

By: Hinojosa

S.B. No. 1592

Substitute the following for S.B. No. 1592:

By: Kuempel

C.S.S.B. No. 1592

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the requirements regarding reporting by a common
3 carrier or pipeline owner or operator of contamination and to the
4 composition of the oil-field cleanup fund.

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

6 SECTION 1. Section 81.056(a)(2), Natural Resources Code, is
7 amended to read as follows:

8 (2) "Owner of the land" [~~or "landowner"~~] means a [~~the~~
9 ~~first~~] person who owns [~~is shown on the appraisal roll of the~~
10 ~~appraisal district established for the county in which a tract of~~
11 ~~land is located as owning~~] an interest in the surface estate of a
12 tract of [~~the~~] land at the time a contamination report is required
13 to be made under this section.

14 SECTION 2. Section 81.056, Natural Resources Code, is
15 amended by adding Subsections (a-1), (a-2), (c-1), and (c-2) and
16 amending Subsections (b) and (d) to read as follows:

17 (a-1) This section does not apply to contamination that is
18 in proximity to:

19 (1) a gathering line; or

20 (2) a pipeline that is located entirely within a tract
21 that is subject to an oil or gas lease.

22 (a-2) A common carrier or an owner or operator of a pipeline
23 is required to report contamination under Subsection (b) unless the
24 common carrier or pipeline owner or operator is required to report

1 the contamination under another statute or under a commission rule
2 adopted under another statute. If the common carrier or pipeline
3 owner or operator is required to report the contamination under
4 another statute or under a commission rule adopted under another
5 statute, the common carrier or pipeline owner or operator is not
6 required to report the contamination under Subsection (b).

7 (b) If in the process of placing, repairing, replacing, or
8 maintaining a pipeline a common carrier or an owner or operator of a
9 pipeline observes or detects any subsurface petroleum-based
10 contamination of soil or water in proximity to the pipeline, the
11 common carrier or pipeline owner or operator shall report the
12 contamination to the commission and to an [the] owner of the land on
13 which the pipeline is located or an occupant of the land. If the
14 common carrier or pipeline owner or operator does not know the
15 identity of an owner of the land, the common carrier or pipeline
16 owner or operator may satisfy the requirement to report the
17 contamination to an owner of the land or an occupant of the land by
18 reporting the contamination to the first person who is shown on the
19 appraisal roll of the appraisal district established for the county
20 in which the land is located as owning an interest in the surface
21 estate of the land at the time the report is required to be made.

22 Petroleum-based contamination of soil or water that is observed or
23 detected is required to be reported under this subsection if:

24 (1) hydrocarbons are present on the surface of the
25 water;

26 (2) at least five linear yards of soil have been
27 affected by hydrocarbons; or

1 (3) soil affected by hydrocarbons extends beyond the
2 face of the excavation in which the contamination is observed or
3 detected.

4 (c-1) Notwithstanding Subsection (c)(1), if the deadline
5 for making the contamination report falls on a Saturday, Sunday,
6 legal holiday, or day on which the appraisal roll of the appraisal
7 district established for the county in which the tract of land is
8 located is not available to the public, the deadline for making the
9 report is extended to the same time on the first day that is not such
10 a day.

11 (c-2) Notwithstanding Subsection (c), the contamination
12 report to an owner of the land or an occupant of the land may be made
13 by first class mail if the common carrier or pipeline owner or
14 operator does not know the telephone number, facsimile number, or
15 electronic mail address of the owner or occupant. The notice must
16 be postmarked not later than the date required by Subsection
17 (c)(1), as extended by Subsection (c-1), if applicable.

18 (d) Not later than the third business day after the date the
19 commission receives the contamination report, a person who has
20 entered into an agreement with the commission to collect samples on
21 behalf of ~~authorized by~~ the commission shall withdraw a soil
22 sample from the contaminated land. The person is entitled to enter
23 the land for the purpose of withdrawing the sample.

24 SECTION 3. Section 81.056(e), Natural Resources Code, as
25 added by Chapter 339, Acts of the 79th Legislature, Regular
26 Session, 2005, is reenacted to read as follows:

27 (e) A common carrier or pipeline owner or operator that

1 makes a contamination report under this section is released from
2 all liability for the contamination or the cleanup of the
3 contamination covered by the report, except for any contamination
4 caused by the common carrier or pipeline owner or operator.

5 SECTION 4. Section 91.111(c), Natural Resources Code, is
6 amended to read as follows:

7 (c) The fund consists of:

8 (1) penalties imposed under Section 85.381 for
9 violation of a law, order, or rule relating to well plugging
10 requirements;

11 (2) proceeds from bonds and other financial security
12 required by this chapter and benefits under well-specific plugging
13 insurance policies described by Section 91.104(c) that are paid to
14 the state as contingent beneficiary of the policies, subject to the
15 refund provisions of Section 91.1091, if applicable;

16 (3) private contributions, including contributions
17 made under Section 89.084;

18 (4) expenses collected under Section 89.083;

19 (5) fees imposed under Section 85.2021;

20 (6) civil penalties collected for violations of
21 Chapter 89 or of rules or orders relating to plugging that are
22 adopted under this code;

23 (7) proceeds collected under Sections 89.085 and
24 91.115;

25 (8) interest earned on the funds deposited in the
26 fund;

27 (9) civil penalties or costs recovered under Section

1 91.457 or 91.459;

2 (10) oil and gas waste hauler permit application fees
3 collected under Section 29.015, Water Code;

4 (11) costs recovered under Section 91.113(f);

5 (12) hazardous oil and gas waste generation fees
6 collected under Section 91.605;

7 (13) oil-field cleanup regulatory fees on oil
8 collected under Section 81.116;

9 (14) oil-field cleanup regulatory fees on gas
10 collected under Section 81.117;

11 (15) fees for a reissued certificate collected under
12 Section 85.167;

13 (16) fees collected under Section 91.1013;

14 (17) fees collected under Section 89.088;

15 (18) penalties collected under Section 81.0531;

16 (19) fees collected under Section 91.142;

17 (20) fees collected under Section 91.654;

18 (21) costs recovered under Sections 91.656 and 91.657;

19 (22) two-thirds of the fees collected under Section
20 81.0521; ~~and~~

21 (23) administrative penalties collected under
22 Subchapter E, Chapter 121, Utilities Code; and

23 (24) legislative appropriations.

24 SECTION 5. Subchapter E, Chapter 121, Utilities Code, is
25 amended by adding Section 121.2105 to read as follows:

26 Sec. 121.2105. DEPOSIT OF PENALTY. An administrative
27 penalty collected under this subchapter shall be deposited to the

1 credit of the oil-field cleanup fund.

2 SECTION 6. Section 81.056(g), Natural Resources Code, is
3 repealed.

4 SECTION 7. The changes in law made by this Act to Section
5 81.056, Natural Resources Code, apply only to contamination that a
6 common carrier or an owner or operator of a pipeline observes or
7 detects on or after the effective date of this Act. Contamination
8 that a common carrier or an owner or operator of a pipeline observes
9 or detects before the effective date of this Act is governed by the
10 law as it existed immediately before the effective date of this Act,
11 and that law is continued in effect for that purpose.

12 SECTION 8. Section 81.056(e), Natural Resources Code, as
13 reenacted by this Act, is an exercise of authority under Section
14 66(c), Article III, Texas Constitution, and takes effect only if
15 this Act receives a vote of three-fifths of all the members elected
16 to each house, as provided by Subsection (e) of that section.

17 SECTION 9. This Act takes effect September 1, 2007.