

BILL ANALYSIS

Senate Research Center

H.B. 1956
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Natural Resources
4/25/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The owners and operators of underground petroleum storage tanks are not taking the necessary measures to ensure that they are being financially responsible. A large number of them have terminated their financial assurance and insurance coverage, which forces the state to assume responsibility for the leaks not addressed by the owners and operators.

H.B. 1956 authorizes the Texas Commission on Environmental Quality (TCEQ) to order an owner or operator of an underground storage tank that fails to maintain acceptable evidence of financial responsibility to place the tank out of service, and requires an insurance company or other entity that provides insurance coverage or another form of financial assurance to an owner or operator of an underground storage tank for purposes of the section to notify TCEQ if the insurance coverage or other financial assurance is canceled or not renewed.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Insurance in SECTION 1 (Section 26.352, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Section 26.352, Water Code, by amending Subsections (d), (e), and (f) and adding Subsections (e-1), (e-2), (g), (h), and (i), as follows:

(d) Authorizes a registration certificate issued by the Texas Natural Resource Conservation Commission (TNRCC) under Section 26.346 (Registration Requirements) to be submitted by an owner or operator of an underground storage tank to the United States Environmental Protection Agency as evidence of the owner's or operator's eligibility for funds for any expense for corrective action incurred for confirmed releases initially discovered and reported to TNRCC on or before December 22, 1998. Provides that such registration certificate is not acceptable evidence of financial responsibility for an underground storage tank that contains a petroleum substance other than a petroleum product; or spent oil or hydraulic fluid if the tank is located at a vehicle service and fueling facility and is used as part of the operations of that facility; or any expenses for corrective action for confirmed releases initially discovered and reported to TNRCC after December 22, 1998.

(e) Requires an owner or operator of an underground storage tank used for storing petroleum products to submit annually with the compliance certification form required by Section 26.346 proof that the owner or operator maintains evidence of financial responsibility as required by Subsection (a). Deletes existing text relating to the circumstances under which a registration certificate is not acceptable as evidence of financial responsibility.

(e-1) Requires an insurance company or other entity that provides insurance coverage or another form of financial assurance to an owner or operator of an underground storage tank for purposes of the section to notify TNRCC if the insurance coverage or other

financial assurance is canceled or not renewed. Requires the insurance company or other entity to mail, fax, or e-mail notice not later than the 30th day after the date the coverage terminates. Requires the Texas Department of Insurance to adopt rules to implement and enforce this subsection.

(e-2) Requires the owner or operator of a tank for which insurance coverage or other financial assurance has terminated to dispose of any regulated substance in the tank at a properly licensed facility not later than the 90th day after the coverage terminates, unless the owner or operator provided TNRCC proof that the owner or operator maintains evidence of financial responsibility as required under Subsection (a).

(f) Prohibits the amount of an administrative or civil penalty imposed under this subsection from being less than the annual cost, as estimated by TNRCC, of maintaining the minimum insurance coverage required for the tank as determined under Subsection (c).

(g) Creates this subsection from existing text.

(h) Creates this subsection from existing text.

(i) Authorizes TNRCC to order an owner or operator of an underground storage tank that fails to maintain acceptable evidence of financial responsibility to place the tank out of service in the same manner that TNRCC is authorized to issue such an order under Section 26.3475(e).

SECTION 2. Makes application of Section 26.352(e), Water Code, as amended by this Act, prospective.

SECTION 3. Makes application of Section 26.352(e-1), Water Code, as added by this Act, prospective to January 1, 2008.

SECTION 4. Makes application of Sections 26.352(f), as amended by this Act, and 26.352(i) Water Code, as added by this Act, prospective.

SECTION 5. Effective date: September 1, 2007.