

BILL ANALYSIS

Senate Research Center
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H.B. 3387
By: Rogers et al. (Springer)
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The dairy industry has suffered tremendously during the COVID-19 pandemic and Winter Storm Uri. At times during these events, milk shelves at grocery stores were empty despite the fact that dairy farmers continued to produce milk. Although milk bottlers and processors were required to cut back on production and employees, the dairy industry continued to produce milk because of the milking schedule of the cows. This led to bottlers and processors unable to take milk, leaving farmers with the responsibility of disposing of the milk.

Once milk leaves a farm it is considered food and travels to a bottling facility before making its way to grocery store shelves. If a milk load somehow becomes contaminated on the way, gets graded out, or is not able to be accepted by the bottler, the milk is then no longer considered viable for human consumption and is labeled as dairy waste that needs to be legally disposed. In Texas, this waste is disposed of in a disposal well, of which there are only two locations in Texas for dairy waste. The average cost to dispose a truck load of milk, about 50,000 pounds, is around \$3,000, which is a costly burden for dairy co-ops and farmers in Texas.

Land application of milk has proven to be a great fertilizer. Based on current research, milk itself can improve soil health, if applied properly. This is due to milk's ability to provide nutrients to plants and stimulate the growth of beneficial fungi by supplying sugar. Since milk is composed mostly of water, it also contributes to putting water back into the ground. Currently, other states such as Kansas, Wisconsin, and Ohio allow for the land application of milk. It is often cheaper for Texas farmers to send their dairy waste to Kansas than it is to dispose of the waste in Texas. Farmers also feel that their product is going to be of some use as land application in Kansas rather than flushed into the ground in Texas. There are plenty of places in Texas that could benefit from the land application of milk. H.B. 3387 seeks to address these issues by providing the authorization for certain land applications and disposal of dairy waste.

H.B. 3387 amends current law relating to the authorization for certain land applications and disposal of dairy waste.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 361.1215, Health and Safety Code) and SECTION 2 (Section 26.0481, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 361, Health and Safety Code, by adding Section 361.1215, as follows:

Sec. 361.1215. PERMISSIVE LAND APPLICATION OF DAIRY WASTE. (a) Defines "dairy waste."

(b) Requires the Texas Commission on Environmental Quality (TCEQ), notwithstanding any other law, to issue an authorization by rule for land application of dairy waste.

(c) Requires TCEQ to adopt rules governing the land application of dairy waste authorized under this section.

(d) Requires that rules adopted under Subsection (c):

(1) minimize the risk of water quality impairment caused by the land application; and

(2) prescribe the conditions under which an authorization is issued, including:

(A) the duration of the authorization;

(B) the location of the land application unit;

(C) the maximum quantity or application rate of dairy waste that is authorized to be applied or disposed of under the authorization;

(D) the suggested agronomic application rate for the dairy waste or other beneficial uses of the dairy waste; and

(E) best management practices for the handling and disposal of dairy waste.

SECTION 2. Amends Subchapter B, Chapter 26, Water Code, by adding Section 26.0481, as follows:

Sec. 26.0481. DISPOSAL OF DAIRY WASTE IN RETENTION FACILITY. (a) Defines "dairy waste."

(b) Requires TCEQ, notwithstanding any other law and to the extent permitted by federal law, to adopt rules under this section to allow:

(1) the disposal of dairy waste from a concentrated animal feeding operation into a control or retention facility, including a lagoon or playa, as that term is defined by Section 26.048 (Prohibition of Discharge to a Playa from a Concentrated Animal Feeding Operation); and

(2) the land application by irrigation associated with the disposal described by Subdivision (1).

(c) Requires that rules adopted under Subsection (b):

(1) minimize the risk of water quality impairment caused by:

(A) the disposal of dairy waste into the control or retention facility; and

(B) the land application by irrigation associated with the disposal described by Paragraph (A); and

(2) require best management practices to ensure that the disposal of dairy waste into the control or retention facility does not impair water quality.

SECTION 3. Requires TCEQ, not later than March 1, 2022, to adopt rules necessary to implement Section 361.1215, Health and Safety Code, and Section 26.0481, Water Code, as added by this Act.

SECTION 4. Effective date: September 1, 2021.