

By: Anchia

H.B. No. 1043

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the imposition of administrative, civil, and criminal  
3 penalties for violating certain statutes under the jurisdiction of,  
4 rules or orders adopted by, or licenses, permits, or certificates  
5 issued by the Railroad Commission of Texas; increasing criminal  
6 penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. Sections [81.0531](#)(b), (c), and (d), Natural  
9 Resources Code, are amended to read as follows:

10 (b) The penalty may not exceed:

11 (1) \$25,000 [~~\$10,000~~] a day for each violation that is  
12 not related to pipeline safety; or

13 (2) \$200,000 a day for each violation that is related  
14 to pipeline safety.

15 (c) In determining the amount of the penalty, the commission  
16 shall consider the [~~permittee's history of previous violations, the~~  
17 ~~seriousness of the violation, any hazard to the health or safety of~~  
18 ~~the public, and the demonstrated good faith of the person charged.~~  
19 ~~In determining the amount of the penalty for a violation of a~~  
20 ~~provision of this title or a rule, order, license, permit, or~~  
21 ~~certificate that relates to pipeline safety, the commission shall~~  
22 ~~consider the~~] guidelines adopted under Subsection (d).

23 (d) The commission [~~by rule~~] shall adopt guidelines to be  
24 used in determining the amount of the penalty. The commission shall

1 provide an opportunity for public input on the guidelines [~~for a~~  
2 ~~violation of a provision of this title or a rule, order, license,~~  
3 ~~permit, or certificate that relates to pipeline safety~~]. The  
4 guidelines must [~~shall~~] include a penalty calculation worksheet  
5 that specifies the typical penalty for certain violations,  
6 circumstances justifying enhancement of a penalty and the amount of  
7 the enhancement, and circumstances justifying a reduction in a  
8 penalty and the amount of the reduction. The guidelines must  
9 provide for different penalties for different violations based on  
10 the seriousness of the violation and any hazard to the health or  
11 safety of the public resulting from the violation. The guidelines  
12 must [~~shall~~] take into account:

13 (1) the permittee's history of previous violations,  
14 including the number of previous violations;

15 (2) the seriousness of the violation and of any  
16 pollution resulting from the violation;

17 (3) any hazard to the health or safety of the public;

18 (4) the degree of culpability;

19 (5) the demonstrated good faith of the person charged;

20 [~~and~~]

21 (6) the number of times the permittee's certificate of  
22 compliance issued under Subchapter P, Chapter 91, has been  
23 canceled;

24 (7) any economic benefit gained through the violation;

25 (8) the penalty necessary to deter future violations;

26 and

27 (9) any other factor the commission considers

1 relevant.

2 SECTION 2. Section 81.058(d), Natural Resources Code, is  
3 amended to read as follows:

4 (d) An administrative penalty imposed under this section  
5 may not exceed \$25,000 [~~\$5,000~~] a day for each violation. Each day  
6 a violation continues or occurs is a separate violation for  
7 purposes of imposing a penalty under this section.

8 SECTION 3. Section 91.002(b), Natural Resources Code, is  
9 amended to read as follows:

10 (b) An offense under Subsection (a) of this section is  
11 punishable by a fine of not more than \$25,000 [~~\$10,000~~] a day for  
12 each day a violation is committed.

13 SECTION 4. Section 27.101(a), Water Code, is amended to  
14 read as follows:

15 (a) A person who violates any provision of this chapter  
16 under the jurisdiction of the railroad commission, any rule of the  
17 railroad commission made under this chapter, or any term,  
18 condition, or provision of a permit issued by the railroad  
19 commission under this chapter shall be subject to a civil penalty in  
20 any sum not exceeding \$25,000 [~~\$5,000~~] for each day of  
21 noncompliance and for each act of noncompliance. A violation under  
22 the jurisdiction of the commission is enforceable as provided by  
23 Chapter 7.

24 SECTION 5. Section 27.1011(b), Water Code, is amended to  
25 read as follows:

26 (b) The penalty may not exceed \$25,000 [~~\$10,000~~] a day for  
27 each violation. Each day a violation continues may be considered a

1 separate violation for purposes of penalty assessments.

2 SECTION 6. Section 27.105(a), Water Code, is amended to  
3 read as follows:

4 (a) A person who knowingly or intentionally violates a  
5 provision of this chapter under the jurisdiction of the railroad  
6 commission, a rule of the railroad commission, or a term,  
7 condition, or provision of a permit issued by the railroad  
8 commission under this chapter is subject to a fine of not more than  
9 \$25,000 [~~\$5,000~~] for each violation and for each day of violation.  
10 A violation under the jurisdiction of the commission is enforceable  
11 under Section 7.157.

12 SECTION 7. The changes in law made by this Act apply only to  
13 a violation committed on or after the effective date of this Act. A  
14 violation committed before the effective date of this Act is  
15 governed by the law in effect when the violation was committed, and  
16 the former law is continued in effect for that purpose. For  
17 purposes of this section, a violation was committed before the  
18 effective date of this Act if any element of the violation was  
19 committed before that date.

20 SECTION 8. This Act takes effect September 1, 2021.