

By: Shapleigh

S.B. No. 1958

A BILL TO BE ENTITLED

AN ACT

relating to certain circumstances under which the Texas Commission on Environmental Quality is required or authorized to deny or amend a permit under the Texas Clean Air Act.

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

SECTION 1. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.0592 and 382.0593 to read as follows:

Sec. 382.0592. RESTRICTION ON ISSUANCE OR RENEWAL OF PERMIT IF APPLICANT IS NOT IN COMPLIANCE WITH CLEANUP OBLIGATIONS. (a) In this section, "contaminant" has the meaning assigned by Section 361.601.

(b) Notwithstanding the other provisions of this chapter, the commission may not issue or renew a permit under this chapter if the applicant has been determined by an order of an agency of the federal government, an agency of this state or another state, a local government, or a court to not be in compliance with an obligation to clean up or remove a contaminant from a site located in this state or another state unless the applicant submits:

(1) proof that the applicant is making satisfactory progress in cleaning up or removing the contaminant from the site as determined by the entity with jurisdiction over the cleanup or removal; or

(2) proof of financial responsibility showing to the

1 satisfaction of the commission that the applicant has the ability
2 to pay the costs of cleaning up or removing the contaminant from the
3 site.

4 (c) The commission shall consult the United States
5 Environmental Protection Agency to determine whether an applicant
6 is subject to an order described by Subsection (b) pertaining to
7 cleaning up or removing a contaminant from a site located in another
8 state.

9 (d) An application for the issuance or renewal of a permit
10 under this chapter must:

11 (1) disclose any order described by Subsection (b) to
12 which the applicant is subject; or

13 (2) state that the applicant is not subject to an order
14 described by Subsection (b).

15 Sec. 382.0593. PERMIT DENIAL OR AMENDMENT. The commission
16 may deny or amend a permit, a permit amendment, or a permit renewal
17 under this chapter if the commission finds, after notice and
18 hearing, that:

19 (1) the applicant or permit holder has a compliance
20 history that is in the lowest classification under Sections 5.753
21 and 5.754, Water Code, and rules adopted and procedures developed
22 under those sections;

23 (2) the applicant or permit holder made a false or
24 misleading statement in connection with an application submitted to
25 the commission or its officers or employees, whether the statement
26 is made in the application itself or in a written instrument
27 relating to the application; or

1 (3) the applicant or permit holder is indebted to this
2 state or a political subdivision of this state for a penalty or a
3 delinquent tax or fee.

4 SECTION 2. The change in law made by this Act applies only
5 to an application for a permit, permit amendment, or permit renewal
6 that is filed with the Texas Commission on Environmental Quality
7 under Chapter 382, Health and Safety Code, on or after the effective
8 date of this Act. An application for a permit, permit amendment, or
9 permit renewal that is filed with the commission under that chapter
10 before the effective date of this Act is governed by the law in
11 effect on the date the application is filed, and that law is
12 continued in effect for that purpose.

13 SECTION 3. This Act takes effect September 1, 2007.