

By: Darby, Morales of Maverick, Craddick,
Dyson, Canales

H.B. No. 49

Substitute the following for H.B. No. 49:

By: Darby

C.S.H.B. No. 49

A BILL TO BE ENTITLED

AN ACT

relating to the treatment and beneficial use of fluid oil and gas waste and related material, including a limitation on liability for that treatment or use.

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

SECTION 1. Section 122.003, Natural Resources Code, is amended to read as follows:

Sec. 122.003. RESPONSIBILITY IN TORT. (a) Except as provided by Subsection (b), a person who takes possession of fluid oil and gas waste for treatment, produces from that waste ~~[a]~~ treated waste ~~[product generally considered in the oil and gas industry to be suitable for use in connection with the drilling for or production of oil or gas]~~, and either puts the treated waste to a beneficial use or transfers the treated waste ~~[product]~~ to another person with the contractual understanding that the treated waste ~~[product]~~ will be put to a beneficial use ~~[used in connection with the drilling for or production of oil or gas]~~ is not liable in tort for a consequence of the subsequent use of that treated waste ~~[product]~~ by any ~~[the person to whom the treated product is transferred or by another]~~ person.

(a-1) Except as provided by Subsection (b), a person, including an owner of the surface estate of real property, who produces fluid oil and gas waste or who supplies or conveys fluid oil and gas waste to a treatment facility for the purpose of

generating treated waste is not liable in tort for:

(1) a consequence of the subsequent treatment of that fluid oil and gas waste to generate treated waste;

(2) the subsequent use of that treated waste by any person; or

(3) exposure to any component of the waste or any byproduct of the process used to generate treated waste.

(a-2) Except as provided by Subsection (b), an owner of the surface estate of real property on or under which fluid oil and gas waste is produced, conveyed, or transported is not liable in an action for damages for personal injury, death, or property damage arising from exposure to fluid oil and gas waste, treated waste, or a byproduct of a process used to generate treated waste.

(b) This section does not affect the liability of a person ~~[that treats fluid oil and gas waste for beneficial use]~~ in an action brought by a claimant ~~[person]~~ for damages for personal injury, death, or property damage arising from exposure to fluid oil and gas waste, treated waste, or a byproduct of a process used to generate treated waste if that exposure occurred as a result of the person's:

(1) gross negligence or intentional, wrongful act or omission; or

(2) negligence and the person did not treat, generate, use, or dispose of the fluid oil and gas waste, treated waste, or byproduct in conformity with:

(A) rules adopted under Section [122.004](#); or

(B) a Texas Pollutant Discharge Elimination

1 System program permit issued by the Texas Commission on
2 Environmental Quality under Section 26.027 or 26.131, Water Code
3 [product].

4 (c) A claimant awarded damages for a tort premised solely on
5 the person's negligence and regulatory nonconformity under
6 Subsection (b)(2) may not be awarded exemplary damages.

7 SECTION 2. Section 122.004(a), Natural Resources Code, is
8 amended to read as follows:

9 (a) The commission shall adopt rules to govern the treatment
10 and beneficial use of fluid oil and gas waste, treated waste, and
11 any byproduct of a process used to generate treated waste.

12 SECTION 3. Chapter 122, Natural Resources Code, as amended
13 by this Act, applies only to a cause of action that accrues on or
14 after the effective date of this Act. A cause of action that
15 accrues before the effective date of this Act is governed by the law
16 as it existed immediately before the effective date of this Act, and
17 that law is continued in effect for that purpose.

18 SECTION 4. This Act takes effect September 1, 2025.