

1-1 By: Keffer of Dallas (Senate Sponsor - Armbrister) H.B. No. 2613
1-2 (In the Senate - Received from the House May 1, 2003;
1-3 May 7, 2003, read first time and referred to Committee on Natural
1-4 Resources; May 22, 2003, reported favorably by the following vote:
1-5 Yeas 10, Nays 0; May 22, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to liens on stored hydrocarbons at sites and facilities
1-9 that have not been timely cleaned up.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Section 91.115, Natural Resources
1-12 Code, is amended to read as follows:

1-13 Sec. 91.115. FIRST LIEN ON EQUIPMENT AND STORED
1-14 HYDROCARBONS.

1-15 SECTION 2. Section 91.115, Natural Resources Code, is
1-16 amended by amending Subsections (a), (e), and (f) and adding
1-17 Subsection (h) to read as follows:

1-18 (a) If a responsible person fails to clean up a site or
1-19 facility that has ceased oil and gas operations under the
1-20 commission's jurisdiction on or before the date the site or
1-21 facility is required to be cleaned up by law or by a rule adopted or
1-22 order issued by the commission, the state has a first lien, superior
1-23 to all preexisting and subsequent liens and security interests, on
1-24 the responsible person's interest in any hydrocarbons stored at the
1-25 site or facility and in any equipment that is:

1-26 (1) located at the site or facility; and

1-27 (2) used by the responsible person in connection with
1-28 the activity that generated the pollution.

1-29 (e) The lien is extinguished as to any stored hydrocarbons
1-30 or items [~~item~~] of equipment that are [~~is~~] lawfully removed by any
1-31 person other than the operator or a nonoperator according to a lien,
1-32 lease, judgment, written contract, or security agreement before the
1-33 commission enters into a cleanup contract. An item of equipment may
1-34 not be removed from an abandoned site or facility if the removal
1-35 will cause the release of a substance that may cause pollution
1-36 unless the substance is lawfully disposed of.

1-37 (f) Equipment or stored hydrocarbons subject to a lien under
1-38 this section are [~~is~~] presumed to have been abandoned on the date
1-39 the commission enters into a contract to clean up the site or
1-40 facility on which the equipment or hydrocarbons are [~~is~~] located.
1-41 The commission may dispose of the equipment or stored hydrocarbons
1-42 in accordance with the provisions of Sections 89.085, 89.086, and
1-43 89.087 of this code for the disposition of well-site equipment and
1-44 hydrocarbons.

1-45 (h) The lien provided by this section, as it relates to
1-46 stored hydrocarbons, shall be subject to and inferior to any lien in
1-47 favor of the State of Texas to secure royalty payments.

1-48 SECTION 3. (a) This Act takes effect September 1, 2003.

1-49 (b) The changes in law made by Section 91.115, Natural
1-50 Resources Code, as amended by this Act, apply only to an interest in
1-51 hydrocarbons stored at a site or facility the date for cleanup of
1-52 which required by law or rule or order adopted by the Railroad
1-53 Commission of Texas is September 1, 2003, or later.

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