f) Requires the service to direct the owner or operator of the facility to correct the violation as provided by Subsection (g), or take appropriate enforcement action as authorized by this chapter, if notified by the fire marshal of a violation of Subsection (a) or (c).

(g) Requires an owner or operator to remedy the condition or violation before the expiration of a period specified by the service, which is prohibited from exceeding 10 days, if directed by the service to correct a hazardous condition or a violation. Requires the service to take appropriate enforcement action as authorized by this chapter, if the service determines that the condition or violation has not been remedied before the expiration of the specified period.

(h) Provides that Section 419.909(b) (relating to fire safety inspections being conducted in accordance with the most recent local fire code or the most recent fire code adopted by the state fire marshal), Government Code, does not apply to an examination of an ammonium nitrate storage facility by a fire marshal under this section.

SECTION 3. Amends Section 505.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to the Texas Department of Health (TDH) to the Texas Commission on Environmental Quality (TCEQ).

SECTION 4. Amends Section 505.004, Health and Safety Code, by amending Subdivisions (3-a) and (8-a) as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amends Subdivisions (12) and (23), as follows:

(3-a) Defines "commission."

(8-a) Defines "executive director."

(12) Redefines "fire chief."

(23) Redefines "tier two form." Changes references to TDH to TCEQ.

SECTION 5. Amends Section 505.005(d), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(d) Requires TCEQ, rather than TDH, to develop and implement an outreach program concerning the public's ability to obtain information under this chapter similar to the outreach program under Section 502.008 (Outreach Program).

SECTION 6. Amends Section 505.006, Health and Safety Code, by amending Subsections (a), (c), and (f), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (e) and (g) and adding Subsections (e-1) and (e-2), as follows:

(a) Changes a reference to TDH to TCEQ.

(c) Requires that each tier two form be filed annually with TCEQ, along with the appropriate fee, according to the procedures specified by TCEQ rule, rather than TDH rule. Deletes existing text requiring the facility operator to furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.

(e) Requires a facility operator to file the tier two form with TCEQ, rather than the TDH, not later than the 90th day after the date on which the operator begins operation or has a reportable addition, at the appropriate threshold, of a previously unreported hazardous chemical or extremely hazardous substance, except as provided by Section 505.0061(c).

(e-1) Requires a facility operator to file an updated tier two form with TCEQ no later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance, and as otherwise required by TCEQ rule, except as provided by Section 505.0061(c).

(e-2) Requires a facility operator to furnish a copy of each tier two form and updated tier two form filed with TCEQ under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. Makes a conforming change regarding deleted text.

(f) Changes references to TDH to TCEQ.

(g) Changes a reference to TDH to TCEQ.

SECTION 7. Amends Chapter 505, Health and Safety Code, by adding Section 505.0061, as follows:

Sec. 505.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) Defines "ammonium nitrate" and "ammonium nitrate storage facility."

(b) Requires TCEQ to furnish a copy of the form to the state fire marshal and the Texas Division of Emergency Management (TDEM) as soon as practicable but not later than 72 hours after TCEQ receives a tier two form reporting the presence of ammonium nitrate at an ammonium nitrate storage facility. Requires the state fire marshal to furnish a copy of the form to the chief of the fire department having jurisdiction over the facility. Requires TDEM to furnish a copy of the form to the appropriate local emergency planning committee.

(c) Requires that the operator of an ammonium nitrate storage facility to file a tier two form with TCEQ not later than 72 hours after the operator begins operation, or has a reportable addition, at the appropriate threshold, of previously unreported ammonium nitrate, and file an updated tier two form no later than 72 hours after the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of previously reported ammonium nitrate.

SECTION 8. Amends Sections 505.007(c) and (d), Health and Safety Code, to change references to TDH to TCEQ.

SECTION 9. Amends Section 505.008(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to commissioner of state health services to the executive director of TCEQ.

SECTION 10. Amends Section 505.009, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to a TDH representative to a TCEQ representative.

SECTION 11. Amends Section 505.016, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 505.016. RULES; FEES. (a) Authorizes TCEQ, rather than the executive commissioner of the Health and Human Services Commission (executive commissioner), to adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) Changes a reference to the executive commissioner to TCEQ.

(c) Changes a reference to the executive commissioner to TCEQ.

(d) Authorizes TCEQ, rather than TDH, to use up to 20 percent of the fees collected under this section as grants to local emergency planning committees to assist them to fulfill their responsibilities under EPCRA. Authorizes an amount not to exceed 15 percent of the fees collected under this chapter and Chapter 506 (Public Employer Community Right-To-Know Act), or 15 percent of the amount of fees paid by the state and its political subdivisions under Chapter 506, whichever is greater, to be used by the Department of State Health Services (DSHS) to administer Chapter 502 (Hazard Communication Act). Deletes existing text authorizing TDH to use up to 15 percent of the amount of fees paid by the state and its political subdivisions under Chapter 506, whichever is greater, to be used by the Department of State Health Services (DSHS) to administer Chapter 502 (Hazard Communication Act). Deletes existing text authorizing TDH to use up to 15 percent of the fees collected under this chapter and Chapter 506 or the amount of fees paid by the state and its political subdivisions under Chapter 506, whichever is greater, to administer Chapter 502.

