

By: Kitzman

H.B. No. 5549

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and planning of on-site sewage disposal systems; authorizing and increasing a criminal penalty; increasing the amount of a fee.

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

SECTION 1. Section 366.001, Health and Safety Code, is amended to read as follows:

Sec. 366.001. POLICY AND PURPOSE. It is the public policy of this state and the purpose of this chapter to:

(1) eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, ~~and~~ maintenance, and pumping of on-site sewage disposal systems;

(2) authorize the commission or authorized agent to impose and collect a permit fee for:

(A) construction, installation, alteration, repair, or extension of on-site sewage disposal systems; and

(B) tests, designs, and inspections of those systems;

(3) authorize the commission or authorized agent to impose a penalty for a violation of this chapter or a rule adopted under this chapter;

(4) authorize the commission to license or register certain persons; and

(5) allow the individual owner of a disposal system used at the owner's primary residence to install and repair the system in accordance with this chapter.

SECTION 2. Section 366.002, Health and Safety Code, is amended by amending Subdivisions (6) and (8) to read as follows:

(6) "Nuisance" means:

(A) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons; or

(B) an overflowing sewage treatment or holding ~~[septic]~~ tank or similar device, including surface discharge from or groundwater contamination by a component of an on-site sewage disposal system, or a blatant discharge from an on-site sewage disposal system.

(8) "Owner" means a person who owns the ~~[a building or other]~~ property served by an on-site sewage disposal system.

SECTION 3. Section 366.011, Health and Safety Code, is amended to read as follows:

Sec. 366.011. GENERAL SUPERVISION AND AUTHORITY. The commission or authorized agents:

(1) have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems in their designated area of jurisdiction; and

(2) shall administer this chapter and the rules adopted under this chapter.

SECTION 4. Section 366.012, Health and Safety Code, is amended to read as follows:

Sec. 366.012. RULES CONCERNING ON-SITE SEWAGE DISPOSAL SYSTEMS. (a) To assure the effective and efficient administration of this chapter, the commission shall:

(1) adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the:

(A) review and approval of on-site sewage disposal systems; and

(B) temporary waiver of a permit for an emergency repair; and

(2) adopt rules under this chapter that:

(A) encourage the use of economically feasible alternative techniques and technologies for on-site sewage disposal systems that can be used in soils not suitable for conventional on-site sewage disposal;

(B) address the separation of graywater, as defined by Section 341.039, in a residence served by an on-site sewage disposal system;

(C) allow for an adjustment in the size required of an on-site sewage disposal system if the system is used in conjunction with a graywater system that complies with the rules adopted under Section 341.039; and

(D) require on-site sewage disposal systems, including risers and covers, installed after September 1, 2012, to be designed to prevent access to the system by anyone other than:

(i) the owner of the system; or

(ii) a person described by Section 366.071(a) or (b) [+

~~[(E) for a county with a population of at least 350,000 and not more than 370,000 that is adjacent to the Gulf of Mexico and adjacent to a county with a population of at least 3.3 million, allow for the installation of aerobic drip emitter systems on subdivided or platted properties less than one-half acre in size serving single-family residences supplied by a public drinking water system if site-specific planning materials have been:~~

~~[(i) submitted by a licensed engineer or registered sanitarian; and~~

~~[(ii) approved by the appropriate authorized agent; and~~

~~[(F) for a county with a population of more than 40,000 and less than 50,000 that borders the Red River along the Oklahoma state line and has a major interstate road running through it, allow for the installation of aerobic drip emitter systems on subdivided or platted properties less than one-half acre in size, serving single-family residences supplied by a public drinking water system if site-specific planning materials have been:~~

~~[(i) submitted by a licensed engineer or registered sanitarian; and~~

~~[(ii) approved by the appropriate authorized agent].~~

(b) In rules adopted under this chapter, the commission shall include definitions and detailed descriptions of good management practices and procedures for the construction and

1 operation of on-site sewage disposal systems that:

2 (1) justify variation in field size or in other
3 standard requirements;

4 (2) promote the use of good management practices or
5 procedures in the construction and operation of on-site sewage
6 disposal systems;

7 (3) require the use of one or more specific management
8 practices or procedures as a condition of approval of a standard
9 on-site sewage disposal system if, in the opinion of the commission
10 or authorized agent, site conditions or other problems require the
11 use of additional management practices or procedures to ensure the
12 proper operation of an on-site sewage disposal system; and

13 (4) make available general, operational information
14 to the public.

