

By: Hancock

H.B. No. 1956

Substitute the following for H.B. No. 1956:

By: Kuempel

C.S.H.B. No. 1956

A BILL TO BE ENTITLED

AN ACT

relating to the financial responsibility requirements applicable to owners or operators of underground storage tanks.

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

SECTION 1. Section 26.352, Water Code, is amended by amending Subsections (d), (e), and (f) and adding Subsections (e-1), (g), (h), and (i) to read as follows:

(d) A [~~An owner or operator of an underground storage tank may submit the~~] registration certificate issued by the commission [~~to the owner or operator~~] under Section 26.346:

(1) may be submitted by an owner or operator of an underground storage tank [of this code] to the United States Environmental Protection Agency as evidence of the owner's or operator's eligibility for funds for any expense for corrective action incurred for confirmed releases initially discovered and reported to the commission on or before December 22, 1998; and

(2) is not acceptable evidence of financial responsibility for:

(A) an underground storage tank that contains a petroleum substance other than:

(i) a petroleum product; or

(ii) spent oil or hydraulic fluid if the tank is located at a vehicle service and fueling facility and is used as part of the operations of that facility; or

1 (B) any expenses for corrective action for
2 confirmed releases initially discovered and reported to the
3 commission after December 22, 1998.

4 (e) An owner or operator of an underground storage tank used
5 for storing petroleum products shall submit annually with the
6 compliance certification form required by Section 26.346 proof that
7 the owner or operator maintains evidence of financial
8 responsibility as required by Subsection (a) [A registration
9 certificate issued under Section 26.346 is not acceptable evidence
10 of financial responsibility for:

11 ~~[(1) an underground storage tank that contains a~~
12 ~~petroleum substance other than:~~

13 ~~[(A) a petroleum product; or~~

14 ~~[(B) spent oil or hydraulic fluid if the tank is~~
15 ~~located at a vehicle service and fueling facility and is used as~~
16 ~~part of the operations of that facility; or~~

17 ~~[(2) any expenses for corrective action for confirmed~~
18 ~~releases initially discovered and reported to the commission after~~
19 ~~December 22, 1998].~~

20 (e-1) An insurance company or other entity that provides
21 insurance coverage or another form of financial assurance to an
22 owner or operator of an underground storage tank for purposes of
23 this section shall notify the commission if the insurance coverage
24 or other financial assurance is canceled or not renewed. The
25 insurance company or other entity shall mail, fax, or e-mail notice
26 not later than the 30th day after the date the coverage terminates.
27 The Texas Department of Insurance shall adopt rules to implement

1 and enforce this subsection.

2 (f) The commission shall enforce this section and may impose
3 administrative and civil penalties on the owners or operators of
4 underground storage tanks if acceptable evidence of financial
5 responsibility is not maintained. The amount of an administrative
6 or civil penalty imposed under this subsection may not be less than
7 the annual cost, as estimated by the commission, of maintaining the
8 minimum insurance coverage required for the tank as determined
9 under Subsection (c).

10 (g) An owner or operator commits an offense if the owner or
11 operator operates an underground storage tank knowing that
12 acceptable evidence of financial responsibility does not exist and
13 is subject to criminal prosecution as provided by Subchapter F.

14 (h) The commission may seek injunctive relief in the
15 district courts of Travis County to force the temporary or
16 permanent closure of an underground storage tank for which
17 acceptable evidence of financial responsibility is not maintained.

18 (i) The commission may order an owner or operator of an
19 underground storage tank that fails to maintain acceptable evidence
20 of financial responsibility to place the tank out of service in the
21 same manner that the commission may issue such an order under
22 Section 26.3475(e).

23 SECTION 2. Section 26.352(e), Water Code, as amended by
24 this Act, applies only to a compliance certification form submitted
25 to the Texas Commission on Environmental Quality on or after the
26 effective date of this Act. A compliance certification form
27 submitted before the effective date of this Act is governed by the

1 law in effect at the time the form was submitted, and that law is
2 continued in effect for that purpose.

3 SECTION 3. The change in law made by Section 26.352(e-1),
4 Water Code, as added by this Act, applies only to an insurance
5 policy or other form of financial assurance that is terminated on or
6 after January 1, 2008. A policy or other form of financial
7 insurance that is terminated before that date is governed by the law
8 in effect at the time the policy or other financial assurance is
9 terminated, and that law is continued in effect for that purpose.

10 SECTION 4. Section 26.352(f), Water Code, as amended by
11 this Act, and Section 26.352(i), Water Code, as added by this Act,
12 apply only to a failure to maintain evidence of financial
13 responsibility that occurs on or after the effective date of this
14 Act. A failure to maintain evidence of financial responsibility
15 that occurs before the effective date of this Act is governed by the
16 law in effect at the time the failure occurred, and that law is
17 continued in effect for that purpose.

18 SECTION 5. This Act takes effect September 1, 2007.