

## **BILL ANALYSIS**

Senate Research Center  
81R21420 JAM-D

H.B. 3827  
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Natural Resources  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law requires owners and operators of underground storage tanks (USTs), such as gasoline retailers, to register the tank systems and self-certify compliance with Texas Commission on Environmental Quality (TCEQ) regulations in order to receive a certificate from TCEQ that indicates they can receive deliveries of fuel or other regulated substances. Under current law, tank owners or operators commit a Class A misdemeanor if they accept a delivery of fuel without having a proper delivery certificate. Prior to the passage of S.B. 485 by the 79th Legislature, Regular Session, 2005, fuel transporters, or common carriers, also committed a Class A misdemeanor if they delivered fuel into a UST that did not have a proper delivery certificate. Subsequent to passage of S.B. 485, the Federal Energy Act of 2005 required all states with EPA-approved delegated UST Programs to have a delivery prohibition that makes common carriers liable for delivery to uncertified tanks.

The intention of this bill is to bring Texas into compliance with current federal requirements and to provide a person an affirmative defense to prosecution if the person relied on certain information for delivering a regulated substance into a UST that does not have a proper delivery certificate.

H.B. 3827 amends current law relating to the delivery of regulated substances into USTs and provides a penalty.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 7.156(c), Water Code, to provide that a person commits an offense if the person physically delivers any regulated substance into an underground storage tank (UST) regulated under Chapter 26 (Water Quality Control) unless the UST has been issued a valid, current UST registration and certificate of compliance under Section 26.346 (Registration Requirements). Makes nonsubstantive changes.

SECTION 2. Amends Subchapter F, Chapter 7, Water Code, by adding Section 7.256, as follows:

Sec. 7.256. DEFENSE TO DELIVERY OF REGULATED SUBSTANCE INTO UNDERGROUND STORAGE TANK. Provides that it is an affirmative defense to prosecution under Section 7.156(c)(2) (relating to provision that a person commits an offense if the person physically delivers any regulated substance into a UST) that the person delivering a regulated substance into a UST relied on a valid paper delivery certificate presented by the owner or operator of the UST or displayed at the facility associated with the UST; a temporary delivery authorization presented by the owner or operator of the UST or displayed at the facility associated with the UST; or registration and self-certification information for the UST obtained from the Texas Commission on Environmental Quality's Internet website not more than 30 days before the date of delivery.

SECTION 3. Effective date: September 1, 2009.