

**SUBJECT:** Penalizing the delivery of substances to unregistered storage tanks

**COMMITTEE:** Environmental Regulation — committee substitute recommended

**VOTE:** 9 ayes — Cook, Chisum, Burnam, Dunnam, Farrar, Hancock, Legler, Veasey, Weber  
0 nays

**WITNESSES:** For — None  
Against — None  
On — John Esparza, Texas Motor Trucking Association

**BACKGROUND:** Water Code, ch. 26, subch. I governs the petroleum storage tank remediation program. The program, which is administered by the Texas Commission on Environmental Quality (TCEQ), requires owners of certain underground storage tanks that hold regulated substances, such as gasoline or diesel, to register those tanks with the commission.

**DIGEST:** CSHB 3827 would make a Class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) the delivery of an unregulated substance into an underground storage tank that was not registered and certified with TCEQ.

The bill also would create an affirmative defense to prosecution if an individual relied on:

- a valid paper delivery certificate;
- a temporary delivery authorization; or
- registration and certification information appearing on TCEQ's website no more than 30 days before the delivery.

The bill would take effect September 1, 2009.

**SUPPORTERS SAY:** CSHB 3827 would bring Texas into compliance with federal law, which requires states to hold individuals who deliver gasoline to unregistered

storage tanks accountable for their actions. The guidelines of the Federal Energy Policy Act of 2005 require states to prohibit the delivery of gasoline and diesel to gas stations with unregistered petroleum storage tanks. The bill would allow Texas to continue to receive federal funding for its petroleum storage tank remediation program.

Leaking petroleum storage tanks can pose a threat to public health and the environment. Leaking tanks can cause hazardous particles, like benzene, toluene, and heavy metals, to contaminate the local water supply. Some of these chemicals and heavy metals have been known to cause cancer. The bill would encourage the proper registry of petroleum storage tanks and reduce the delivery of gasoline to unregistered tanks.

The bill would provide an affirmative defense to truck drivers who deliver gasoline and diesel to unregistered petroleum storage tanks. Trucking companies would be able to visit TCEQ's website to determine which gas stations were registered and plan schedules accordingly. The bill would exempt truckers from the penalty as long as the gas station had been verified on TCEQ's website within 30 days of the delivery.

**OPPONENTS  
SAY:**

The tank owners should be the parties responsible for registering their own storage tanks, not truck drivers. Truckers should not have to be in the business of enforcing petroleum storage tank registry. Truckers operate on tight deadlines with strict federal rest requirements and cannot afford to skip stops that do not have registrations displayed openly or readily available.

**NOTES:**

The substitute differs from the bill as filed by adding the defense to prosecution.

The companion bill, HB 2090 by Deuell, has been referred to the Senate Natural Resources Committee.