

A BILL TO BE ENTITLED

AN ACT

relating to capturing and storing carbon dioxide.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100B to read as follows:

CHAPTER 100B. LIMITED LIABILITY FOR CAPTURING AND STORING CARBON

DIOXIDE

Sec. 100B.001. DEFINITIONS. In this chapter:

(1) "Captured carbon dioxide" means carbon dioxide from any source that, through human effort or means, is seized for the purpose of sequestering the carbon dioxide with the intent of permanently preventing the carbon dioxide from being released into the atmosphere, including carbon dioxide that is:

(A) captured from the atmosphere;

(B) stripped, segregated, or divided from a fluid stream; or

(C) captured from an emissions source, including from:

(i) an advanced clean energy project as defined by Section 382.003, Health and Safety Code;

(ii) an electric generation facility; or

(iii) an industrial source of emissions.

(2) "Carbon dioxide" means the chemical compound composed of one carbon and two oxygen atoms. The term includes:

- 1           (A) anthropogenic carbon dioxide;
- 2           (B) naturally occurring carbon dioxide;
- 3           (C) carbon dioxide captured from the atmosphere;

4 and

5           (D) phases, mixtures, and combinations of carbon  
6 dioxide that include:

7                   (i) a substance incidentally derived from  
8 the source materials for or process of capturing the carbon  
9 dioxide;

10                   (ii) a substance added to the carbon  
11 dioxide stream to enable or improve storage of the carbon dioxide;  
12 and

13                   (iii) a substance incidentally captured  
14 with carbon dioxide captured from the atmosphere.

15           (3) "Geologic storage" means the underground storage  
16 of carbon dioxide in a reservoir.

17           (4) "Geologic storage facility" means the underground  
18 reservoir, underground equipment, injection wells, and surface  
19 buildings and equipment used or to be used for the geologic storage  
20 of carbon dioxide and all surface and subsurface rights and  
21 appurtenances necessary to the operation of a facility for the  
22 geologic storage of carbon dioxide. The term includes any  
23 reasonable and necessary areal buffer and subsurface monitoring  
24 zones, pressure fronts, and other areas as may be necessary for this  
25 state to receive delegation of any federal underground injection  
26 control program relating to the storage of carbon dioxide.

27           (5) "Reservoir" has the meaning assigned by Section

1 [27.002](#), Water Code.

2 (6) "Stored carbon dioxide" means captured carbon  
3 dioxide that is being transported or temporarily or permanently  
4 stored.

5 Sec. 100B.002. CAPTURED OR STORED CARBON DIOXIDE NOT  
6 NUISANCE. (a) Stored carbon dioxide is not:

7 (1) a pollutant; or

8 (2) a nuisance, including a public nuisance, under  
9 common law or the laws of this state, including Chapter [125](#).

10 (b) A person may not bring a nuisance action or similar  
11 cause of action on the basis that captured carbon dioxide, stored  
12 carbon dioxide, or a process associated with capturing or storing  
13 carbon dioxide constitutes a nuisance.

14 SECTION 3. Chapter 100B, Civil Practice and Remedies Code,  
15 as added by this Act, is an exercise of authority under Section  
16 66(c), Article III, Texas Constitution, and takes effect only if  
17 this Act receives a vote of three-fifths of all the members elected  
18 to each house, as provided by Subsection (e) of that section.

19 SECTION 4. The changes in law made by this Act apply only to  
20 a cause of action that accrues on or after the effective date of  
21 this Act. A cause of action that accrued before the effective date  
22 of this Act is governed by the law as it existed immediately before  
23 the effective date of this Act, and that law is continued in effect  
24 for that purpose.

25 SECTION 5. This Act takes effect September 1, 2023.