

1-1 By: Hegar S.B. No. 1294
1-2 (In the Senate - Filed March 8, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 20, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 20, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the imposition of administrative penalties by the
1-9 Railroad Commission of Texas.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Subsections (a), (b), (c), and (d), Section
1-12 81.0531, Natural Resources Code, are amended to read as follows:

1-13 (a) If a person violates ~~[provisions of]~~ this title ~~[which~~
1-14 ~~pertain to safety or the prevention or control of pollution]~~ or ~~[the~~
1-15 ~~provisions of]~~ a rule, order, license, permit, or certificate
1-16 ~~[which pertain to safety or the prevention or control of pollution~~
1-17 ~~and are]~~ issued under this title, the person may be assessed an
1-18 administrative ~~[a civil]~~ penalty by the commission.

1-19 (b) The penalty may not exceed \$25,000 ~~[\$10,000]~~ a day for
1-20 each violation. Each day a violation continues may be considered a
1-21 separate violation for purposes of penalty assessments.

1-22 (c) In determining the amount of the penalty, the commission
1-23 shall consider the ~~[permittee's history of previous violations, the~~
1-24 ~~seriousness of the violation, any hazard to the health or safety of~~
1-25 ~~the public, and the demonstrated good faith of the person charged.~~
1-26 ~~In determining the amount of the penalty for a violation of a~~
1-27 ~~provision of this title or a rule, order, license, permit, or~~
1-28 ~~certificate that relates to pipeline safety, the commission shall~~
1-29 ~~consider the]~~ guidelines adopted under Subsection (d).

1-30 (d) The commission by rule shall adopt guidelines to be used
1-31 in determining the amount of the penalty ~~[for a violation of a~~
1-32 ~~provision of this title or a rule, order, license, permit, or~~
1-33 ~~certificate that relates to pipeline safety]~~. The guidelines shall
1-34 include a penalty calculation worksheet that specifies the typical
1-35 penalty for certain violations, circumstances justifying
1-36 enhancement of a penalty and the amount of the enhancement, and
1-37 circumstances justifying a reduction in a penalty and the amount of
1-38 the reduction. The guidelines shall take into account:

1-39 (1) the permittee's history of previous violations,
1-40 including the number of previous violations;

1-41 (2) the seriousness of the violation and of any
1-42 pollution resulting from the violation;

1-43 (3) any hazard to the health or safety of the public;

1-44 (4) the degree of culpability;

1-45 (5) the demonstrated good faith of the person charged;

1-46 and

1-47 (6) any other factor the commission considers
1-48 relevant.

1-49 SECTION 2. Subsection (e), Section 91.143, Natural
1-50 Resources Code, is amended to read as follows:

1-51 (e) The commission may impose an administrative penalty in
1-52 the manner provided by Sections 81.0531-81.0534 on a person who
1-53 violates this section. The amount of the penalty may not exceed
1-54 \$25,000 ~~[\$1,000]~~ for each violation.

1-55 SECTION 3. The changes in law made by this Act apply only to
1-56 a violation that occurs on or after the effective date of this Act.
1-57 A violation that occurs before the effective date of this Act is
1-58 governed by the law in effect on the date of the violation, and the
1-59 former law is continued in effect for that purpose. For purposes of
1-60 this section, a violation occurs before the effective date of this
1-61 Act if any element of the violation occurs before that date.

1-62 SECTION 4. This Act takes effect September 1, 2011.

1-63

* * * * *