

By: Shapiro

S.B. No. 1475

A BILL TO BE ENTITLED

AN ACT

1
2 relating to environmental and public health protections regarding
3 smelter facilities at which lead-acid battery recycling activities
4 are conducted.

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

6 SECTION 1. Section 361.133(c), Health and Safety Code, is
7 amended to read as follows:

8 (c) The commission may use the money collected and deposited
9 to the credit of the account under this section, including interest
10 credited under Subsection (b)(4), only for:

11 (1) necessary and appropriate removal and remedial
12 action at sites at which solid waste or hazardous substances have
13 been disposed if funds from a liable person, independent third
14 person, or the federal government are not sufficient for the
15 removal or remedial action;

16 (2) necessary and appropriate maintenance of removal
17 and remedial actions for the expected life of those actions if:

18 (A) funds from a liable person have been
19 collected and deposited to the credit of the account for that
20 purpose; or

21 (B) funds from a liable person, independent third
22 person, or the federal government are not sufficient for the
23 maintenance;

24 (3) expenses concerning compliance with:

1 (A) the Comprehensive Environmental Response,
2 Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et
3 seq.) as amended;

4 (B) the federal Superfund Amendments and
5 Reauthorization Act of 1986 (10 U.S.C. Section 2701 et seq.); and

6 (C) Subchapters F and I;

7 (4) expenses concerning the regulation and management
8 of household hazardous substances and the prevention of pollution
9 of the water resources of the state from the uncontrolled release of
10 hazardous substances;

11 (5) expenses concerning the cleanup or removal of a
12 spill, release, or potential threat of release of a hazardous
13 substance where immediate action is appropriate to protect human
14 health and the environment;

15 (6) expenses concerning implementation of the
16 voluntary cleanup program under Subchapter S or federal brownfields
17 initiatives; and

18 (7) expenses, not to exceed 10 percent of the annually
19 appropriated amount of the fees on batteries collected under
20 Section 361.138, related to lead-acid battery recycling
21 activities, including expenses for programs:

22 (A) for assessment and remediation of
23 environmental impacts of the activities; ~~and~~

24 (B) to create incentives for the adoption of
25 innovative technology in lead-acid battery recycling to increase
26 the efficiency and effectiveness of the recycling process or reduce
27 the negative environmental impacts of the recycling process; and

1 (C) for studies evaluating the effects of the
2 activities on the public health.

3 SECTION 2. Subtitle G, Title 5, Health and Safety Code, is
4 amended by adding Chapter 428 to read as follows:

5 CHAPTER 428. RISK REDUCTION AND EMISSIONS CONTROLS
6 FOR LEAD-ACID BATTERY RECYCLING FACILITIES

7 Sec. 428.001. DEFINITIONS. In this chapter:

8 (1) "Air contaminant" has the meaning assigned by
9 Section 382.003.

10 (2) "Commission" means the Texas Commission on
11 Environmental Quality.

12 (3) "Facility" means a smelter at which lead-acid
13 battery recycling activities are conducted.

14 (4) "Solid waste" has the meaning assigned by Section
15 361.003.

16 Sec. 428.0015. EMISSIONS HEALTH RISK ASSESSMENT. (a)
17 Using methods prescribed by commission rule, the owner or operator
18 of a facility shall perform a comprehensive health risk assessment
19 of the facility's air contaminant emissions that evaluates:

20 (1) the negative public health effects, other than
21 effects related to cancer risks, of each air contaminant and
22 combination of contaminants the facility emits; and

23 (2) the increased risk of cancer for members of the
24 public associated with exposure to each known or suspected
25 carcinogenic chemical or combination of chemicals contained in the
26 facility's emissions.

27 (b) Not later than March 1, 2012, the owner or operator of

1 the facility shall complete the assessment required by Subsection
2 (a) and present the assessment to the commission and to the
3 governing body of each municipality within the boundaries or
4 extraterritorial jurisdiction of which the facility operates.

