

1-1 By: Bonnen H.B. No. 1705
1-2 (Senate Sponsor - Armbrister)
1-3 (In the Senate - Received from the House April 4, 2005;
1-4 April 6, 2005, read first time and referred to Committee on Natural
1-5 Resources; May 11, 2005, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-7 May 11, 2005, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 1705 By: Jackson

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to the release of hazardous waste in connection with
1-12 dredging and placement or storage of dredged materials by a port
1-13 authority or navigation district.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 361.271, Health and Safety Code, is
1-16 amended by adding Subsections (g), (h), and (i) to read as follows:

1-17 (g) A port authority or navigation district created under
1-18 Section 59, Article XVI, or Section 52, Article III, Texas
1-19 Constitution, is not a person responsible under this chapter for
1-20 the release or threatened release of hazardous waste from a
1-21 facility or at a site solely for its activities related to
1-22 construction or maintenance of waterways to facilitate navigation
1-23 if, in performing those activities:

1-24 (1) the port authority or navigation district is
1-25 acting by virtue of the authority's or district's function as
1-26 sovereign;

1-27 (2) the port authority or navigation district requires
1-28 that dredged materials be sampled and analyzed before placement or
1-29 storage of those materials on land or submerged land; and

1-30 (3) the port authority or navigation district, after
1-31 exercising due diligence, does not accept dredged materials that
1-32 are hazardous waste.

1-33 (h) Subsection (g) may not be construed to relieve a port
1-34 authority or navigation district of liability if the port authority
1-35 or navigation district causes or contributes to the generation of
1-36 hazardous waste.

1-37 (i) As used in Subsection (g), activities related to
1-38 construction or maintenance of waterways to facilitate navigation
1-39 include:

1-40 (1) the dredging of materials from navigable waters or
1-41 the banks of navigable waters;

1-42 (2) the placement or storage of dredged materials on
1-43 land or submerged land; and

1-44 (3) the construction, operation, or maintenance of a
1-45 placement area for dredged material.

1-46 SECTION 2. The change in law made by this Act does not apply
1-47 to an act or governmental proceeding of a port authority or
1-48 navigation district created under Section 59, Article XVI, or
1-49 Section 52, Article III, Texas Constitution, that is the subject of
1-50 litigation pending on the effective date of this Act.

1-51 SECTION 3. This Act takes effect immediately if it receives
1-52 a vote of two-thirds of all the members elected to each house, as
1-53 provided by Section 39, Article III, Texas Constitution. If this
1-54 Act does not receive the vote necessary for immediate effect, this
1-55 Act takes effect September 1, 2005.

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