SECTION 12. Amends Chapter 505, Health and Safety Code, by adding Section 505.018, as follows:

Sec. 505.018. ENFORCEMENT. (a) Prohibits a facility operator from violating this chapter, TCEQ rules adopted under this chapter, or an order issued under this chapter.

(b) Authorizes TCEQ to enforce this chapter under Chapter 7 (Enforcement), Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.

SECTION 13. Amends Section 506.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to hazardous chemical to hazardous chemicals and to change a reference to TDH to TCEQ.

SECTION 14. Amends Section 506.004, Health and Safety Code, by amending Subdivisions (3-a) and (8-a) as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (12) and (24), as follows:

(3-a) Defines "commission," rather than "commissioner."

(8-a) Defines "executive director," rather than "executive commissioner."

(12) Redefines "fire chief."

(24) Redefines "tier two form."

SECTION 15. Amends Section 506.005(d), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to require TCEQ, rather than TDH, to develop and implement an outreach program concerning the public's ability to obtain information under this chapter similar to the outreach program under Section 502.008.

SECTION 16. Amends Section 506.006, Health and Safety Code, by amending Subsections (a), (c), and (e), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (d) and (f), and adding Subsections (d-1) and (d-2), as follows:

(a) Changes a reference to TDH to TCEQ.

(c) Requires that each tier two form be filed annually with TCEQ, along with the appropriate fee, according to the procedures specified by TCEQ, rather than TDH, rules.

Deletes existing text requiring the facility operator to furnish a copy of each tier two form to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee.

(d) Changes a reference to TDH to TCEQ.

(d-1) Requires a facility operator to file an updated tier two form with TCEQ no later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance, and as otherwise required by TCEQ rule.

(d-2) Requires a facility operator to furnish a copy of each tier two form and updated tier two form filed with TCEQ under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. Makes a conforming change regarding deleted text.

(e) and (f) Changes references to TDH to TCEQ.

SECTION 17. Amends Sections 506.007(c) and (d), Health and Safety Code, to change references to TDH to TCEQ.

SECTION 18. Amends Section 506.008(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to the commissioner of state health services to the executive director of TCEQ.

SECTION 19. Amends Section 506.009, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to a TDH representative to a TCEQ representative.

SECTION 20. Amends Section 506.017, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 506.017. RULES; FEES. (a) Authorizes TCEQ, rather than the executive commissioner, to adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) and (c) Changes references to the executive commissioner to TCEQ.

(d) Authorizes TCEQ to use up to 20 percent of the fees collected under this section as grants to local emergency planning committees to assist them to fulfill

their responsibilities under EPCRA. Authorizes an amount not to exceed 15 percent of the fees collected under Chapter 505 and this chapter, or 15 percent of the amount of fees paid by the state and its political subdivisions under this chapter, whichever is greater, to be used by DSHS to administer Chapter 502. Deletes a reference to TDH regarding fees collected.

SECTION 21. Amends Chapter 506, Health and Safety Code, by adding Section 506.018, as follows:

Sec. 506.018. ENFORCEMENT. (a) Prohibits a facility operator from violating this chapter, TCEQ rules adopted under this chapter, or an order issued under this chapter.

(b) Authorizes TCEQ to enforce this chapter under Chapter 7, Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.

SECTION 22. Amends Section 507.002(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to TDH to TCEQ.

SECTION 23. Amends Section 507.003, Health and Safety Code, as follows:

Sec. 507.003. FEDERAL LAWS AND REGULATIONS. (a) Creates this subsection from existing text. Provides that in this chapter, a reference to a federal law or regulation means a reference to the most current version of that law or regulation.

(b) Provides that in this chapter, a reference to the North American Industry Classification System (NAICS) means a reference to the most current version of that system.

SECTION 24. Amends Sections 507.004, Health and Safety Code, by amending Subdivisions (3-a) and (8-a), as added by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, and amending Subdivisions (10), (12), and (23), as follows:

(3-a) Defines "commission."

(8-a) Defines "executive director."

(10) Redefines "facility."

(12) Redefines "fire chief."

(23) Redefines "tier two form."

SECTION 25. Amends Sections 507.005, Health and Safety Code, by amending Subsection (a) and amending Subsection (d), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

(a) Requires facility operators whose facilities are in North American Industry Classification System (NAICS) Codes 11-23 or NAICS Codes 42-92 and who are not subject to Chapter 506, rather than Chapter 505 or 506, to comply with this chapter.

