

BILL ANALYSIS

Senate Research Center

S.B. 2445
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Natural Resources
4/5/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Untreated sewage is a proven hazard to human health and the environment. The Texas Water Code currently prohibits the disposal of sewage by boats on certain inland waters of the state. S.B. 2445 would expand the areas covered by the prohibition against boat sewage disposal to include all inland waters of the state and to coastal waters up to three nautical miles from shore.

Under the current Texas Water Code and Texas Parks & Wildlife Code, the discharge of boat sewage is regulated on only 25 designated inland lakes that provide fresh water to local municipalities and Clear Lake, a brackish water lake south of Houston. The discharge of "treated" boat sewage is permitted in all other inland fresh water lakes and reservoirs, all river systems, estuaries, and coastal bays.

As proposed, S.B. 2445 requires the Texas Commission on Environmental Quality (TCEQ) to issue rules concerning the disposal of sewage from boats located or operated on the water of the state. The bill requires that the rules include provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including on-shore and mobile pump-out facilities, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each on-shore and mobile pump-out device. The bill also authorizes a marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited to, if the owner or operator is aboard, board the boat for the purpose of inspecting the marine sanitation device for proper operation and placing a dye tablet in the holding tank.

[**Note:** 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.]

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Natural Resource Conservation Commission is modified in SECTION 1 (Section 26.044, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 26.044(a), (b), (d), and (f), Water Code, as follows:

(a) Redefines "boat."

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC) to issue rules concerning the disposal of sewage from boats located or operated on water of the state, rather than on inland fresh waters in this state. Requires that the rules of TNRCC include provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including on-shore and mobile pump-out facilities, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each on-shore and mobile pump-out device.

(d) Authorizes, rather than requires, TNRCC or any person authorized by it under Section 26.021 (Delegation of Hearing Powers), rather than of this code, on request before issuing any rules under Subsection (b), rather than of this section, to hold hearings

on those rules in Austin and in five other locations in the state in order to provide the best opportunity for all citizens of the state to appear and present evidence to TNRCC.

(f) Requires that copies of each rule issued by TNRCC under this section be filed in the offices of TNRCC in Austin, in the office of the secretary of state (SOS) in Austin, the office of the county clerk in each county in the state, and posted on TNRCC's Internet website.

SECTION 2. Amends Sections 26.045(a), (b), and (c), Water Code, as follows:

(a) Redefines "boat pump-out station," "shoreside, mobile, or floating installation," and "water of the state."

(b) Authorizes TNRCC, after a public hearing and after making every reasonable effort to bring about the establishment of an adequate number of boat pump-out stations on water of the state, rather than fresh water, to enter an order requiring the establishment of boat pump-out stations by a local government that has any jurisdiction over at least a portion of the water of the state, rather than the fresh water, or over land immediately adjacent to the water, rather than fresh water.

(c) Authorizes the local government, if a local government is authorized to issue authorization for the operation of shoreside, mobile, or floating installations, to require the installation and operation of boat pump-out stations where necessary.

SECTION 3. Amends the heading to Section 31.129, Parks and Wildlife Code, to read as follows:

Sec. 31.129. VIOLATION AND ENFORCEMENT OF SEWAGE DISPOSAL REGULATIONS.

SECTION 4. Amends Section 31.129, Parks and Wildlife Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that a person who violates or fails to comply with a rule of the Texas Commission on Environmental Quality (TCEQ), rather than TNRCC, concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(c) Authorizes a game warden or peace officer who is certified as a marine safety enforcement officer under Section 31.121 (Enforcement Officers) to enforce a rule of TCEQ concerning the disposal of sewage from boats.

(d) Authorizes a marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited or, if the owner or operator is aboard, board the boat for the purpose of inspecting the marine sanitation device for proper operation and placing a dye tablet in the holding tank.

SECTION 5. Effective date: September 1, 2009.