

BILL ANALYSIS

Senate Research Center

H.B. 2244
By: Zerwas; Villalba (Creighton)
Natural Resources & Economic Development
5/8/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, medical waste transportation, storage, and treatment is regulated by the Texas Commission on Environmental Quality (TCEQ). TCEQ regulations relate to the permitting and registration of treatment facilities, transportation, transfer, and disposal of regulated medical waste. TCEQ rules under 30 T.A.C. Part 1, Chapter 30 (Municipal Solid Waste), apply to municipal solid waste (MSW) and include a subchapter specific to regulated medical waste (RMW).

Medical waste includes items such as bandages, culture dishes and other glassware, discarded surgical gloves and instruments, discarded needles used to give shots or draw blood, cultures, stocks, swabs used to inoculate cultures, pathological waste (e.g., tonsils, appendices, limbs), and discarded lancets.

RMW is very different from MSW in how the waste is both transported and handled at the treatment facility. RMW is packed into tightly sealed, closed containers at the point of generation (hospitals, clinical labs, physician offices) and then transported in that same fashion through transfer stations and/or to a final disposal facility. Pathological waste is required to be treated by incineration, while all other RMW is disinfected in an alternative treatment technology such as an autoclave (a device that treats the material at high temperature with steam) or microwave, at which point it becomes MSW and is then disposed of in a landfill.

Since RMW falls under the MSW rules, there are numerous regulations that are applicable to landfills and MSW that are not applicable to medical waste. Imposing regulations designed for landfills and MSW causes undue administrative burdens and cost on medical waste disposal companies in the permitting, registration, inspection, and audit processes.

H.B. 2244 amends the Health and Safety Code to specifically apply to RMW only those regulations that relate to the generation, transportation, and storage of medical waste and remove those regulations designed for MSW and landfill operations. The bill directs TCEQ to adopt a new chapter to consolidate all relevant medical waste rules currently in the Texas Administrative Code and to clearly separate these rules from those applicable to landfills.

H.B. 2244 amends current law relating to the regulation of medical waste; adding and amending provisions subject to a criminal penalty.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission in SECTION 2 (Section 361.0905, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 361.003, Health and Safety Code, by adding Subdivisions (14-a) and (18-a), to define "health care-related facility" and "medical waste."

SECTION 2. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.0905, as follows:

Sec. 361.0905. REGULATION OF MEDICAL WASTE. (a) Provides that the Texas Natural Resource Conservation Commission (TNRCC) is responsible under this section for the regulation of the handling, transportation, storage, and disposal of medical waste.

(b) Requires TNRCC to accomplish the purposes of this chapter by requiring a permit, registration, or other authorization for and otherwise regulating the handling, storage, disposal, and transportation of medical waste. Requires TNRCC to adopt rules as necessary to accomplish the purposes of this subchapter.

(c) Provides that TNRCC has the powers and duties specifically prescribed by this chapter relating to medical waste regulation and all other powers necessary or convenient to carry out those responsibilities under this chapter.

(d) Requires TNRCC, in matters relating to medical waste regulation, to consider water pollution control and water quality aspects, air pollution control and ambient air quality aspects, and the protection of human health and safety.

(e) Provides that rules adopted to regulate the operation of municipal solid waste storage and processing units apply in the same manner to medical waste only to the extent that the rules address the criteria set forth in this subsection.

(f) Requires that medical waste facilities, on-site treatment services and mobile treatment units that send treated medical waste and treated medical waste including sharps or residuals of sharps to a solid waste landfill include a statement to the solid waste landfill that the shipment has been treated by an approved method in accordance with 25 T.A.C. Section 1.136 (relating to Approved Methods of Treatment and Disposition). Provides that home generated wastes are exempted from this requirement.

(g) Requires TNRCC, in a facility that handles medical waste processing or storage, to not require a minimum separating distance greater than 25 feet between the processing equipment or storage area, and the facility boundary owned or controlled by the owner or operator. Provides that a medical waste storage unit is not subject to this subsection, provided that medical waste contained in transport vehicles is refrigerated below 45 degrees if the waste is in the vehicle longer than 72 hours. Authorizes TNRCC to consider alternatives to the buffer zone requirements of this subsection for permitted, registered, or otherwise authorized medical waste processing and storage facilities.

SECTION 3. Amends Section 7.141(4), Water Code, to redefine "medical waste" to have the meaning assigned by Section 361.003 (Definitions), Health and Safety Code.

SECTION 4. Repealer: Section 361.560, Health and Safety Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015.

SECTION 5. (a) Requires the Texas Commission on Environmental Quality (TCEQ), not later than June 1, 2016, to adopt rules to implement the changes in law made by this Act. Requires the rules to be adopted in the form of a new chapter of the Texas Administrative Code that includes all rules of TCEQ relating to medical waste regulation.

(b) Requires that rules adopted to implement the changes in law made by this Act minimize the effect on other rules regulating municipal solid waste facilities.

SECTION 6. Provides that a facility that has a permit, registration, pending permit application, or other authorization that allows the handling of medical waste is not required to comply with the changes in law made by this Act until rules adopted by TCEQ to implement the changes in law made by this Act take effect. Provides that any change to a permit, registration, or other

authorization in effect on the effective date of this Act that is necessary to implement the changes in law made by this Act may be authorized without notice and comment and shall not be referred for a contested case proceeding.

SECTION 7. Effective date: upon passage or September 1, 2015.