

BILL ANALYSIS

C.S.H.B. 2244
By: Zerwas
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns regarding the regulation of medical waste under the same rules that apply to municipal solid waste. The parties contend that imposing regulations designed for landfills and municipal solid waste can cause undue administrative burdens and costs on medical waste disposal companies in the permitting, registration, inspection, and auditing processes. C.S.H.B. 2244 seeks to address these concerns.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 2244 amends the Health and Safety Code to make the Texas Commission on Environmental Quality (TCEQ) responsible for the regulation of the handling, transportation, storage, and disposal of medical waste, defined in the bill as treated and untreated special waste from specified health care-related facilities composed of animal waste, bulk blood, bulk human blood, bulk human body fluids, microbiological waste, pathological waste, sharps, and regulated medical waste, as those terms are applicably defined in specified Texas Administrative Code provisions and in specified federal law, but not including waste produced on a farm or ranch as defined by a specified Texas Administrative Code provision or artificial, nonhuman materials removed from a patient and requested by the patient, including orthopedic devices and breast implants.

C.S.H.B. 2244 requires TCEQ to accomplish the purposes of the Solid Waste Disposal Act by requiring a permit, registration, or other authorization for and otherwise regulating the handling, storage, disposal, and transportation of medical waste. The bill requires TCEQ to adopt rules as necessary to accomplish the purposes of the permitting provisions of the Solid Waste Disposal Act and grants TCEQ the powers and duties specifically prescribed by the Solid Waste Disposal Act relating to medical waste regulation and all other powers necessary or convenient to carry out those responsibilities. The bill requires TCEQ, 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. The bill establishes 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 specified matters relating to certain permit and registration requirements; minor modifications to permits and registrations; reconciliation of conflicting site operation plan provisions for certain sites; waste acceptance and analysis; facility-generated waste; contaminated water management; certain on-site storage areas; the storage of waste to accomplish certain objectives; closure

requirements for storage and processing units; certain recordkeeping and reporting requirements; fire protection; access control; unloading waste; spill prevention and control; operating hours; facility signage; control of litter; noise pollution and visual screening; capacity overloading and mechanical breakdown; sanitation; ventilation and air pollution; with certain exceptions; and facility health and safety plans.

C.S.H.B. 2244 requires 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, other than home generated wastes, to a solid waste landfill to include a statement to the landfill that the shipment has been treated by an approved method in accordance with a specified Texas Administrative Code provision. The bill prohibits TCEQ, in a facility that handles medical waste processing or storage, from requiring 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. The bill authorizes TCEQ to consider alternatives to this buffer zone requirement for permitted, registered, or otherwise authorized medical waste processing and storage facilities and specifies that the requirement does not apply to a medical waste storage unit, provided that the medical waste contained in transport vehicles is refrigerated below 45 degrees if the waste is in the vehicle longer than 72 hours.

C.S.H.B. 2244 amends the Water Code to redefine "medical waste," for purposes of statutory provisions relating to certain criminal offenses and penalties relating to water administration, as having the meaning assigned under the bill's provisions.

C.S.H.B. 2244 requires TCEQ, not later than June 1, 2016, to adopt rules to implement the bill's provisions; requires the rules to be adopted in the form of a new chapter of the Texas Administrative Code that includes all TCEQ rules relating to medical waste regulation; and requires the adopted rules to minimize the effect on other rules regulating municipal solid waste facilities. The bill excepts a facility that has a permit, registration, pending permit application, or other authorization that allows the handling of medical waste from a requirement to comply with the bill's provisions until rules adopted by TCEQ to implement those provisions take effect. The bill establishes that any change to a permit, registration, or other authorization in effect on the bill's effective date that is necessary to implement the bill's provisions may be authorized without notice and comment and is prohibited from being referred for a contested case proceeding.

C.S.H.B. 2244 repeals Section 361.560, Health and Safety Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2244 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 361.003, Health and Safety Code, is amended by adding Subdivision (18-a) to read as follows:

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 361.003, Health and Safety Code, is amended by adding Subdivisions (14-a) and (18-a) to read as follows:

(14-a) "Health care-related facility" means a facility listed under 25 T.A.C. Section 1.134. The term does not include:

(A) a single-family or multifamily

(18-a) "Medical waste" has the meaning assigned to the term "special waste from health care-related facilities" by Department of State Health Services rule and includes animal waste, bulk blood, bulk human blood products, bulk human body fluids, microbiological waste, pathological waste, and sharps.

The term does not include:

- (A) waste produced on a farm or ranch as defined by Section 151.316, Tax Code; or
- (B) artificial, nonhuman materials removed from a patient and requested by the patient, including orthopedic devices and breast implants.

SECTION 2. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0905 to read as follows:

Sec. 361.0905. REGULATION OF MEDICAL WASTE. (a) The commission is responsible under this section for the regulation of the handling, transportation, storage, and disposal of medical waste.

(b) The commission shall 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.

(c) The commission 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) In matters relating to medical waste regulation, the commission shall 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) 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:

dwelling; or

(B) a hotel, motel, or other establishment that provides lodging and related services for the public.

