

By: Gallegos

S.B. No. 457

A BILL TO BE ENTITLED

1 AN ACT

2 relating to penalty assessment for violations of the Texas Clean  
3 Air Act committed by major sources.

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

5 SECTION 1. Section 7.052(c), Water Code, is amended to read  
6 as follows:

7 (c) Except as provided by Section 7.0526, the [The] amount  
8 of the penalty for all other violations within the jurisdiction of  
9 the commission to enforce may not exceed \$10,000 a day for each  
10 violation.

11 SECTION 2. Subchapter C, Chapter 7, Water Code, is amended  
12 by adding Section 7.0526 to read as follows:

13 Sec. 7.0526. PENALTIES FOR CERTAIN VIOLATIONS OF CLEAN AIR  
14 ACT. (a) In this section, "major source" has the meaning assigned  
15 by Section 501 of the federal Clean Air Act (42 U.S.C. Section  
16 7661).

17 (b) For a violation of Chapter 382, Health and Safety Code,  
18 committed by a major source that is required to obtain a permit  
19 under that chapter, the commission shall assess a penalty in an  
20 amount that is equal to or more than the total of:

21 (1) the economic benefit gained through the violation,  
22 including any costs avoided due to the violation; and

23 (2) the amount necessary to deter future violations.

24 (c) For purposes of assessing a penalty for a violation of

1 Chapter 382, Health and Safety Code, against a major source that is  
2 required to obtain a permit under that chapter, each day that a  
3 continuing violation occurs is a separate violation.

4 SECTION 3. The change in law made by this Act applies only  
5 to a violation of Chapter 382, Health and Safety Code, that occurs  
6 on or after the effective date of this Act. A violation of Chapter  
7 382, Health and Safety Code, that occurs before the effective date  
8 of this Act is governed by the law in effect when the violation  
9 occurred, and the former law is continued in effect for that  
10 purpose. For purposes of this section, a violation occurs before  
11 the effective date of this Act if any element of the violation  
12 occurs before that date.

13 SECTION 4. This Act takes effect September 1, 2009.