5 (c) The assessment performed under this section must be
6 based on information from air monitoring and an accurate inventory
7 of the facility's emissions and must address:

8 (1) the presence of contaminants emitted by the
9 facility as they may be found in any environmental medium,
10 including the air, water, and soil; and

11 (2) all pathways and combinations of pathways by which
12 an emitted contaminant may affect the health of an individual,
13 including:

14 (A) respiration;

15 (B) dermal exposure; and

16 (C) ingestion of contaminated soil or ingestion
17 of contaminants contained in plants grown in contaminated soil or
18 in animals contaminated by exposure to contaminants or by
19 contaminated feed.

20 (d) In developing the methods to be prescribed under
21 Subsection (a), the commission shall work with any municipality
22 within the boundaries or extraterritorial jurisdiction of which a
23 facility operates.

24 (e) This section expires September 1, 2013.

25 Sec. 428.0016. SOLID WASTE MANAGEMENT RISK ASSESSMENT. (a)
26 Using methods prescribed by commission rule, the owner or operator
27 of a facility shall perform a comprehensive health risk assessment

1 of the facility's active, inactive, and closed solid waste
2 management units to assess the scope of actual and potential
3 contamination of soil, groundwater, and surface water from solid
4 waste management activities at the units. The assessment must
5 evaluate:

6 (1) the negative public health effects presented and
7 potentially presented, other than effects related to cancer risks,
8 by contamination of soil, groundwater, and surface water from solid
9 waste management activities at the solid waste management units;
10 and

11 (2) the increased risk of cancer for members of the
12 public associated with exposure to each known or suspected
13 carcinogenic chemical or combination of chemicals presented and
14 potentially presented by contamination of soil, groundwater, and
15 surface water from solid waste management activities at the solid
16 waste management units.

17 (b) Not later than March 1, 2012, the owner or operator of
18 the facility shall complete the assessment required by Subsection
19 (a) and present the assessment to the commission and to the
20 governing body of each municipality within the boundaries or
21 extraterritorial jurisdiction of which the facility operates.

22 (c) The assessment performed under this section must
23 address:

24 (1) the presence of solid wastes as they may be found
25 in any environmental medium, including the air, water, and soil;
26 and

27 (2) all pathways and combinations of pathways by which

1 the solid wastes may affect the health of an individual, including:

2 (A) respiration;

3 (B) dermal exposure; and

4 (C) ingestion of contaminated soil or ingestion
5 of contaminants contained in plants grown in contaminated soil or
6 in animals contaminated by exposure to contaminants or by
7 contaminated feed.

8 (d) In developing the methods to be prescribed under
9 Subsection (a), the commission shall work with any municipality
10 within the boundaries or extraterritorial jurisdiction of which a
11 facility operates.

12 (e) This section expires September 1, 2013.

13 Sec. 428.0017. CESSATION OF OPERATIONS. (a) The owner or
14 operator of a facility shall cease operations of the facility
15 immediately if an assessment performed under Section 428.0015 or
16 428.0016 reveals that exposure to the facility's air contaminant
17 emissions, residues from air contaminant emissions, or
18 contamination from solid waste results in:

19 (1) a combined and cumulative lifetime increase in
20 risks of deleterious, noncancerous health effects that exceeds a
21 hazard index of one for daily, chronic exposure for individuals
22 residing three miles or less from the facility; or

23 (2) a lifetime risk of cancer greater than one in one
24 million for individuals residing three miles or less from the
25 facility.

26 (b) Operations must remain ceased under this section until
27 corrective action has been taken and the commission has approved,

1 after hearing, the operation of the facility.

2 (c) This section expires September 1, 2017.

3 Sec. 428.002. CONTROLS FOR AIR CONTAMINANT EMISSIONS. (a)

4 The owner or operator of a facility shall have installed at the
5 facility emissions controls as prescribed by commission rule.

