

By: Gallegos

S.B. No. 338

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

(2) the amount necessary to deter future violations.

(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 on the date the
9 violation occurred, and the former law is continued in effect for
10 that purpose. For purposes of this section, a violation occurs
11 before the effective date of this Act if any element of the
12 violation occurs before that date.

13 SECTION 4. This Act takes effect September 1, 2011.