

By: Hardcastle

H.B. No. 2766

Substitute the following for H.B. No. 2766:

By: Krusee

C.S.H.B. No. 2766

A BILL TO BE ENTITLED

AN ACT

relating to requiring a permit to conduct geochemical or geophysical exploration activities along certain roadways; providing penalties.

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

SECTION 1. Subtitle Z, Title 6, Transportation Code, is amended by adding Chapter 473 to read as follows:

CHAPTER 473. GEOCHEMICAL AND GEOPHYSICAL EXPLORATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 473.001. PURPOSE. The purpose of this chapter is to provide compensation to this state and counties of this state for geochemical or geophysical exploration activities conducted on the right-of-way of a state or county roadway and to preserve property contiguous to those rights-of-way.

Sec. 473.002. DEFINITIONS. In this chapter:

(1) "Adjacent land" means land that is contiguous to the right-of-way of a roadway on which a geochemical or geophysical exploration activity is conducted.

(2) "Geochemical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects by using a technique involving soil sampling and analysis.

(3) "Geophysical exploration" means a survey or investigation conducted to discover or locate oil and gas prospects by using a magnetic, gravitational, seismic, or electrical

1 technique.

2 Sec. 473.003. NONAPPLICABILITY. This chapter does not
3 apply to geochemical or geophysical exploration activities that are
4 conducted:

5 (1) by air;

6 (2) inside the corporate limits of a municipality;

7 (3) in an area consisting of more than 15 separately
8 owned tracts of land that front one or both sides of any mile of a
9 roadway; or

10 (4) on or along any mile-long section of a
11 right-of-way by a company that:

12 (A) holds an oil and gas lease or permit covering
13 all properties contiguous to the right-of-way on which the
14 exploration activities under the permit are conducted; or

15 (B) has entered into a contract with a company
16 described by Paragraph (A).

17 Sec. 473.004. RULEMAKING AUTHORITY. The commission may
18 adopt rules that the commission considers appropriate or necessary
19 to implement or administer this chapter.

20 [Sections 473.005-473.050 reserved for expansion]

21 SUBCHAPTER B. EXPLORATION ACTIVITIES ON STATE ROADWAY

22 RIGHTS-OF-WAY

23 Sec. 473.051. PERMIT REQUIRED. A person may not conduct
24 geochemical or geophysical exploration activities on the
25 right-of-way of a roadway in the state highway system unless the
26 person holds a permit issued by the department that authorizes
27 those activities.

1 Sec. 473.052. APPLICATION FOR PERMIT. (a) An application
2 for a permit under this chapter must be filed with the department by
3 the person proposing to conduct the geochemical or geophysical
4 exploration activities.

5 (b) An application must be on the form prescribed by the
6 commission and state the name and address of the geochemical or
7 geophysical exploration company proposing to conduct the
8 geochemical or geophysical exploration activities and any other
9 information required by the commission.

10 Sec. 473.053. PERMIT FEE. (a) The department shall
11 impose and collect a fee from an applicant for a permit at a rate of
12 \$650 for each mile of right-of-way on which the applicant proposes
13 to conduct geochemical or geophysical exploration activities. Only
14 one fee may be imposed or collected for each set of geochemical or
15 geophysical activities.

16 (b) Each fee collected by the department under Subsection
17 (a) shall be deposited to the credit of the general revenue fund.

18 Sec. 473.054. NOTICE OF PROPOSED GEOCHEMICAL OR GEOPHYSICAL
19 EXPLORATION ACTIVITIES. The commission by rule shall require an
20 applicant for a permit under this subchapter to provide:

21 (1) the name and address of each owner of the
22 applicable adjacent land; and

23 (2) evidence showing that each owner of that adjacent
24 land has been informed by the applicant of the applicant's intent to
25 conduct geochemical or geophysical exploration activities on the
26 applicable right-of-way.

27 Sec. 473.055. COMPLIANCE REQUIRED. A permit holder under

1 this chapter shall comply with applicable commission rules.

2 Sec. 473.056. INFORMATION RELATING TO EXPLORATION
3 ACTIVITIES. (a) The commission may require:

4 (1) an applicant for a permit to provide to the
5 commission information describing the right-of-way and the
6 location on the right-of-way where the applicant proposes to
7 conduct the geochemical or geophysical exploration activities
8 under the permit; or

9 (2) at the request of the commission, a permit holder
10 to provide information describing the location on the right-of-way
11 where the person is conducting geochemical or geophysical
12 exploration activities under the permit.

13 (b) The commission may not require a permit holder to
14 provide interpretive data.

15 (c) Information collected by the commission under
16 Subsection (a) or Section 473.054 is for the confidential use of the
17 commission and the department and may not be disclosed to the public
18 or another agency of this state, except as directed by court order.

19 Sec. 473.057. RESTORATION OF DAMAGED PROPERTY. The
20 commission by rule shall require a permit holder under this chapter
21 to restore property, including fences, ditches, or water troughs,
22 that fronts the right-of-way on which the geochemical or
23 geophysical exploration activities were conducted and was damaged
24 incidental to those exploration activities, as nearly as possible
25 to its condition immediately before the exploration activities were
26 conducted.

27 Sec. 473.058. DAMAGES TO SURFACE OF RIGHT-OF-WAY. (a) The

commission by rule shall establish procedures for:

(1) the restoration of the surface of a right-of-way of a roadway damaged by geochemical or geophysical exploration activities; and

(2) compensation for any damage caused by those activities.

(b) Subsection (a) does not apply to land covered by Subtitle F, Title 2, Natural Resources Code.

Sec. 473.059. REVOCATION OF PERMIT. The commission may revoke a permit issued under this subchapter if the permit holder violates an applicable rule of the commission or a term of the permit.

[Sections 473.060-473.100 reserved for expansion]

SUBCHAPTER C. EXPLORATION ACTIVITIES ON COUNTY RIGHTS-OF-WAY

Sec. 473.101. COUNTY RIGHTS-OF-WAY. Except as provided by Section 473.102, the provisions of Subchapter B applicable to land that is right-of-way of the state highway system apply equally to land that is right-of-way of a county road system or is adjacent land to that right-of-way, to the extent that they can be made applicable. A reference to the commission in that subchapter means the commissioners court of a county. A reference to the department in that subchapter means the county.

Sec. 473.102. DISPOSITION OF FEES. Each fee collected by the commissioners court of a county for the issuance of a permit under this subchapter shall be deposited to the credit of the general fund of the county.

Sec. 473.103. NOTIFICATION TO DEPARTMENT. The

1 commissioners court of a county may notify the department of each
2 permit issued under this subchapter.

3 [Sections 473.104-473.150 reserved for expansion]

4 SUBCHAPTER D. ADMINISTRATIVE PENALTIES

5 Sec. 473.151. ADMINISTRATIVE PENALTIES. (a) The
6 department may impose an administrative penalty against a person
7 who violates:

8 (1) this chapter;

9 (2) a rule of the commission adopted under Subchapter
10 B;

11 (3) a rule of the commissioners court of a county
12 adopted under Subchapter C; or

13 (4) a term of a permit issued to the person under
14 Subchapter B or C.

15 (b) The amount of the administrative penalty may not be less
16 than \$100 or more than \$1,000 for each violation. Each day a
17 violation continues is a separate violation.

18 SECTION 2. This Act takes effect September 1, 2003.