6 Emissions controls must include:

7 (1) electrostatic precipitators;

8 (2) thermal oxidizers;

9 (3) enhanced filtration systems; and

10 (4) negative pressure and enhanced filtration systems
11 for materials handling and processing areas.

12 (b) The owner or operator of the facility semiannually shall
13 demonstrate by means of a performance test that the facility's
14 installed emissions controls are effective at achieving a 95
15 percent reduction in the facility's emissions air contaminants in
16 the form of metals and organic chemicals as particulates and vapors
17 associated with known or suspected carcinogens. The owner or
18 operator shall submit the performance test report in a form
19 prescribed by the commission to the commission and to each
20 municipality within the boundaries or extraterritorial
21 jurisdiction of which the facility operates.

22 (c) The owner or operator of the facility shall take
23 corrective action as necessary to bring the emissions controls into
24 compliance with this section not later than the 30th day after the
25 date a performance test or other information available to the owner
26 or operator, including information from air monitoring, indicates a
27 deficiency in the effectiveness of the controls.

1 Sec. 428.003. AIR MONITORING AND REPORTING. (a) The owner
2 or operator of a facility at which lead-acid battery recycling
3 activities are conducted shall:

4 (1) have installed and continuously operate at the
5 northern, southern, eastern, and western boundaries of the facility
6 property air monitors to detect speciated metals and speciated
7 volatile organic compounds; and

8 (2) have installed and continuously operate
9 continuous opacity monitors and continuous emissions monitors for
10 particulate matter emissions and volatile organic compounds
11 emissions from the facility's process stacks and vents.

12 (b) The emissions information generated by the monitors
13 described by Subsection (a)(2) must be posted in real time to a
14 publicly accessible Internet website if such a website is provided
15 by a municipality within the boundaries or extraterritorial
16 jurisdiction of which the facility operates.

17 (c) In addition to the monitors required by Subsection
18 (a)(1), the owner or operator of the facility shall install and
19 continuously operate air monitors for the same purpose at other
20 locations as required by commission rule and at locations specified
21 by a municipality within the boundaries or extraterritorial
22 jurisdiction of which the facility operates.

23 Sec. 428.004. SOLID WASTE MANAGEMENT UNITS. The owner or
24 operator of a facility shall install:

25 (1) impervious and wear-resistant caps on the
26 facility's closed or inactive waste management units; and

27 (2) negative pressure and enhanced filtration systems

1 in active solid waste management units.

2 Sec. 428.005. ENFORCEMENT. (a) In addition to any other
3 enforcement means available to the commission under Chapter 7,
4 Water Code, to enforce this chapter, the commission shall revoke
5 any permit the commission has issued to a facility on a finding by
6 the commission, after notice and opportunity for hearing, that the
7 owner or operator of the facility has violated this chapter or a
8 rule adopted or order issued under this chapter two or more times in
9 a period of 36 months or less.

10 (b) A municipality within the boundaries or
11 extraterritorial jurisdiction of which the facility operates may
12 revoke any permit or other authorization the municipality has
13 issued to the facility on a finding by the governing body of the
14 municipality, after notice and opportunity for hearing, that the
15 owner or operator of the facility has violated this chapter or a
16 rule adopted or order issued under this chapter two or more times in
17 a period of 36 months or less.

18 SECTION 3. The Texas Commission on Environmental Quality
19 shall adopt rules as necessary to implement Chapter 428, Health and
20 Safety Code, as added by this Act, as soon as practicable after the
21 effective date of this Act.

22 SECTION 4. (a) The owner or operator of a smelter facility
23 at which lead-acid battery recycling activities are being conducted
24 on the effective date of this Act shall install all equipment or
25 devices required by Sections 428.002-428.004, Health and Safety
26 Code, as added by this Act, not later than September 1, 2012.

27 (b) The owner or operator of a smelter facility at which

1 lead-acid battery recycling activities are being conducted on the
2 effective date of this Act shall conduct the first semiannual
3 performance test required by Section 428.002, Health and Safety
4 Code, as added by this Act, not later than December 1, 2012.

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