

By: Bonnen

H.B. No. 1705

Substitute the following for H.B. No. 1705:

By: Smith of Harris

C.S.H.B. No. 1705

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the release of hazardous waste in connection with
3 dredging and placement or storage of dredged materials by a port
4 authority or navigation district.

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

6 SECTION 1. Section 361.271, Health and Safety Code, is
7 amended by adding Subsections (g), (h), and (i) to read as follows:

8 (g) A port authority or navigation district created under
9 Section 59, Article XVI, or Section 52, Article III, Texas
10 Constitution, is not a person responsible under this chapter for
11 the release or threatened release of hazardous waste from a
12 facility or at a site solely for its activities related to
13 construction or maintenance of waterways to facilitate navigation
14 if, in performing those activities:

15 (1) the port authority or navigation district is
16 acting in the jurisdiction of the port authority or navigation
17 district by virtue of the authority's or district's function as
18 sovereign;

19 (2) the port authority or navigation district requires
20 that dredged materials be sampled and analyzed before placement or
21 storage of those materials on land or submerged land; and

22 (3) the port authority or navigation district, after
23 exercising due diligence, does not knowingly accept dredged
24 materials that are hazardous waste.

1 (h) Subsection (g) may not be construed to relieve a port
2 authority or navigation district of liability if the port authority
3 or navigation district causes or contributes to the generation of
4 hazardous waste.

5 (i) As used in Subsection (g), activities related to
6 construction or maintenance of waterways to facilitate navigation
7 include:

8 (1) the dredging of materials from navigable waters or
9 the banks of navigable waters in the jurisdiction of the port
10 authority or navigation district;

11 (2) the placement or storage of dredged materials on
12 land or submerged land; and

13 (3) the construction, operation, or maintenance of a
14 placement area for dredged material.

15 SECTION 2. The change in law made by this Act does not apply
16 to an act or governmental proceeding of a port authority or
17 navigation district created under Section 59, Article XVI, or
18 Section 52, Article III, Texas Constitution, that is the subject of
19 litigation pending on the effective date of this Act.

20 SECTION 3. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2005.