(18-a) "Medical waste" means treated and untreated special waste from health care-related facilities composed of animal waste, bulk blood, bulk human blood, bulk human body fluids, microbiological waste, pathological waste, and sharps, as those terms are defined by 25 T.A.C. Section 1.132, as well as regulated medical waste, as that term is defined by 49 C.F.R. Section 173.134. The term does not include:

- (A) waste produced on a farm or ranch as defined by 34 T.A.C. Section 3.296(f); or
- (B) artificial, nonhuman materials removed from a patient and requested by the patient, including orthopedic devices and breast implants.

SECTION 2. Subchapter C, Chapter 361, Health and Safety Code, is amended by adding Section 361.0905 to read as follows:

Sec. 361.0905. REGULATION OF MEDICAL WASTE. (a) The commission is responsible under this section for the regulation of the handling, transportation, storage, and disposal of medical waste.

(b) The commission shall 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. The commission shall adopt rules as necessary to accomplish the purposes of this subchapter.

(c) The commission 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) In matters relating to medical waste regulation, the commission shall 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) 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:

- (1) permit and registration requirements that can be made applicable to a facility that

- (1) the reconciliation of conflicting site operation plan provisions for a site that conducts activities that require a separate permit or authorization;
- (2) waste acceptance and analysis;
- (3) facility-generated waste, including wastewater and sludge;
- (4) contaminated water management;
- (5) on-site storage areas for source-separated or recyclable materials;
- (6) the storage of waste:
 - (A) to prevent the waste from becoming a hazard, including a fire hazard, to human health or safety;
 - (B) to ensure the use of sufficient containers between collections; and
 - (C) to prevent the waste from becoming litter;
- (7) approved waste containers for facilities that receive animal and plant health inspection service waste;
- (8) recordkeeping and reporting requirements, except for rules regarding the recordkeeping provisions required to justify the levels of recovered recycled products;
- (9) fire protection;
- (10) access control;
- (11) unloading waste;
- (12) spill prevention and control;
- (13) operating hours;
- (14) facility signage;
- (15) control of litter, including windblown material;
- (16) facility access roads;
- (17) noise pollution and visual screening;
- (18) capacity overloading and mechanical breakdown;
- (19) sanitation, including employee sanitation facilities;
- (20) ventilation and air pollution control, except as those rules apply to:
 - (A) process areas where putrescible waste is processed;
 - (B) the minimal air exposure for liquid waste; and

- handles medical waste, including requirements related to:
 - (A) applications;
 - (B) site development;
 - (C) notice; and
 - (D) permit or registration duration and limits;
- (2) minor modifications to permits and registrations, including changes in operating hours and buffer zones;
- (3) the reconciliation of conflicting site operation plan provisions for a site that conducts activities that require a separate permit or authorization;
- (4) waste acceptance and analysis;
- (5) facility-generated waste, including wastewater and sludge;
- (6) contaminated water management;
- (7) on-site storage areas for source-separated or recyclable materials;
- (8) the storage of waste:
 - (A) to prevent the waste from becoming a hazard, including a fire hazard, to human health or safety;
 - (B) to ensure the use of sufficient containers between collections; and
 - (C) to prevent the waste from becoming litter;
- (9) closure requirements for storage and processing units;
- (10) recordkeeping and reporting requirements, except for rules regarding the recordkeeping provisions required to justify the levels of recovered recycled products;
- (11) fire protection;
- (12) access control;
- (13) unloading waste;
- (14) spill prevention and control;
- (15) operating hours;
- (16) facility signage;
- (17) control of litter, including windblown material;
- (18) noise pollution and visual screening;
- (19) capacity overloading and mechanical breakdown;
- (20) sanitation, including employee sanitation facilities;
- (21) ventilation and air pollution control, except as those rules apply to:
 - (A) process areas where putrescible waste is processed;
 - (B) the minimal air exposure for liquid waste; and

(C) the cleaning and maintenance of mobile waste processing unit equipment; and
(21) facility health and safety plans, including employee training in health and safety.

(f) In a facility that handles medical waste, processing equipment and transfer activities shall be located not less than 25 feet from the facility boundary.

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.

The commission may adopt alternatives to the requirements of this subsection for permitted, registered, or otherwise authorized medical waste processing facilities.

(g) A generator of medical waste shall affix to each container, other than a container intended for transport by the United States Postal Service or other common carrier, a label that contains:

(1) the name and address of the generator;

(2) the contents of the container; and

(3) either:

(A) the date of the shipment; or

(B) the identification number of the shipment.

(h) The commission by rule shall exempt from notice and public comment requirements certain modifications to a permit, registration, or other authorization for a facility that handles medical waste, including modifications relating to operating hours and other minor modifications, as determined by the commission.

SECTION 3. Section 7.141(4), Water Code, is amended.

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(C) the cleaning and maintenance of mobile waste processing unit equipment; and
(22) facility health and safety plans, including employee training in health and safety.

(f) 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 must 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). Home generated wastes are exempted from this requirement.

(g) In a facility that handles medical waste processing or storage, the commission shall 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. 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. The commission may consider alternatives to the buffer zone requirements of this subsection for permitted, registered, or otherwise authorized medical waste processing and storage facilities.

SECTION 3. Same as introduced version.

15.105.790

SECTION 4. Section 361.560, Health and Safety Code, is repealed.

No equivalent provision.

SECTION 5. 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 the Texas Commission on Environmental Quality to implement the changes in law made by this Act take effect. 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 may not be referred for a contested case proceeding.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.

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

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

SECTION 6. 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 the Texas Commission on Environmental Quality to implement the changes in law made by this Act take effect. 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. Same as introduced version.