

By: Armbrister

S.B. No. 1376

A BILL TO BE ENTITLED

AN ACT

relating to surface use planning and restoration for oil and gas mineral leases.

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

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SECTION 1. Title 3, Natural Resource Code, Chapter 91, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. SURFACE USE ACT

Section 91.701. Legislative findings and intent. The legislature finds that.

1. It is necessary to exercise the police power of the state to protect the public welfare of Texas, which is greatly dependent on agriculture, ranching, and wildlife, and to protect the economic well being of individuals engaged in agricultural, ranching, and wildlife production.

2. Exploration for and development of oil and gas reserves in this state affect the use of certain land.

3. The mineral estate is dominant over the surface estate; however, owners of the surface estate and other persons should be justly compensated for injury to their persons or property and interference with the use of their property caused by oil and gas development.

Section 91.702. Definitions. In this chapter:

1. "Agricultural production" means agricultural use as

1 defined in Tax Code Section 23.51(2), and wildlife management as  
2 defined in Tax Code Section 23.51(7).

3 2. "Drilling operations" means the entry upon the surface  
4 estate for drilling purposes after September 1, 2003, the drilling  
5 of an oil and gas well, and the production and completion operations  
6 ensuing from the drilling which require entry upon the surface  
7 estate, and oil and gas geophysical and seismograph exploration  
8 activities. "Drilling operations" does not mean the work-over or  
9 re-completion of an existing oil and gas well.

10 3. "Mineral developer" means the person who acquires the  
11 mineral estate or lease for the purpose of extracting or using the  
12 minerals for nonagricultural purposes.

13 4. "Mineral estate" means an estate in or ownership of all  
14 or part of the minerals underlying a specified tract of land.

15 5. "Minerals" mean oil and gas.

16 6. "Surface estate" means an estate in or ownership of the  
17 surface of a particular tract of land.

18 7. "Surface owner" means any person who holds record title  
19 to the surface of the land as an owner.

20 8. "Offer of settlement" means any financial offer or other  
21 act requested by the landowner from the mineral developer for  
22 compensation for damage of property caused by the development of  
23 minerals.

24 9. "Damage payments" means the terms of any payment for  
25 damages to property caused by the mineral developer.

26 10. "Disruption payments" means the terms of any payment for  
27 disruption of the use of the property by a landowner caused by the

1 mineral developer.

2 Section 91.703. NOTICE OF DRILLING OPERATIONS.

3 Except in instances where there are unknown heirs, imperfect  
4 titles, or surface owners whose whereabouts cannot be ascertained  
5 with reasonable diligence, the mineral developer shall give the  
6 surface owner written notice of the drilling operations  
7 contemplated at least thirty days (30) prior to the commencement of  
8 the operations, unless waived by mutual agreement of both parties.  
9 If the mineral developer plans to begin drilling operations within  
10 thirty days (30) of the termination date of the mineral lease, the  
11 required notice under this section may be given at any time prior to  
12 the commencement of drilling operations. This notice must be given  
13 to the record surface owner at that person's address as shown by the  
14 records of the county clerk or county tax assessor at the time the  
15 notice is given. This notice must sufficiently disclose the plan of  
16 work, the amount of land to be affected, any destruction or removal  
17 of trees or existing structures, fixtures, or improvements, and  
18 operations to enable the surface owner to evaluate the effect of  
19 drilling operations on the surface owner's use of the property.  
20 Included with this notice must be a statement from the mineral  
21 developer advising the surface owner of the surface owner's rights  
22 and options under this chapter. If a mineral developer fails to  
23 give notice as provided under this section, the surface owner may  
24 seek any appropriate relief in the court of proper jurisdiction and  
25 may receive actual damages. The prevailing party is entitled to  
26 recover reasonable court costs and attorneys fees for failure to  
27 properly give such notice.

1        Section 91.704. APPLICATION OF CHAPTER. The remedies  
2 provided by this chapter do not preclude any person from seeking  
3 other remedies allowed by law.

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