(d) Requires TCEQ, rather than TDH, to develop and implement an outreach program concerning the public's ability to obtain information under this chapter similar to the outreach program under Section 502.008.

SECTION 26. Amends Section 507.006, Health and Safety Code, by amending Subsections (a), (c), and (f), as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, amending Subsections (e) and (g), and adding Subsections (e-1) and (e-2), as follows:

(a) Changes a reference to TDH to TCEQ.

(c) Requires that each tier two form be filed annually with TCEQ, along with the appropriate fee, according to the procedures specified by TCEQ rules, rather than TDH rules. Makes a conforming change regarding deleted text.

(e) Requires a facility operator to file the tier two form with TCEQ, rather than the TDH, not later than the 90th day after the date on which the operator begins operation or has a reportable addition, at the appropriate threshold, of a previously unreported hazardous chemical or extremely hazardous substance, except as provided by Section 507.0061(c).

(e-1) Requires a facility operator to file an updated tier two form with TCEQ no later than the 90th day after the date on which the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of a previously reported hazardous chemical or extremely hazardous substance, and as otherwise required by TCEQ rule, except as provided by Section 507.0061(c).

(e-2) Requires a facility operator to furnish a copy of each tier two form and updated tier two form filed with TCEQ under this section to the fire chief of the fire department having jurisdiction over the facility and to the appropriate local emergency planning committee. Makes a conforming change regarding deleted text.

(f) Changes references to TDH to TCEQ.

(g) Changes a reference to TDH to TCEQ.

SECTION 27. Amends Chapter 507, Health and Safety Code, by adding Section 507.0061, as follows:

Sec. 507.0061. REPORTING FOR FACILITIES STORING AMMONIUM NITRATE USED IN FERTILIZER. (a) Defines "ammonium nitrate" and "ammonium nitrate storage facility."

(b) Requires TCEQ to furnish a copy of the tier two form to the state fire marshal and TDEM as soon as practicable but not later than 72 hours after TCEQ receives a tier two form reporting the presence of ammonium nitrate at an ammonium nitrate storage facility. Requires the state fire marshal to furnish a copy of the form to the chief of the fire department having jurisdiction over the facility. Requires TDEM to furnish a copy of the form to the appropriate local emergency planning committee.

(c) Requires the operator of an ammonium nitrate storage facility to file a tier two form with TCEQ not later than 72 hours after the operator begins operation or has a reportable addition, at the appropriate threshold, of previously unreported ammonium nitrate, and an updated tier two form with TCEQ no later than 72 hours after the operator has a change in the chemical weight range, as listed in 40 C.F.R. Part 370, of previously reported ammonium nitrate.

SECTION 28. Amends Section 507.007(b), Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to the commissioner of state health services to the executive director of TCEQ.

SECTION 29. Amends Section 507.008, Health and Safety Code, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, to change a reference to TDH to TCEQ.

SECTION 30. Amends Section 507.013, as amended by S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015, Health and Safety Code, as follows:

Sec. 507.013. RULES; FEES. (a) Authorizes TCEQ, rather than the executive commissioner, to adopt rules and administrative procedures reasonably necessary to carry out the purposes of this chapter.

(b) and (c) Changes references to the executive commissioner to TCEQ.

(d) Changes a reference to TDH to TCEQ.

SECTION 31. Amends Chapter 507, Health and Safety Code, by adding Section 507.014, as follows:

Sec. 507.014. ENFORCEMENT. (a) Prohibits a facility operator from violating this chapter, TCEQ rules adopted under this chapter, or an order issued under this chapter.

(b) Authorizes TCEQ to enforce this chapter under Chapter 7, Water Code, including by issuing an administrative order that assesses a penalty or orders a corrective action.

SECTION 32. Amends Section 5.013(a), Water Code, to include responsibilities assigned to TCEQ by Chapters 361, 363, 382, 401, 505, 506, and 507, Health and Safety Code, to the general jurisdiction of TCEQ.

SECTION 33. Amends Section 7.052, Water Code, by adding Subsection (b-4), as follows:

(b-4) Prohibits the amount of the penalty against a facility operator who violates of Chapter 505, Health and Safety Code, or a rule adopted or order issued under that chapter from exceeding \$500 a day for each day a violation continues with a total not to exceed \$5,000 for each violation. Prohibits the amount of a penalty against a facility operator who violates Chapter 506 or 507, Health and Safety Code, or a rule adopted or order issued under those chapters from exceeding \$50 a day for each day a violation continues with a total not to exceed \$1,000 for each violation.

