

By: Hilderbran

H.B. No. 472

A BILL TO BE ENTITLED

AN ACT

relating to the requirements regarding reporting by a common carrier or pipeline owner or operator of contamination.

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

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

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

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

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

(1) a gathering line; or

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

(a-2) A common carrier or an owner or operator of a pipeline is required to report contamination under Subsection (b) unless the common carrier or pipeline owner or operator is required to report the contamination under another statute or under a commission rule

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

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

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

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

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

27 (3) soil affected by hydrocarbons extends beyond the

1 face of the excavation in which the contamination is observed or
2 detected.

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

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

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

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

26 (e) A common carrier or pipeline owner or operator that
27 makes a contamination report under this section is released from

1 all liability for the contamination or the cleanup of the
2 contamination covered by the report, except for any contamination
3 caused by the common carrier or pipeline owner or operator.

4 SECTION 4. Section 81.056(g), Natural Resources Code, is
5 repealed.

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

14 SECTION 6. Section 81.056(e), Natural Resources Code, as
15 reenacted by this Act, is an exercise of authority under Section
16 66(c), Article III, Texas Constitution, and takes effect only if
17 this Act receives a vote of three-fifths of all the members elected
18 to each house, as provided by Subsection (e) of that section.

19 SECTION 7. This Act takes effect September 1, 2009.