

BILL ANALYSIS

C.S.H.B. 3866
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Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that in 2024 a massive fire broke out at a chemical container site in northern Ector County dangerously close to a residential area, and that the fire, fueled by the container material and chemical residue inside the containers, burned for weeks, releasing harmful chemicals into the air and contaminating the groundwater that nearby families depend on, and that some residents were forced to evacuate their homes for over a month due to health and safety concerns. The bill author has also informed the committee that under current law facilities like the one that burned in northern Ector County, which store large numbers of empty chemical containers on a single lot, face minimal regulation while posing significant risks, especially when located near a residential area. C.S.H.B. 3866 seeks to address this issue by prohibiting a person from installing or operating an intermediate bulk container recycling facility within 2,000 feet of a private residence and providing for the registration and inspection of such facilities.

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 3 of this bill.

ANALYSIS

C.S.H.B. 3866 amends the Water Code to prohibit a person from installing or operating an intermediate bulk container recycling facility within 2,000 feet of a private residence. The bill applies only to an intermediate bulk container regulated by the Pipeline and Hazardous Materials Safety Administration and defines the following:

- "intermediate bulk container" as a rigid or flexible portable packaging, other than a cylinder or portable tank, that is designed for mechanical handling, with a volume of at least 275 gallons; and
- "intermediate bulk container recycling facility" as a site that accepts intermediate bulk containers for purposes of reconditioning the containers for reuse or disposal.

C.S.H.B. 3866 requires an owner of an intermediate bulk container recycling facility to register the facility with the Texas Commission on Environmental Quality (TCEQ) not later than the 30th day before the date the facility begins receiving intermediate bulk containers, except that an owner that began receiving intermediate bulk containers before March 1, 2027, is not required to register the facility before March 31, 2027.

C.S.H.B. 3866 requires the TCEQ, at least once every three years, to conduct on-site inspections of registered intermediate bulk container recycling facilities to determine compliance with laws under TCEQ jurisdiction. The bill requires the TCEQ by rule to impose an annual fee for registering an intermediate bulk container recycling facility in an amount sufficient to cover the reasonable costs of administering the registration program, including costs associated with implementing the program and inspecting registered facilities. The bill requires the fee received by the TCEQ to be deposited to the general revenue fund to the credit of the water resource management account and restricts the appropriation of the deposited fees to the purposes of the bill's provisions.

C.S.H.B. 3866 exempts a facility from the application of the bill's provisions if the facility does not stage, store, or process more than 50 intermediate bulk containers at any time. The bill expressly does not limit the authority of a municipality to adopt an ordinance prohibiting the operation of an intermediate bulk container recycling facility within 2,000 feet of a private residence.

C.S.H.B. 3866 includes ensuring that intermediate bulk container recycling facilities are not located close to private residences as a policy of the state and a purpose of water quality control provisions relating to underground and aboveground storage.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3866 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced applied to an outdoor storage container, defined as a nonvehicular device that is made of nonearthen materials, located on or above the surface of the ground and not inside a structure, located at, or is a part of, a commercial facility, including a for-hire storage terminal, and designed to contain a regulated substance, the substitute applies to an intermediate bulk container recycling facility, and only to an intermediate bulk container regulated by the Pipeline and Hazardous Materials Safety Administration. The substitute includes the following definitions that were absent from the introduced:

- "intermediate bulk container" as a rigid or flexible portable packaging, other than a cylinder or portable tank, that is designed for mechanical handling, with a volume of at least 275 gallons; and
- "intermediate bulk container recycling facility" as a site that accepts intermediate bulk containers for purposes of reconditioning the containers for reuse or disposal.

Whereas the substitute requires an owner of an intermediate bulk container recycling facility to register the facility with the TCEQ not later than the 30th day before the date the facility begins receiving intermediate bulk containers, with an owner that began receiving intermediate bulk containers before March 1, 2027, not being required to register the facility before March 31, 2027, the introduced established the following with respect to the registration of an outdoor storage container by the container's owner:

- an owner is required to register the container with the TCEQ not later than the 30th day after the date the container is installed or the date the owner acquires an installed container from a previous owner, but is not required to register the container before March 1, 2026;
- for a container that was installed before September 1, 2025, an owner is required to register the container with the TCEQ not later than March 1, 2026; and

- an owner required to register the container as an aboveground storage tank or a storage vessel under water quality control provisions relating to underground and aboveground storage is not required to register the container under the introduced version's provisions.

Whereas the introduced required the TCEQ to conduct annual on-site inspections of outdoor storage containers registered under water quality control provisions relating to underground and aboveground storage to determine compliance with the introduced version's provisions and established that such requirement expressly does not limit the TCEQ's ability to inspect a container under other state or federal law, the substitute requires the TCEQ, at least once every three years, to conduct on-site inspections of intermediate bulk container recycling facilities registered under the substitute's provisions to determine compliance with laws under TCEQ jurisdiction.

While both the introduced and the substitute provide for the imposition of a fee for their respective registration programs, the introduced specified that the fee be in an amount sufficient to recover the reasonable costs of implementing the registration program and inspecting registered facilities, whereas the substitute specifies that the fee is an annual fee and that the fee be in an amount sufficient to cover the reasonable costs of administering the registration program, including costs associated with such implementation and inspection. The substitute includes provisions that were not in the introduced requiring the fee received by the TCEQ to be deposited to the general revenue fund to the credit of the water resource management account and restricting the appropriation of the deposited fees to the purposes of the substitute's provisions.

Whereas the substitute exempts a facility from the application of the substitute's provisions if the facility does not stage, store, or process more than 50 intermediate bulk containers at any time, the introduced exempted an outdoor storage container from the application of the introduced version's provisions if the container is:

- a farm or residential tank with a capacity of 1,100 gallons or less used for storing motor fuel for noncommercial purposes;
- used for storing heating oil for consumptive use on the premises where stored;
- a septic tank;
- a surface impoundment, pit, pond, or lagoon;
- a storm water or waste water collection system;
- a flow-through process tank;
- a tank, liquid trap, gathering line, or other facility used in connection with an activity associated with the exploration, development, or production of oil, gas, or geothermal resources, or any other activity regulated by the Railroad Commission of Texas under Natural Resources Code provisions relating to pollution prevention rules and orders; or
- a transformer or other electrical equipment that contains a regulated substance and that is used in the transmission of electricity, to the extent that such a transformer or equipment is exempted by the U.S. Environmental Protection Agency under specified federal regulations.

Whereas the introduced expressly did not limit the authority of a municipality to adopt an ordinance prohibiting the installation or operation of an outdoor storage container in a location more than 2,000 feet from a private residence, the substitute expressly does not limit the authority of a municipality to adopt an ordinance prohibiting the operation of an intermediate bulk container recycling facility within 2,000 feet of a private residence.