

By: Isett

H.B. No. 3554

Substitute the following for H.B. No. 3554:

By: Kuempel

C.S.H.B. No. 3554

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the program for the regulation and remediation of
3 underground and aboveground storage tanks.

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

5 SECTION 1. Section 26.351, Water Code, is amended by
6 amending Subsections (a) and (f) and adding Subsection (i) to read
7 as follows:

8 (a) The commission shall use risk-based corrective action
9 ~~[adopt rules establishing the requirements]~~ for taking corrective
10 action in response to a release from an underground or aboveground
11 storage tank. Corrective action may include:

12 (1) site cleanup, including the removal, treatment,
13 and disposal of surface and subsurface contamination;

14 (2) removal of underground or aboveground storage
15 tanks;

16 (3) measures to halt a release in progress or to
17 prevent future or threatened releases of regulated substances;

18 (4) well monitoring, taking of soil borings, and any
19 other actions reasonably necessary to determine the extent of
20 contamination caused by a release;

21 (5) providing alternate water supplies; and

22 (6) any other action reasonably necessary to protect
23 the public health and safety or the environment from harm or
24 threatened harm due to releases of regulated substances from

1 underground or aboveground storage tanks.

2 (f) The person performing corrective action under this
3 section, if the release was reported to the commission on or before
4 December 22, 1998, shall meet the following deadlines:

5 (1) a complete site assessment and risk assessment
6 (including, but not limited to, risk-based criteria for
7 establishing target concentrations), as determined by the
8 executive director, must be received by the agency no later than
9 September 1, 2002;

10 (2) a complete corrective action plan, as determined
11 by the executive director and including, but not limited to,
12 completion of pilot studies and recommendation of a cost-effective
13 and technically appropriate remediation methodology, must be
14 received by the agency no later than September 1, 2003. The person
15 may, in lieu of this requirement, submit by this same deadline a
16 demonstration that a corrective action plan is not required for the
17 site in question under commission rules. Such demonstration must
18 be to the executive director's satisfaction;

19 (3) for those sites found under Subdivision (2) to
20 require a corrective action plan, that plan must be initiated and
21 proceeding according to the requirements and deadlines in the
22 approved plan no later than March 1, 2004;

23 (4) for sites which require either a corrective action
24 plan or groundwater monitoring, a comprehensive and accurate annual
25 status report concerning those activities must be submitted to the
26 agency;

27 (5) for sites which require either a corrective action

1 plan or groundwater monitoring, all deadlines set by the executive
2 director concerning the corrective action plan or approved
3 groundwater monitoring plan shall be met; and

4 (6) for sites that require either a corrective action
5 plan or groundwater monitoring, have met all other deadlines under
6 this subsection, and have submitted annual progress reports that
7 demonstrate progress toward meeting closure requirements, a site
8 closure request must be submitted to the executive director no
9 later than September 1, 2011 [~~2007~~]. The request must be complete,
10 as judged by the executive director.

11 (i) The commission shall by rule define "risk-based
12 corrective action" for purposes of this section.

13 SECTION 2. Sections 26.3573(r-1) and (s), Water Code, are
14 amended to read as follows:

15 (r-1) In this subsection, "state-lead program" means the
16 petroleum storage tank state-lead program administered by the
17 commission. The executive director shall grant an extension for
18 corrective action reimbursement to a person who is an eligible
19 owner or operator under Section 26.3571. The petroleum storage
20 tank remediation account may be used to reimburse an eligible owner
21 or operator for corrective action performed under an extension
22 before August 31, 2011 [~~2007~~]. Not later than July 1, 2011 [~~2007~~],
23 an eligible owner or operator who is granted an extension under this
24 subsection may apply to the commission in writing using a form
25 provided by the commission to have the site subject to corrective
26 action placed in the state-lead program. The eligible owner or
27 operator must agree in the application to allow site access to state

1 personnel and state contractors as a condition of placement in the
2 state-lead program under this subsection. On receiving the
3 application for placement in the state-lead program under this
4 subsection, the executive director by order shall place the site in
5 the state-lead program until the corrective action is completed to
6 the satisfaction of the commission. An eligible owner or operator
7 of a site that is placed in the state-lead program under this
8 subsection is not liable to the commission for any costs related to
9 the corrective action.

10 (s) The petroleum storage tank remediation account may not
11 be used to reimburse any person for corrective action contained in a
12 reimbursement claim filed with the commission after March 1, 2012
13 [~~2008~~].

