

**SUBJECT:** Exempting truck drivers from storage tank compliance requirements

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 7 ayes — Puente, Bonnen, Campbell, Geren, Hardcastle, Hope, Laney  
0 nays  
2 absent — Callegari, Hilderbran

**WITNESSES:** For — Bill Webb, Texas Motor Transportation Association  
Against — None

**BACKGROUND:** The Texas Commission on Environmental Quality (TCEQ) requires owners of regulated underground storage tanks to register the tanks with TCEQ. An owner of an underground tank used to store motor fuels must complete an annual compliance certification form. Under Water Code, sec. 26.3467(a), an underground tank owner or operator must provide the motor carrier a certificate of compliance for the tank before accepting the product. Violating this requirement is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

**DIGEST:** Under CSHB 1047, a common carrier who delivered a regulated substance to the owner or operator of an underground storage tank would not be liable if the owner or operator did not supply the common carrier with a valid certificate of compliance before accepting the regulated substance. The bill also would specify that only an owner or operator who knowingly violated this requirement would be committing an offense.

The bill would take effect September 1, 2005 and would apply only to an offense committed on or after that date.

**SUPPORTERS SAY:** HB 755 would protect truck drivers from being penalized for the negligence of others. A current tank certification must be provided to the driver before delivery of the product. A motor carrier can be prosecuted for depositing a product into a tank that is not certified. If a delivery is made outside of business hours, the owner or operator might not be there

to provide the certificate. This puts the carrier in the difficult position of either delivering the fuel illegally or taking it away.

Truck drivers should not be required to be “tank cops,” making judgments on the spot as to whether a tank’s registration is current. It is the responsibility of the owner and operator of a storage tank to ensure that he or she has been properly certified. It is that person who should be held responsible if the certification is not current, not the person delivering the product.

**OPPONENTS  
SAY:**

CSHB 1047 is unnecessary, because current law already protects truck drivers who unknowingly deliver a regulated substance to a person lacking proper certification. Under the bill, a truck driver knowingly could deliver a product to a gas station that was not properly certified, a step backward in terms of oversight of these facilities.

**NOTES:**

As filed, HB 1047 would have removed the provision that a person committed a violation if he or she knowingly committed an offense under this section.

The companion bill, SB 681 by Janek, has been referred to the Senate Natural Resources Committee.