

By: Hegar, Davis
(Keffer)

S.B. No. 1294

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of administrative penalties by the Railroad Commission of Texas.

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

SECTION 1. Subsections (a), (b), (c), and (d), Section 81.0531, Natural Resources Code, are amended to read as follows:

(a) If a person violates ~~[provisions of]~~ this title ~~[which pertain to safety or the prevention or control of pollution]~~ or ~~[the provisions of]~~ a rule, order, license, permit, or certificate ~~[which pertain to safety or the prevention or control of pollution and are]~~ issued under this title, the person may be assessed an administrative ~~[a civil]~~ penalty by the commission.

(b) The penalty may not exceed \$25,000 ~~[\$10,000]~~ a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the commission shall consider the ~~[permittee's history of previous violations, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the person charged. In determining the amount of the penalty for a violation of a provision of this title or a rule, order, license, permit, or certificate that relates to pipeline safety, the commission shall consider the]~~ guidelines adopted under Subsection (d).

(d) The commission by rule shall adopt guidelines to be used

1 in determining the amount of the penalty [~~for a violation of a~~
2 ~~provision of this title or a rule, order, license, permit, or~~
3 ~~certificate that relates to pipeline safety~~]. The guidelines shall
4 include a penalty calculation worksheet that specifies the typical
5 penalty for certain violations, circumstances justifying
6 enhancement of a penalty and the amount of the enhancement, and
7 circumstances justifying a reduction in a penalty and the amount of
8 the reduction. The guidelines shall take into account:

- 9 (1) the permittee's history of previous violations,
10 including the number of previous violations;
11 (2) the seriousness of the violation and of any
12 pollution resulting from the violation;
13 (3) any hazard to the health or safety of the public;
14 (4) the degree of culpability;
15 (5) the demonstrated good faith of the person charged;
16 and
17 (6) any other factor the commission considers
18 relevant.

19 SECTION 2. Subsection (e), Section 91.143, Natural
20 Resources Code, is amended to read as follows:

21 (e) The commission may impose an administrative penalty in
22 the manner provided by Sections 81.0531-81.0534 on a person who
23 violates this section. The amount of the penalty may not exceed
24 \$25,000 [~~\$1,000~~] for each violation.

25 SECTION 3. The changes in law made by this Act apply only to
26 a violation that occurs on or after the effective date of this Act.
27 A violation that occurs before the effective date of this Act is

1 governed by the law in effect on the date of the violation, and the
2 former law is continued in effect for that purpose. For purposes of
3 this section, a violation occurs before the effective date of this
4 Act if any element of the violation occurs before that date.

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