

BILL ANALYSIS

H.B. 3128
By: Kitzman
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2009, a toddler drowned in a septic tank by falling through an unsecured utility box cover that should never have been used as a septic tank riser and cover. In response to this, legislation was passed to require that risers and covers be designed to prevent access by a child or anyone unauthorized by the Texas Commission on Environmental Quality (TCEQ) or the owner. The TCEQ created rules that require risers and secondary restraints to be installed on all on-site sewage facilities with risers to grade and, in case the primary lid is damaged, a requirement that a facility only be accessed by a licensed or registered professional or the owner. Unfortunately, the TCEQ excluded pumpers from being required to be licensed or registered, leaving a section of the industry untrained and a threat to public safety. Pumpers pose a danger to the public if not properly trained on pumping and securing on-site sewage facilities. Licensing or registration of pumpers would also allow for background checks to prevent known criminals from access to homes, children, and business properties.

In 2020, another small child drowned by falling through an unsecured riser cover on a septic system located in Aransas County, Texas. H.B. 3128 seeks to put a stop to needless tragedies like this, provide for better public health and safety, and address the lack of training and regulation for pumpers by requiring a person who pumps an on-site sewage disposal system or any part of such a system for compensation to hold a license or registration issued by the TCEQ.

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 5 of this bill.

ANALYSIS

H.B. 3128 amends the Health and Safety Code to require, effective September 1, 2024, a person who pumps an on-site sewage disposal system or any part of such a system for compensation to hold a license or registration issued by the Texas Commission on Environmental Quality (TCEQ). The bill requires the TCEQ, not later than September 1, 2024, to adopt rules implementing this requirement. The rules must provide for the creation of an on-site sewage disposal system pumping technician license or registration and the requirements and qualifications to obtain the license or registration.

H.B. 3128 authorizes the TCEQ to implement a program to register persons who pump on-site sewage disposal systems for compensation. The bill establishes that it is the state's public policy

and the purpose of provisions relating to on-site sewage disposal systems to eliminate and prevent health hazards by regulating and properly planning the pumping of such systems.

H.B. 3128 restricts the exemption from permitting requirements for an on-site sewage disposal system of a single residence that is located on a land tract that is 10 acres or larger in which the field line or sewage disposal line is not closer than 100 feet of the property line to apply only to such a land tract that is in a county with a population of less than 40,000. The restriction applies only to a residence for which construction begins on or after the bill's effective date.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2023.