

3. Criminal Water Pollution and Automobile-Related

Texas Water Code Chapter 7 Enforcement Subchapter E: Criminal Offenses and Penalties

Definitions

From TEXAS WATER CODE SEC. 26.001 DEFINITIONS

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(19) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

(13) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state. The term:

(A) includes:

- (i) tail water or runoff water from irrigation associated with an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone as defined by Section 26.502; or
- (ii) rainwater runoff from the confinement area of an animal feeding operation or concentrated animal feeding operation that is located in a major sole source impairment zone, as defined by Section 26.502; and
- (B) does not include tail water or runoff water from irrigation or rainwater runoff from other cultivated or uncultivated rangeland, pastureland, and farmland or rainwater runoff from an area of land located in a major sole source impairment zone, as defined by Section 26.502, that is not owned or controlled by an operator of an animal feeding operation or concentrated animal feeding operation on which agricultural waste is applied.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste.

(14) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(21) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants or wastes are or may be discharged into or adjacent to any water in the state.

Felony Water Pollution

TEXAS WATER CODE SEC. 7.145. INTENTIONAL OR KNOWING UNAUTHORIZED DISCHARGE.

(a) A person commits an offense if the person, acting intentionally or knowingly with respect to the person's conduct, discharges or allows the discharge of a waste or pollutant:

- (1) into or adjacent to water in the state that causes or threatens to cause water pollution unless the waste or pollutant is discharged in strict compliance with all required permits or with an order issued or a rule adopted by the appropriate regulatory agency; or
- (2) from a point source in violation of Chapter 26 or of a rule, permit, or order of the appropriate regulatory agency.

Individual:	\$1,000 to \$100,000 and/or five years confinement;
Person other than individual:	\$1,000 to \$250,000

Misdemeanor Water Pollution

TEXAS WATER CODE SEC. 7.147. UNAUTHORIZED DISCHARGE.

(a) A person commits an offense if the person discharges or allows the discharge of any waste or pollutant into any water in the state that causes or threatens to cause water pollution unless the waste or pollutant:

- (1) is discharged in strict compliance with all required permits or with valid and currently effective order issued or rule adopted by the appropriate regulatory agency; or
- (2) consists of used oil and the concentration of used oil in the waste stream resulting from the discharge as it enters water in the state is less than 15 parts per million following the discharge and the person is authorized to discharge storm water under a general permit issued under Section 26.040.

(b) An offense under this section may be prosecuted without alleging or proving any culpable mental state.

Individual:	\$1,000 to \$50,000 and/or one year confinement;
Person other than individual:	\$1,000 to \$100,000

Lead-Acid Batteries

TWC 7.185. KNOWING OR INTENTIONAL UNAUTHORIZED DISPOSAL OF LEAD-ACID BATTERIES. (a) A person commits an offense if the person knowingly or intentionally disposes of a lead-acid battery other than as provided by Section 361.451, Health and Safety Code.

Class A Misdemeanor

Tip

Texas Water Code Chapter 7(E) contains many felony laws that focus on such topics as water pollution, hazardous waste, medical waste and illegal burning. Do yourself a favor sometime and read all of Subchapter E.

Reckless Discharge and Endangerment

TEXAS WATER CODE SEC. 7.154. RECKLESS UNAUTHORIZED DISCHARGE AND ENDANGERMENT.

(a) A person commits an offense if the person, acting recklessly with respect to the person's conduct, discharges or allows the discharge of a waste or pollutant into or adjacent to water in the state and by that action places another person in imminent danger of death or serious bodily injury, unless the discharge is made in strict compliance with all required permits or with a valid and currently effective order issued or rule adopted by the appropriate regulatory agency.

Individual:	\$1,000 to \$100,000 and/or one year confinement;
Person other than individual:	\$1,000 to \$250,000

Used Oil

TWC 7.176. VIOLATIONS RELATING TO HANDLING OF USED OIL.

(a) A person commits an offense if the person:

(1) intentionally discharges used oil into:

- (A) a sewer or septic tank; or
- (B) a drainage system, surface water or groundwater, a watercourse, or marine water unless the concentration of used oil in the waste stream resulting from the discharge as it enters water in the state is less than 15 parts per million following the discharge and the person is authorized to discharge storm water under a general permit issued under Section 26.040;

(2) knowingly mixes or commingles used oil with solid waste that is to be disposed of in landfills or directly disposes of used oil on land or in landfills, unless the mixing or commingling of used oil with solid waste that is to be disposed of in landfills is incident to and the unavoidable result of the dismantling or mechanical shredding of motor vehicles, appliances, or other items of scrap, used, or obsolete metals;

(3) knowingly transports, treats, stores, disposes of, recycles, causes to be transported, or otherwise handles any used oil within the state:

- (A) in violation of standards or rules for the management of used oil; or
- (B) without first complying with the registration requirements of Chapter 371, Health and Safety Code, and rules adopted under that chapter;

(4) intentionally applies used oil to roads or land for dust suppression, weed abatement, or other similar uses that introduce used oil into the environment;

(5) violates an order of the commission to cease and desist an activity prohibited by this section or a rule applicable to a prohibited activity; or

(6) intentionally makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of program compliance.

Person:	\$1,000 to \$50,000 and/or five years confinement;
Previous Conviction:	\$1,000 to \$100,000 and/or fifteen years confinement