14 SECTION 3. Section 26.3574(b), Water Code, is amended to
15 read as follows:

16 (b) A fee is imposed on the delivery of a petroleum product
17 on withdrawal from bulk of that product as provided by this
18 subsection. Each operator of a bulk facility on withdrawal from
19 bulk of a petroleum product shall collect from the person who orders
20 the withdrawal a fee in an amount determined as follows:

21 (1) \$3.75 [~~\$12.50~~] for each delivery into a cargo tank
22 having a capacity of less than 2,500 gallons for the state fiscal
23 year beginning September 1, 2007 [~~2001, and the state fiscal year~~
24 ~~beginning September 1, 2002, and \$10.00 for each delivery into a~~
25 ~~cargo tank having a capacity of less than 2,500 gallons for the~~
26 ~~state fiscal year beginning September 1, 2003~~], through the state
27 fiscal year ending August 31, 2011 [~~2007~~];

1 (2) \$7.50 [~~\$25.00~~] for each delivery into a cargo tank
2 having a capacity of 2,500 gallons or more but less than 5,000
3 gallons for the state fiscal year beginning September 1, 2007
4 [~~2001, and the state fiscal year beginning September 1, 2002, and~~
5 ~~\$20.00 for each delivery into a cargo tank having a capacity of~~
6 ~~2,500 gallons or more but less than 5,000 gallons for the state~~
7 ~~fiscal year beginning September 1, 2003], through the state fiscal~~
8 year ending August 31, 2011 [~~2007~~];

9 (3) \$11.75 [~~\$37.50~~] for each delivery into a cargo
10 tank having a capacity of 5,000 gallons or more but less than 8,000
11 gallons for the state fiscal year beginning September 1, 2007
12 [~~2001, and the state fiscal year beginning September 1, 2002, and~~
13 ~~\$30.00 for each delivery into a cargo tank having a capacity of~~
14 ~~5,000 gallons or more but less than 8,000 gallons for the state~~
15 ~~fiscal year beginning September 1, 2003], through the state fiscal~~
16 year ending August 31, 2011 [~~2007~~];

17 (4) \$15.00 [~~\$50.00~~] for each delivery into a cargo
18 tank having a capacity of 8,000 gallons or more but less than 10,000
19 gallons for the state fiscal year beginning September 1, 2007
20 [~~2001, and the state fiscal year beginning September 1, 2002, and~~
21 ~~\$40.00 for each delivery into a cargo tank having a capacity of~~
22 ~~8,000 gallons or more but less than 10,000 gallons for the state~~
23 ~~fiscal year beginning September 1, 2003], through the state fiscal~~
24 year ending August 31, 2011 [~~2007~~]; and

25 (5) \$7.50 [~~a \$25.00 fee~~] for each increment of 5,000
26 gallons or any part thereof delivered into a cargo tank having a
27 capacity of 10,000 gallons or more for the state fiscal year

1 beginning September 1, 2007 [~~2001, and the state fiscal year~~
2 ~~beginning September 1, 2002, and \$20.00 for each increment of 5,000~~
3 ~~gallons or any part thereof delivered into a cargo tank having a~~
4 ~~capacity of 10,000 gallons or more for the state fiscal year~~
5 ~~beginning September 1, 2003~~], through the state fiscal year ending
6 August 31, 2011 [~~2007~~].

7 SECTION 4. Sections 26.358(d) and (g), Water Code, are
8 amended to read as follows:

9 (d) The commission may [~~shall~~] impose an annual facility fee
10 on a facility that operates one or more underground or aboveground
11 storage tanks if the fee charged under Section 26.3574 is
12 discontinued. The commission may also impose reasonable interest
13 and penalties for late payment of the fee as provided by commission
14 rule. The commission may establish a fee schedule that will
15 generate an amount of money sufficient to fund the commission's
16 budget for the regulatory program regarding underground and
17 aboveground storage tanks authorized by this subchapter.

18 (g) The commission shall collect any [~~the~~] fees imposed
19 under this section on dates set by commission rule. The period
20 between collection dates may not exceed two years.

21 SECTION 5. Section 26.361, Water Code, is amended to read as
22 follows:

23 Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM.
24 Notwithstanding any other provision of this subchapter, the
25 reimbursement program established under this subchapter expires
26 September 1, 2012 [~~2008~~]. On or after September 1, 2012 [~~2008~~], the
27 commission may not use money from the petroleum storage tank

1 remediation account to reimburse an eligible owner or operator for
2 any expenses of corrective action or to pay the claim of a person
3 who has contracted with an eligible owner or operator to perform
4 corrective action.

5 SECTION 6. (a) Section 26.3573(r-1), Water Code, as
6 amended by this Act, takes effect immediately if this Act receives a
7 vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect,
10 Section 26.3573(r-1), Water Code, as amended by this Act, takes
11 effect August 27, 2007.

12 (b) Except as provided by Subsection (a) of this section,
13 this Act takes effect September 1, 2007.