

BILL ANALYSIS

C.S.H.B. 1856
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Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that a facility with which a scrap metal recycling entity has a recycling arrangement may go out of business, which could leave the entity liable for pollution caused by the facility from the scrap metal under the arrangement. C.S.H.B. 1856 seeks to address this issue by providing for the creation of a defense for persons engaged in certain scrap metal recycling transactions.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1856 amends the Health and Safety Code to establish that a person who arranges for recycling of scrap metal is not responsible for the scrap metal under Solid Waste Disposal Act provisions relating to processing, storing, or disposing of, or arranging with a transporter for transport to process, store, or dispose of, solid waste owned or possessed by the person, by any other person or entity at certain facilities or sites or relating to accepting any solid waste for transport to a solid waste facility or site selected by the person if the person can establish by a preponderance of the evidence that the person meets the criteria established in federal law relating to recycling scrap metal.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1856 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 361.275(a), Health and Safety Code, is amended to read as

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

85R 26969

17.117.796

Substitute Document Number: 85R 25226

follows:

(a) Except as provided by Section 361.2755, a [A] person responsible for solid waste under Section 361.271 is liable under Section 361.272 or 361.273 unless the person can establish by a preponderance of the evidence that the release or threatened release was caused solely by:

- (1) an act of God;
- (2) an act of war;
- (3) an act or omission of a third person; or
- (4) any combination of Subdivisions (1), (2), and (3).

SECTION 2. Subchapter I, Chapter 361, Health and Safety Code, is amended by adding Section 361.2755 to read as follows:
Sec. 361.2755. RECYCLABLE MATERIAL; DEFENSE.

(a) In this section, "recyclable material" has the meaning assigned by 42 U.S.C. Section 9627(b).

(b) A person who arranges for recycling of recyclable material is not responsible for the recyclable material under Section 361.271(a)(3) or (4) if the person can establish by a preponderance of the evidence that the person would not be liable with respect to the recyclable material under 42 U.S.C. Section 9607(a)(3) or (4) based on the person meeting the criteria established under 42 U.S.C. Section 9627 relating to transactions involving that type of recyclable material.

SECTION 3. This Act takes effect September 1, 2017.

SECTION 1. Subchapter I, Chapter 361, Health and Safety Code, is amended by adding Section 361.2755 to read as follows:
Sec. 361.2755. RECYCLED SCRAP METAL; DEFENSE.

(a) In this section, "scrap metal" has the meaning assigned by 42 U.S.C. Section 9627(d)(3).

(b) A person who arranges for recycling of scrap metal is not responsible for the scrap metal under Section 361.271(a)(3) or (4) if the person can establish by a preponderance of the evidence that the person meets the criteria established in 42 U.S.C. Section 9627 relating to recycling scrap metal.

SECTION 2. Same as introduced version.