

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/22/09

Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 3827 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Deuell

Hegar

Averitt

William
Ester
Ester On the part of the Senate

Rep. Hancock, Chair

Alan Ritter

Warren Chosum

David Farabee

Rep. Ken Lyster
On the part of the House

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 3827

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the manufacture and delivery of regulated substances
3 into underground storage tanks; providing a penalty.

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

5 SECTION 1. Section 7.156(c), Water Code, is amended to read
6 as follows:

7 (c) A person commits an offense if the person:

8 (1) is an owner or operator of an underground storage
9 tank regulated under Chapter 26 into which any regulated substance
10 is delivered unless the underground storage tank has been issued a
11 valid, current underground storage tank registration and
12 certificate of compliance under Section 26.346; or

13 (2) physically delivers any regulated substance into
14 an underground storage tank regulated under Chapter 26 unless the
15 underground storage tank has been issued a valid, current
16 underground storage tank registration and certificate of
17 compliance under Section 26.346.

18 SECTION 2. Subchapter F, Chapter 7, Water Code, is amended
19 by adding Sections 7.256 and 7.257 to read as follows:

20 Sec. 7.256. DEFENSE TO DELIVERY OF REGULATED SUBSTANCE INTO
21 UNDERGROUND STORAGE TANK. It is an affirmative defense to
22 prosecution under Section 7.156(c)(2) that the person delivering a
23 regulated substance into an underground storage tank relied on:

24 (1) a valid paper delivery certificate presented by

1 the owner or operator of the underground storage tank or displayed
2 at the facility associated with the underground storage tank;

3 (2) a temporary delivery authorization presented by
4 the owner or operator of the underground storage tank or displayed
5 at the facility associated with the underground storage tank; or

6 (3) registration and self-certification information
7 for the underground storage tank obtained from the commission's
8 Internet website not more than 30 days before the date of delivery.

9 Sec. 7.257. DEFENSE TO MANUFACTURE OF REGULATED SUBSTANCE.
10 Notwithstanding any other law, it is an affirmative defense to a
11 claim made against the manufacturer of a regulated substance
12 delivered into an underground storage tank regulated under Section
13 7.156 that is based on the properties of the substance that the
14 substance was manufactured in compliance with applicable state or
15 federal specifications.

16 SECTION 3. This Act takes effect September 1, 2009.

House Bill 3827
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 7.156(c), Water Code, is amended to read as follows:

(c) A person commits an offense if the person:

(1) is an owner or operator of an underground storage tank regulated under Chapter 26 into which any regulated substance is delivered unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346; or

(2) physically delivers any regulated substance into an underground storage tank regulated under Chapter 26 unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346.

SECTION 2. Subchapter F, Chapter 7, Water Code, is amended by adding Section 7.256 to read as follows:

Sec. 7.256. DEFENSE TO DELIVERY OF REGULATED SUBSTANCE INTO UNDERGROUND STORAGE TANK. It is an affirmative defense to prosecution under Section 7.156(c)(2) that the person delivering a regulated substance into an underground storage tank relied on:

(1) a valid paper delivery certificate presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank;

(2) a temporary delivery authorization presented by the

SENATE VERSION

Same as House version.

Same as House version.

CONFERENCE

SECTION 1. Same as House version.

SECTION 2. [part] Same as House version.

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HOUSE VERSION

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CONFERENCE

owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank; or
(3) registration and self-certification information for the underground storage tank obtained from the commission's Internet website not more than 30 days before the date of delivery.

~~No equivalent provision.~~

SECTION __. Subchapter F, Chapter 7, Water Code, is amended by adding Sec. 16.007 to read as follows:
Sec. 7.257. DEFENSE TO MANUFACTURE OF REGULATED SUBSTANCE.
(a) Notwithstanding any other law, a manufacturer of a substance delivered into a tank regulated under Sec. 7.156 may raise as an affirmative defense to any claims for responsibility for the properties of the substance that the substance was manufactured in strict accordance with state or federal specifications.

SECTION 2. [part] Same as Senate version.

SECTION 3. This Act takes effect September 1, 2009.

Same as House version.

SECTION 3. Same as House version.

No equivalent provision.

SECTION __. (a) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall adopt rules regulating the surface facilities associated with new commercial wells

Same as House version.

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that propose to accept nonhazardous industrial waste for which a permit has not been issued on or before the effective date of this Act. In this section:

(1) "Commercial well" means a Class I injection well, as defined by commission rule, that a person may use to dispose of hazardous or nonhazardous industrial solid wastes for a charge. The term does not include:

(A) an injection well that is part of an integrated waste management unit of a captured facility; or

(B) an injection well at which only waste from facilities owned or effectively controlled by the same person is disposed.

(2) "Captured facility" means a manufacturing or production facility that generates an industrial solid waste or hazardous waste that is routinely stored, processed, or disposed of on a shared basis in an integrated waste management unit owned by, operated by, and located within a contiguous manufacturing complex.

(b) The rules adopted under Subsection (a) of this section may not apply to an application for a permit for an injection well:

(1) used solely for the sequestration or capture of carbon dioxide; or

(2) for which the surface facilities are associated with a well for which a permit is issued before the effective date of this Act.

(c) The Texas Commission on Environmental Quality shall provide that the rules adopted under Subsection (a)

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apply to every application for a permit for a new commercial underground injection control well that proposes to accept industrial or municipal waste that is filed on or after the effective date of this Act.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB3827** by Hancock (Relating to the delivery of regulated substances into underground storage tanks; providing a penalty.), **Conference Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would create a criminal penalty for any person who physically delivers regulated substance into an underground storage tank (UST) regulated under Texas Water Code, Chapter 26, which has not been issued a valid, current registration and certificate of compliance. Violation of this proposed criminal sanction would be punishable as a Class A misdemeanor. The bill would also provide a defense to prosecution in certain cases, including if the substance was manufactured in strict accordance with state or federal specifications. The bill would also create a defense to prosecution from the requirement if a person making the delivery relied on a valid paper delivery certificate presented by the owner or operator of the underground storage tank or displayed at the facility associated with the facility, if a temporary delivery authorization presented by the owner or operator of the underground storage tank or displayed at the facility associated with the underground storage tank, or registration and self-certification information for the tank obtained from the Texas Commission on Environmental Quality website not more than 30 days before the date of delivery.

No significant fiscal impact to the state is expected as a result of the bill's passage.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

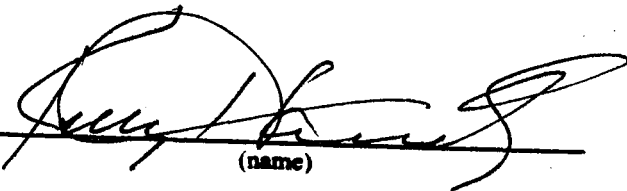
Source Agencies: 582 Commission on Environmental Quality

LBB Staff: JOB, SD, SZ, TL

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 3827 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.


(name)

5-30-09
(date)