

By: Capelo

H.B. No. 3164

A BILL TO BE ENTITLED

AN ACT

relating to initiating the prosecution of environmental crimes.

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

SECTION 1. PURPOSE. The purpose of this Act is to ensure statewide consistency in the interpretation and enforcement of environmental laws.

SECTION 2. AMENDMENT. Subchapter E, Chapter 7, Water Code, is amended by adding Section 7.203 to read as follows:

Sec. 7.203. INITIATION OF PROSECUTION. (a) The commission or the executive director shall consult with the attorney general concerning possible criminal prosecution of any alleged violation under this code, the Health and Safety Code, or any other statute or permit that is within the commission's jurisdiction. In response to the specific request of the commission or the executive director, the attorney general may institute the procedures established by Subsection (b).

(b) The attorney general, after evaluating an alleged violation as described by Subsection (a), may:

(1) notify the prosecuting attorney in the county in which the violation allegedly occurred to recommend prosecution of the alleged violation; and

(2) offer the investigative, technical, and litigation assistance of the attorney general's office in any prosecution of the alleged violation brought by the prosecuting

1 attorney.

2 (c) Performance of the acts described by Subsections (a) and  
3 (b) by the appropriate individuals in accordance with those  
4 subsections is a condition precedent to the filing of criminal  
5 charges by any prosecuting attorney for an alleged violation under  
6 this code, the Health and Safety Code, or any other statute or  
7 permit that is within the commission's jurisdiction, if the  
8 potential defendant holds a permit issued by the commission or is  
9 employed by a person holding such permit.

10 (d) In making an evaluation and recommendation for  
11 initiation of prosecution under this section, the commission and  
12 the attorney general shall consider the factors prescribed in  
13 Section 7.053 and whether available administrative or civil  
14 remedies would adequately address the alleged violation.

15 SECTION 3. EFFECTIVE DATE. This Act takes effect  
16 immediately if it receives a vote of two-thirds of all the members  
17 elected to each house, as provided by Section 39, Article III, Texas  
18 Constitution. If this Act does not receive the vote necessary for  
19 immediate effect, this Act takes effect September 1, 2003.