

By: Burns

H.B. No. 3642

A BILL TO BE ENTITLED

AN ACT

relating to a permit requirement for the land application of domestic septage.

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 OR DOMESTIC SEPTAGE; PERMIT REQUIRED.

SECTION 2. Sections 361.121(a), (b), (c), (d), (g), (h), (i), (k), and (l), Health and Safety Code, are amended to read as follows:

(a) In this section:

(1) "Class B sludge" is sewage sludge that meets one of the pathogen reduction requirements of 30 T.A.C. 312.82(b).

(1-a) "Domestic septage" means liquid or solid material removed from a septic tank, cesspool, portable toilet, marine sanitation device, or similar treatment works that receives only domestic sewage. The term does not include:

(A) liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater; or

(B) grease removed from a grease trap.

(2) "Land application unit" means an area where wastes are applied onto or incorporated into the soil surface for

1 agricultural purposes or for treatment and disposal. The term does
2 not include manure spreading operations.

3 (3) "Responsible person" means the person with
4 ultimate responsibility for the land application of the Class B
5 sludge or domestic septage at a land application unit. The
6 responsible person is:

7 (A) the owner of the land application unit if the
8 sludge or septage being land applied was generated outside this
9 state; or

10 (B) the person who is land applying the sludge or
11 septage if the sludge or septage being land applied was generated in
12 this state.

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

18 (c) The notice and hearing provisions of Subchapter M,
19 Chapter 5, Water Code, [~~as added by Chapter 1350, Acts of the 76th~~
20 ~~Legislature, Regular Session, 1999,~~] apply to an application under
21 this section for a permit, a permit amendment, or a permit renewal.
22 In addition, at the time published notice of intent to obtain a
23 permit is required under Section 5.552, Water Code, an applicant
24 for a permit, permit amendment, or permit renewal under this
25 section must notify by registered or certified mail each owner of
26 land located within one-quarter mile of the proposed land
27 application unit who lives on that land of the intent to obtain the

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

8 (d) In each permit, the commission shall prescribe the
9 conditions under which it is issued, including:

10 (1) the duration of the permit;
11 (2) the location of the land application unit;
12 (3) the maximum quantity of Class B sludge or domestic
13 septage that may be applied or disposed of under the permit;

14 (4) a requirement that the permit holder submit
15 quarterly to the commission a computer-generated report that
16 includes, at a minimum, information regarding:

17 (A) the source, quality, and quantity of sludge
18 or septage applied to the land application unit;

19 (B) the location of the land application unit,
20 either in terms of longitude and latitude or by physical address,
21 including the county;

22 (C) the date of delivery of Class B sludge or
23 septage;

24 (D) the date of application of Class B sludge or
25 septage;

26 (E) the cumulative amount of metals applied to
27 the land application unit through the application of Class B sludge

1 or septage;

2 (F) crops grown at the land application unit
3 site; and

4 (G) the suggested agronomic application rate for
5 the Class B sludge or septage;

6 (5) a requirement that the permit holder submit
7 annually to the commission evidence that the permit holder is
8 complying with the nutrient management plan and the practice
9 standards described by Subsection (h)(4);

10 (6) a requirement that the permit holder post a sign
11 that is visible from a road or sidewalk that is adjacent to the
12 premises on which the land application unit is located stating that
13 a beneficial application site is located on the premises;

14 (7) any other monitoring and reporting requirements
15 prescribed by the commission for the permit holder; and

16 (8) a requirement that the permit holder must report
17 to the commission any noncompliance by the permit holder with the
18 permit conditions or applicable commission rules.

19 (g) The commission shall charge a fee for the issuance of a
20 permit under this section in an amount not less than \$1,000 and not
21 more than \$5,000. In determining the fee under this subsection, the
22 commission shall consider the amount of sludge or domestic septage
23 to be applied under the permit.

24 (h) The commission by rule shall require an applicant for a
25 permit under this section to submit with the application, at a
26 minimum:

27 (1) information regarding:

(A) the applicant;

(B) the source, quality, and quantity of sludge
or domestic septage to be applied; and

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

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

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

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

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

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

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

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

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

and

(4) proof that the applicant has minimized the risk of
water quality impairment caused by nitrogen applied to the land
application unit through the application of Class B sludge or

1 domestic septage by having had a nutrient management plan prepared
2 by a certified nutrient management specialist in accordance with
3 the practice standards of the Natural Resources Conservation
4 Service of the United States Department of Agriculture.

5 (i) The commission may expand the definition of Class B
6 sludge or domestic septage only by expanding the definition to
7 include sludge or septage that meets more stringent pathogen
8 reduction requirements.

9 (k) The commission shall create and operate a tracking
10 system for the land application of Class B sludge or domestic
11 septage. The commission shall require a permit holder to report
12 deliveries and applications of Class B sludge or domestic septage
13 using the tracking system and shall post the reported information
14 on its website. The tracking system must allow a permit holder to
15 report electronically:

16 (1) the date of delivery of Class B sludge or domestic
17 septage to a land application unit; and

18 (2) for each application of Class B sludge or domestic
19 septage to a land application unit:

20 (A) the date of the application; and

21 (B) the source, quality, and quantity of the
22 sludge or septage applied.

23 (l) A permit holder may not accept Class B sludge or
24 domestic septage unless the sludge or septage has been transported
25 to the land application unit in a covered container with the
26 covering firmly secured at the front and back.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2017.