

By: Zerwas, Villalba

H.B. No. 2244

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of medical waste; adding and amending provisions subject to a criminal penalty.

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

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 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

1 devices and breast implants.

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

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

8 (b) The commission shall accomplish the purposes of this
9 chapter by requiring a permit, registration, or other authorization
10 for and otherwise regulating the handling, storage, disposal, and
11 transportation of medical waste. The commission shall adopt rules
12 as necessary to accomplish the purposes of this subchapter.

13 (c) The commission has the powers and duties specifically
14 prescribed by this chapter relating to medical waste regulation and
15 all other powers necessary or convenient to carry out those
16 responsibilities under this chapter.

17 (d) In matters relating to medical waste regulation, the
18 commission shall consider water pollution control and water quality
19 aspects, air pollution control and ambient air quality aspects, and
20 the protection of human health and safety.

21 (e) Rules adopted to regulate the operation of municipal
22 solid waste storage and processing units apply in the same manner to
23 medical waste only to the extent that the rules address:

24 (1) permit and registration requirements that can be
25 made applicable to a facility that handles medical waste, including
26 requirements related to:

27 (A) applications;

- 1 (B) site development;
2 (C) notice; and
3 (D) permit or registration duration and limits;
4 (2) minor modifications to permits and registrations,
5 including changes in operating hours and buffer zones;
6 (3) the reconciliation of conflicting site operation
7 plan provisions for a site that conducts activities that require a
8 separate permit or authorization;
9 (4) waste acceptance and analysis;
10 (5) facility-generated waste, including wastewater
11 and sludge;
12 (6) contaminated water management;
13 (7) on-site storage areas for source-separated or
14 recyclable materials;
15 (8) the storage of waste:
16 (A) to prevent the waste from becoming a hazard,
17 including a fire hazard, to human health or safety;
18 (B) to ensure the use of sufficient containers
19 between collections; and
20 (C) to prevent the waste from becoming litter;
21 (9) closure requirements for storage and processing
22 units;
23 (10) recordkeeping and reporting requirements, except
24 for rules regarding the recordkeeping provisions required to
25 justify the levels of recovered recycled products;
26 (11) fire protection;
27 (12) access control;

- 1 (13) unloading waste;
2 (14) spill prevention and control;
3 (15) operating hours;
4 (16) facility signage;
5 (17) control of litter, including windblown material;
6 (18) noise pollution and visual screening;
7 (19) capacity overloading and mechanical breakdown;
8 (20) sanitation, including employee sanitation
9 facilities;
10 (21) ventilation and air pollution control, except as
11 those rules apply to:
12 (A) process areas where putrescible waste is
13 processed;
14 (B) the minimal air exposure for liquid waste;
15 and
16 (C) the cleaning and maintenance of mobile waste
17 processing unit equipment; and
18 (22) facility health and safety plans, including
19 employee training in health and safety.
20 (f) Medical waste facilities, on-site treatment services
21 and mobile treatment units that send treated medical waste and
22 treated medical waste including sharps or residuals of sharps to a
23 solid waste landfill must include a statement to the solid waste
24 landfill that the shipment has been treated by an approved method in
25 accordance with 25 T.A.C. Section 1.136 (relating to Approved
26 Methods of Treatment and Disposition). Home generated wastes are
27 exempted from this requirement.

1 (g) In a facility that handles medical waste processing or
2 storage, the commission shall not require a minimum separating
3 distance greater than 25 feet between the processing equipment or
4 storage area, and the facility boundary owned or controlled by the
5 owner or operator. A medical waste storage unit is not subject to
6 this subsection, provided that medical waste contained in transport
7 vehicles is refrigerated below 45 degrees if the waste is in the
8 vehicle longer than 72 hours. The commission may consider
9 alternatives to the buffer zone requirements of this subsection for
10 permitted, registered, or otherwise authorized medical waste
11 processing and storage facilities.

12 SECTION 3. Section 7.141(4), Water Code, is amended to read
13 as follows:

14 (4) "Medical waste" has the meaning assigned by
15 Section 361.003, Health and Safety [~~includes animal waste, bulk~~
16 ~~blood and blood products, microbiological waste, pathological~~
17 ~~waste, sharps, and special waste from health care-related~~
18 ~~facilities as those terms are defined in 25 T.A.C. Section 1.132~~
19 ~~(Texas Department of Health, Definition, Treatment, and~~
20 ~~Disposition of Special Waste from Health Care-Related Facilities).~~
21 ~~The term does not include medical waste produced on farmland and~~
22 ~~ranchland as defined by Section 252.001(6), Agriculture] Code.~~

23 SECTION 4. Section 361.560, Health and Safety Code, as
24 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,
25 2015, is repealed.

26 SECTION 5. (a) Not later than June 1, 2016, the Texas
27 Commission on Environmental Quality shall adopt rules to implement

1 the changes in law made by this Act. The rules must be adopted in the
2 form of a new chapter of the Texas Administrative Code that includes
3 all rules of the commission relating to medical waste regulation.

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

7 SECTION 6. A facility that has a permit, registration,
8 pending permit application, or other authorization that allows the
9 handling of medical waste is not required to comply with the changes
10 in law made by this Act until rules adopted by the Texas Commission
11 on Environmental Quality to implement the changes in law made by
12 this Act take effect. Any change to a permit, registration, or
13 other authorization in effect on the effective date of this Act that
14 is necessary to implement the changes in law made by this Act may be
15 authorized without notice and comment and shall not be referred for
16 a contested case proceeding.

17 SECTION 7. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2015.