

By: Hancock

H.B. No. 2268

A BILL TO BE ENTITLED

AN ACT

relating to compliance with state and federal environmental permits.

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

SECTION 1. Subchapter F, Chapter 7, Water Code, is amended by adding Section 7.257 to read as follows:

Sec. 7.257. DEFENSE TO NUISANCE OR TRESPASS. A person, as defined by Section 382.003, Health and Safety Code, who is subject to an administrative, civil, or criminal action brought under this chapter for nuisance or trespass has an affirmative defense to that action if the person's actions that resulted in the alleged nuisance or trespass were authorized by a rule, permit, order, license, certificate, registration, approval, or other form of authorization issued by the commission or the federal government or an agency of the federal government and:

(1) the person was in general compliance with that rule, permit, order, license, certificate, registration, approval, or other authorization while the alleged nuisance or trespass was occurring; or

(2) the person received enforcement discretion from the commission or the federal government or an agency of the federal government for the actions that resulted in the alleged nuisance or trespass.

SECTION 2. Section 7.257, Water Code, as added by this Act,

1 applies only to an enforcement action or prosecution that is
2 commenced on or after the effective date of this Act. An
3 enforcement action or prosecution commenced before the effective
4 date of this Act is governed by the law in effect on the date the
5 action or prosecution commenced, and that law is continued in
6 effect for that purpose.

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.