15 SECTION 5. Section 366.013(e), Health and Safety Code, is
16 amended to read as follows:

17 (e) This section does not apply to an aerobic [~~7~~
18 ~~nonstandard~~] or proprietary on-site sewage treatment system
19 unless the water softener drain line to the system bypasses the
20 treatment system and flows into the pump tank or directly into the
21 discharge method.

22 SECTION 6. Section 366.014, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 366.014. DESIGNATED PERSON. Subject to the
25 requirements of Section 366.071(b), the commission or an authorized
26 agent shall [~~may~~] designate one or more persons [~~a person~~] to:

27 (1) review permit applications, site evaluations, or

1 planning materials; or

2 (2) inspect on-site sewage disposal systems.

3 SECTION 7. Section 366.031, Health and Safety Code, is
4 amended by adding Subsection (c) to read as follows:

5 (c) Notwithstanding the designation of an authorized agent
6 under this section, the commission shall maintain the authority and
7 responsibility for permitting on-site sewage disposal systems that
8 produce over 1,500 gallons per day unless the commission
9 specifically designates that authority and responsibility to the
10 authorized agent. The commission may designate to an authorized
11 agent the authority and responsibility to permit on-site sewage
12 disposal systems that produce over 1,500 gallons per day only if the
13 authorized agent satisfactorily demonstrates minimum designated
14 representative qualification standards and licensure, as
15 prescribed by the commission.

16 SECTION 8. Section 366.032(c), Health and Safety Code, is
17 amended to read as follows:

18 (c) An authorized agent must obtain commission approval of
19 any ~~substantive~~ amendments to the agent's order or resolution.

20 SECTION 9. Section 366.034, Health and Safety Code, is
21 amended by amending Subsection (b) and adding Subsection (c) to
22 read as follows:

23 (b) If the commission determines that an authorized agent
24 does not consistently enforce the commission's minimum
25 requirements for on-site sewage disposal systems, the commission
26 may ~~shall~~ hold a hearing and determine whether to continue the
27 designation as an authorized agent.

1 (c) The commission may assess an administrative penalty
2 against an authorized agent if the commission determines that the
3 authorized agent does not implement and enforce the commission's
4 minimum requirements for on-site sewage disposal systems.

5 SECTION 10. The heading to Section 366.0515, Health and
6 Safety Code, is amended to read as follows:

7 Sec. 366.0515. MAINTENANCE CONTRACT ~~[AND—PERFORMANCE~~
8 ~~BOND]~~.

9 SECTION 11. Sections 366.0515(a), (b), (d), (e), and (g),
10 Health and Safety Code, are amended to read as follows:

11 (a) Except as provided by Subsection (g), an authorized
12 agent or the commission may not condition a permit or the approval
13 of a permit for an on-site sewage disposal system using aerobic
14 treatment for a single-family residence on the system's owner
15 contracting for the maintenance of the system if the single-family
16 residence is owned by an individual and is the individual's primary
17 residence.

18 (b) Except as provided by Subsection (a), an authorized
19 agent by order or resolution or the commission by rule may condition
20 approval of a permit for an on-site sewage disposal system on the
21 system's owner contracting for the maintenance of the system. If a
22 maintenance contract is required, the owner of the on-site sewage
23 disposal system must submit to the permitting authority~~[-~~

24 ~~[(1)] a signed contract for the maintenance of the~~
25 ~~on-site sewage disposal system[, and~~

26 ~~[(2) if the on-site sewage disposal system is located~~
27 ~~in a county with a population of more than 2.8 million, a~~

1 ~~performance bond obtained from the person with whom the owner of the~~
2 ~~on-site sewage disposal system has contracted for maintenance of~~
3 ~~the system].~~

4 (d) If the owner of the on-site sewage disposal system
5 enters into a new maintenance contract or revises the original
6 maintenance contract, the owner must submit a copy of the new or
7 revised maintenance contract ~~[and a new performance bond]~~ to the
8 permitting authority not later than the 30th day after the date on
9 which the original contract terminates or is modified.

10 (e) The permitting authority may establish and collect a
11 reasonable fee to cover the cost of administering the ~~[performance~~
12 ~~bond]~~ program.