SECTION 34. Amends Subchapter D, Chapter 7, Water Code, by adding Section 7.1021, as follows:

Sec. 7.1021. MAXIMUM CIVIL PENALTY: VIOLATION OF COMMUNITY RIGHT-TO-KNOW LAWS. (a) Provides that a person who knowingly discloses false information or negligently fails to disclose a hazard as required by Chapter 505 or 506, Health and Safety Code, is subject to a civil penalty of not more than \$5,000 for each violation.

(b) Provides that this section does not affect any other right of a person to receive compensation under other law.

SECTION 35. Amends Subchapter E, Chapter 7, Water Code, by adding Section 7.1851, as follows:

Sec. 7.1851. VIOLATIONS RELATING TO COMMUNITY RIGHT-TO-KNOW LAWS. (a) Provides that a person who proximately causes an occupational disease or injury to an individual by knowingly disclosing false information or knowingly failing to disclose hazard information as required by Chapter 505, or 506, Health and Safety Code, commits an offense punishable by a fine not more than \$25,000.

(b) Provides that this section does not affect any other right of a person to receive compensation under other law.

SECTION 36. Repealer: Section 505.004(2) (defining "board"), (5) (defining "department"), (6) (defining "director"), Health and Safety Code.

Repealer: Section 505.008(c) (relating to the required implementation of the National Fire Protection Association 704 identification system under certain circumstances), Health and Safety Code.

Repealer: Section 505.010 (Administrative Penalty), Health and Safety Code.

Repealer: Section 505.011 (Administrative Penalty Assessment Procedure), Health and Safety Code.

Repealer: Section 505.012 (Payment of Administrative Penalty; Judicial Review), Health and Safety Code.

Repealer: Section 505.013 (Civil Penalties), Health and Safety Code.

Repealer: Section 505.014 (Criminal Penalties), Health and Safety Code.

Repealer: Section 506.004(2) (defining "board"), (5) (defining "department"), (6) (defining "director"), Health and Safety Code.

Repealer: Section 506.008(c) (relating to the required implementation of the National Fire Protection Association 704 identification system under certain circumstances), Health and Safety Code.

Repealer: Section 506.010 (Administrative Penalty), Health and Safety Code.

Repealer: Section 506.011 (Administrative Penalty Assessment Procedure), Health and Safety Code.

Repealer: Section 506.012 (Payment of Administrative Penalty; Judicial Review), Health and Safety Code.

Repealer: Section 506.013 (Refund of Administrative Penalty), Health and Safety Code.

Repealer: Section 506.014 (Recovery of Administrative Penalty by Attorney General), Health and Safety Code.

Repealer: Section 506.015 (Civil Penalties), Health and Safety Code.

Repealer: Section 506.016 (Criminal Penalties), Health and Safety Code.

Repealer: Section 507.004(2) (defining "board"), (5) (defining "department"), (6) (defining "director"), Health and Safety Code.

Repealer: Section 507.007(c) (relating to the required implementation of the National Fire Protection Association 704 identification system under certain circumstances), Health and Safety Code.

Repealer: Section 507.009 (Administrative Penalty), Health and Safety Code.

Repealer: Section 507.010 (Administrative Penalty Assessment Procedure), Health and Safety Code.

Repealer: Section 507.011 (Payment of Administrative Penalty; Judicial Review), Health and Safety Code.

SECTION 37. (a) Provides that on September 1, 2015, the following are transferred to TCEQ:

(1) the powers, duties, obligations, and liabilities, of DSHS relating to Chapters 505, 506, and 507, Health and Safety Code;

- (2) all unobligated and unexpended funds appropriated to DSHS designated for the administration of Chapters 505, 506, and 507, Health and Safety Code;
- (3) all equipment and property of DSHS used solely or primarily for the administration of Chapters 505, 506, and 507, Health and Safety Code;
- (4) all files and other records of DSHS kept by DSHS relating to the administration of Chapters 505, 506, and 507, Health and Safety Code; and
- (5) employees of DSHS whose duties related solely or primarily to the administration of Chapters 505, 506, and 507, Health and Safety Code.

(b) Provides that a rule adopted by DSHS that is in effect immediately before September 1, 2015, and that relates to Chapters 505, 506, and 507, Health and Safety Code, is, on September 1, 2015, a rule of TCEQ and remains in effect until amended or repealed by TCEQ. Provides that a complaint, investigation, enforcement proceeding, or other proceeding pending before DSHS on September 1, 2015, is continued by DSHS without change in status after the effective date of this Act.

(c) Authorizes DSHS to agree with TCEQ to transfer any property of DSHS to TCEQ to implement the transfer required by this Act.

SECTION 38. (a) Effective date, except as otherwise provided by this Act: September 1, 2015.

(b) Effective date, Sections 63.151(3), (4), and (5) and Section 63.158, Agriculture Code, as added by this Act: upon passage or September 1, 2015.