

By: Hancock

H.B. No. 1956

A BILL TO BE ENTITLED

1 AN ACT

2 relating to underground storage tank financial responsibility  
3 notification requirements and the shutdown of underground storage  
4 tank facilities by the Texas Commission on Environmental Quality  
5 and the Attorney General for failure to properly maintain financial  
6 assurance.

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

8 SECTION 1. Section 26.3475, Water Code, is amended by  
9 amending the heading and adding Subsection (d-1) to read as  
10 follows:

11 Sec. 26.3475. RELEASE DETECTION REQUIREMENTS; SPILL AND  
12 OVERFILL PREVENTION; CORROSION PROTECTION; FINANCIAL  
13 RESPONSIBILITY; NOTICE OF VIOLATION; SHUTDOWN. (a) All piping in  
14 an underground storage tank system that routinely conveys regulated  
15 substances under pressure must comply with commission requirements  
16 for pressurized piping release detection equipment.

17 (b) All piping in an underground storage tank system that  
18 routinely conveys regulated substances under suction must comply  
19 with commission requirements for suction-type piping release  
20 detection equipment.

21 (c) A tank in an underground storage tank system must comply  
22 with commission requirements for:

23 (1) tank release detection equipment; and

24 (2) spill and overfill equipment.

1 (d) An underground storage tank system must comply with  
2 commission requirements for applicable tank integrity assessment  
3 and corrosion protection not later than December 22, 1998.

4 (d-1) A tank owner or operator must maintain financial  
5 responsibility as required under Section 26.352.

6 (e) The commission may issue a notice of violation to the  
7 owner or operator of an underground storage tank system that does  
8 not comply with this section, informing the owner or operator of the  
9 nature of the violation and that the commission may order the  
10 noncomplying underground storage tank system placed out of service  
11 if the owner or operator does not correct the violation within 30  
12 days after the date the notice is received. If the owner or  
13 operator does not correct the violation within the prescribed time,  
14 the commission may order the noncomplying underground storage tank  
15 system out of service.

16 SECTION 2. Section 26.352, Water Code, is amended to read as  
17 follows:

18 Sec. 26.352. FINANCIAL RESPONSIBILITY. (a) The commission  
19 by rule shall adopt requirements for maintaining evidence of  
20 financial responsibility for taking corrective action and  
21 compensating third parties for bodily injury and property damage  
22 caused by sudden and nonsudden accidental releases arising from  
23 operating an underground storage tank.

24 (b) The rules must require that, after December 22, 1998,  
25 the owner or operator of a site for which a closure letter has been  
26 issued under Section 26.3572 shall have insurance coverage or  
27 evidence of financial responsibility sufficient to satisfy all

1 financial responsibility requirements under federal law or  
2 regulations. The rules must require that an owner or operator of a  
3 site that has been issued a closure letter and who is eligible to  
4 have a portion of any future corrective action costs paid under  
5 Section 26.3512 shall have insurance coverage or evidence of  
6 financial responsibility sufficient to satisfy the first expenses  
7 for corrective action as provided by Section 26.3512(k).

8 (c) The commission shall seek the assistance of the Texas  
9 Department of Insurance in developing the minimum requirements for  
10 insurance coverage required under this section.

11 (d) An owner or operator of an underground storage tank may  
12 submit the registration certificate issued by the commission to the  
13 owner or operator under Section 26.346 of this code to the United  
14 States Environmental Protection Agency as evidence of the owner's  
15 or operator's eligibility for funds for any expense for corrective  
16 action incurred for confirmed releases initially discovered and  
17 reported to the commission on or before December 22, 1998.

18 (e) A registration certificate issued under Section 26.346  
19 is not acceptable evidence of financial responsibility for:

20 (1) an underground storage tank that contains a  
21 petroleum substance other than:

22 (A) a petroleum product; or

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

26 (2) any expenses for corrective action for confirmed  
27 releases initially discovered and reported to the commission after

1 December 22, 1998.

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. An owner or operator commits an  
6 offense if the owner or operator operates an underground storage  
7 tank knowing that acceptable evidence of financial responsibility  
8 does not exist and is subject to criminal prosecution as provided by  
9 Subchapter F. The commission may order an owner or operator to take  
10 a noncomplying underground storage tank system out of service under  
11 Section 26.3475. The commission may also seek injunctive relief in  
12 the district courts of Travis County to force the temporary or  
13 permanent closure of an underground storage tank for which  
14 acceptable evidence of financial responsibility is not maintained.

15 SECTION 3. Subchapter I, Chapter 26, Water Code, is amended  
16 by adding new Section 26.3521 to read as follows:

17 Sec. 26.3521. UNDERGROUND STORAGE TANK FINANCIAL  
18 RESPONSIBILITY NOTIFICATION REQUIREMENTS. Any underground storage  
19 tank insurance policy held in compliance with Section 26.352 of  
20 this chapter must contain a provision requiring the insurer to  
21 provide notification to the Texas Commission on Environmental  
22 Quality when an underground storage tank owner or operator ceases  
23 to be insured by that insurer, either through termination,  
24 cancellation, non-renewal, or other cessation of coverage. Notice  
25 must be mailed within 30 days after the effective date of coverage  
26 cessation.

27 SECTION 4. The changes in law made by Sections 1 and 2 apply

1 only to the financial assurance in effect at a facility on or after  
2 September 1, 2007. An order entered by the commission before  
3 September 1, 2007, is governed by the law in effect at the time the  
4 order is entered, and the former law is continued in effect for that  
5 purpose.

6 SECTION 5. The changes in law made by Section 3 apply only  
7 to an insurance policy that is delivered, issued for delivery, or  
8 renewed on or after January 1, 2008. A policy delivered, issued for  
9 delivery, or renewed before January 1, 2008, is governed by the law  
10 as it existed immediately before the effective date of this Act, and  
11 that law is continued in effect for that purpose.

12 SECTION 6. The Texas Commission on Environmental Quality  
13 may adopt rules implementing the changes in law effected by this  
14 Act.

15 SECTION 7. The Texas Department of Insurance may make rules  
16 consistent with this goal, or enter into an agreement with the Texas  
17 Commission on Environmental Quality, as necessary, to effectuate  
18 enforcement.

19 SECTION 8. This Act takes effect September 1, 2007.