13 (g) The owner of a single-family residence shall maintain
14 the system directly or through a maintenance contract. If an
15 authorized agent or the commission determines that an owner of a
16 single-family residence located in a county with a population of at
17 least 40,000 who maintains the owner's system directly has violated
18 this chapter or a rule adopted or order or permit issued under this
19 chapter, the owner, not later than the 10th day after the date of
20 receipt of notification of the violation, shall correct the
21 violation or enter into a contract for the maintenance of the
22 system. If before the third anniversary of the date of the
23 determination the owner is determined to have committed another
24 violation of this chapter or a rule adopted under this chapter, the
25 owner, not later than the 10th day after the date of receipt of
26 notification of the subsequent violation, shall enter into a
27 contract for the maintenance of the system. An owner of a

1 single-family residence located in a county with a population of at
2 least 40,000 who maintains the owner's system directly and who
3 violates this chapter or a rule adopted or order or permit issued
4 under this chapter is also subject to an administrative penalty.
5 The commission may recover the penalty in a proceeding conducted as
6 provided by Subchapter C, Chapter 7, Water Code, or the authorized
7 agent may recover the penalty in a proceeding conducted under an
8 order or resolution of the agent. Notwithstanding Section 7.052,
9 Water Code, the amount of the penalty may not exceed \$500 [~~\$100~~].

10 SECTION 12. Section 366.052(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) Sections 366.051, 366.053, [~~366.054~~], and 366.057 do
13 not apply to an on-site sewage disposal system of a single residence
14 if:

15 (1) the single residence is:

16 (A) located in a county with a population of less
17 than 40,000; and

18 (B) owned by an individual and is the
19 individual's primary residence; and

20 (2) the system [that] is located on a land tract that
21 is 10 acres or larger in which the field line or sewage disposal
22 line is not closer than 100 feet of the property line.

23 SECTION 13. Section 366.055(c), Health and Safety Code, is
24 amended to read as follows:

25 (c) A holder of a permit issued under this chapter or the
26 holder's designee shall notify the commission, the authorized
27 agent, or a designated representative not later than the fifth

1 working day before the proposed date of the operation of an
2 installation that the installation is ready for inspection.

3 SECTION 14. Section 366.057(b), Health and Safety Code, is
4 amended to read as follows:

5 (b) A permit and approved plan to construct, alter, repair,
6 extend, or operate an on-site sewage disposal system must be issued
7 in the name of the person who owns the property ~~[system]~~ and must
8 identify the specific property location or address for the specific
9 construction, alteration, extension, repair, or operation proposed
10 by the person.

11 SECTION 15. Section 366.058, Health and Safety Code, is
12 amended by adding Subsection (d) to read as follows:

13 (d) The permit fee shall be paid to the authorized agent or
14 the commission, whichever performs the permitting function.

15 SECTION 16. Sections 366.071(a), (c), and (d), Health and
16 Safety Code, are amended to read as follows:

17 (a) A person who constructs, installs, alters, extends,
18 services, maintains, pumps, ~~[or]~~ repairs, or accesses an on-site
19 sewage disposal system or any part of an on-site sewage disposal
20 system ~~[for compensation]~~ must hold a license or registration
21 issued by the commission under Chapter 37, Water Code.

22 (c) A person who conducts preconstruction site evaluations,
23 including visiting a site and performing a soil analysis, a site
24 survey, or other activities necessary to determine the suitability
25 of a site for an on-site sewage disposal system must hold a license
26 issued by the commission under Chapter 37, Water Code, unless the
27 person is licensed by the Texas Board of Professional Engineers and

Land Surveyors as an engineer or licensed by the Texas Board of Professional Geoscientists as a geologist.

(d) The commission may implement a program under Chapter 37, Water Code, to register persons who service, ~~[or] maintain,~~ or pump on-site sewage disposal systems ~~[for compensation]~~.

SECTION 17. Section 367.010(a), Health and Safety Code, is amended to read as follows:

(a) The commission and each county, municipality, public health department, and river authority shall collect a \$30 ~~[\$10]~~ fee for each on-site wastewater treatment permit application processed.

SECTION 18. Section 5.701(q), Water Code, is amended to read as follows:

(q) Notwithstanding any other law, fees collected for deposit to the water resource management account under the following statutes may be appropriated and used to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee under:

(1) Subsections (b) and (c), to the extent those fees are collected in connection with water use or water quality permits;

(2) Subsections (h)-(l);

(3) Section 11.138(g);

(4) Section 11.145;

(5) Section 26.0135(h);

(6) Sections 26.0291, 26.044, and 26.0461; or

1 (7) Sections 341.041, 366.058, [~~366.059~~,] 371.024,
2 371.026, and 371.062, Health and Safety Code.

3 SECTION 19. The following provisions of the Health and
4 Safety Code are repealed:

5 (1) Section 366.0515(c); and

6 (2) Sections 366.035, 366.036, 366.0513, 366.054, and
7 366.059.

8 SECTION 20. This Act takes effect September 1, 2025.