

1-1 By: Hancock (Senate Sponsor - Brimer) H.B. No. 1956
1-2 (In the Senate - Received from the House April 16, 2007;
1-3 April 17, 2007, read first time and referred to Committee on
1-4 Natural Resources; May 3, 2007, reported favorably by the
1-5 following vote: Yeas 8, Nays 0; May 3, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the financial responsibility requirements applicable
1-9 to owners or operators of underground storage tanks.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 26.352, Water Code, is amended by
1-12 amending Subsections (d), (e), and (f) and adding Subsections
1-13 (e-1), (e-2), (g), (h), and (i) to read as follows:

1-14 (d) ~~A [An owner or operator of an underground storage tank~~
1-15 ~~may submit the]~~ registration certificate issued by the commission
1-16 ~~[to the owner or operator]~~ under Section 26.346:

1-17 (1) may be submitted by an owner or operator of an
1-18 underground storage tank [of this code] to the United States
1-19 Environmental Protection Agency as evidence of the owner's or
1-20 operator's eligibility for funds for any expense for corrective
1-21 action incurred for confirmed releases initially discovered and
1-22 reported to the commission on or before December 22, 1998; and

1-23 (2) is not acceptable evidence of financial
1-24 responsibility for:

1-25 (A) an underground storage tank that contains a
1-26 petroleum substance other than:

1-27 (i) a petroleum product; or

1-28 (ii) spent oil or hydraulic fluid if the
1-29 tank is located at a vehicle service and fueling facility and is
1-30 used as part of the operations of that facility; or

1-31 (B) any expenses for corrective action for
1-32 confirmed releases initially discovered and reported to the
1-33 commission after December 22, 1998.

1-34 (e) An owner or operator of an underground storage tank used
1-35 for storing petroleum products shall submit annually with the
1-36 compliance certification form required by Section 26.346 proof that
1-37 the owner or operator maintains evidence of financial
1-38 responsibility as required by Subsection (a) [A registration
1-39 certificate issued under Section 26.346 is not acceptable evidence
1-40 of financial responsibility for:

1-41 ~~[(1) an underground storage tank that contains a~~
1-42 ~~petroleum substance other than:~~

1-43 ~~[(A) a petroleum product; or~~

1-44 ~~[(B) spent oil or hydraulic fluid if the tank is~~
1-45 ~~located at a vehicle service and fueling facility and is used as~~
1-46 ~~part of the operations of that facility; or~~

1-47 ~~[(2) any expenses for corrective action for confirmed~~
1-48 ~~releases initially discovered and reported to the commission after~~
1-49 ~~December 22, 1998].~~

1-50 (e-1) An insurance company or other entity that provides
1-51 insurance coverage or another form of financial assurance to an
1-52 owner or operator of an underground storage tank for purposes of
1-53 this section shall notify the commission if the insurance coverage
1-54 or other financial assurance is canceled or not renewed. The
1-55 insurance company or other entity shall mail, fax, or e-mail notice
1-56 not later than the 30th day after the date the coverage terminates.
1-57 The Texas Department of Insurance shall adopt rules to implement
1-58 and enforce this subsection.

1-59 (e-2) The owner or operator of a tank for which insurance
1-60 coverage or other financial assurance has terminated shall dispose
1-61 of any regulated substance in the tank at a properly licensed
1-62 facility not later than the 90th day after the coverage terminates,
1-63 unless the owner or operator provides the commission proof that the
1-64 owner or operator maintains evidence of financial responsibility as

2-1 required under Subsection (a).

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

2-10 (g) An owner or operator commits an offense if the owner or
2-11 operator operates an underground storage tank knowing that
2-12 acceptable evidence of financial responsibility does not exist and
2-13 is subject to criminal prosecution as provided by Subchapter F.

2-14 (h) The commission may seek injunctive relief in the
2-15 district courts of Travis County to force the temporary or
2-16 permanent closure of an underground storage tank for which
2-17 acceptable evidence of financial responsibility is not maintained.

2-18 (i) The commission may order an owner or operator of an
2-19 underground storage tank that fails to maintain acceptable evidence
2-20 of financial responsibility to place the tank out of service in the
2-21 same manner that the commission may issue such an order under
2-22 Section 26.3475(e).

2-23 SECTION 2. Section 26.352(e), Water Code, as amended by
2-24 this Act, applies only to a compliance certification form submitted
2-25 to the Texas Commission on Environmental Quality on or after the
2-26 effective date of this Act. A compliance certification form
2-27 submitted before the effective date of this Act is governed by the
2-28 law in effect at the time the form was submitted, and that law is
2-29 continued in effect for that purpose.

2-30 SECTION 3. The change in law made by Section 26.352(e-1),
2-31 Water Code, as added by this Act, applies only to an insurance
2-32 policy or other form of financial assurance that is terminated on or
2-33 after January 1, 2008. A policy or other form of financial
2-34 insurance that is terminated before that date is governed by the law
2-35 in effect at the time the policy or other financial assurance is
2-36 terminated, and that law is continued in effect for that purpose.

2-37 SECTION 4. Section 26.352(f), Water Code, as amended by
2-38 this Act, and Section 26.352(i), Water Code, as added by this Act,
2-39 apply only to a failure to maintain evidence of financial
2-40 responsibility that occurs on or after the effective date of this
2-41 Act. A failure to maintain evidence of financial responsibility
2-42 that occurs before the effective date of this Act is governed by the
2-43 law in effect at the time the failure occurred, and that law is
2-44 continued in effect for that purpose.

2-45 SECTION 5. This Act takes effect September 1, 2007.

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