

By: Martinez

H.B. No. 3294

A BILL TO BE ENTITLED

AN ACT

relating to increasing civil penalties for excavator violations.

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

SECTION 1. Sections 251.201(a-1), (b), (b-1), (c), and (c-1), Utilities Code, are amended to read as follows:

(a-1) An excavator that violates Section 251.155(d) is liable for a civil penalty of not less than \$1,000 or more than \$5,000 [~~\$2,000~~]. If a county attorney or district attorney decides not to bring an action to recover the civil penalty, the board of directors of the corporation may, in accordance with Section 251.2011, give the excavator a warning letter and require the excavator to attend a safety training course approved by the board. The county attorney or district attorney shall notify the board of its decision.

(b) Except as provided by Subsection (b-1), if it is found at the trial on a civil penalty that the excavator has violated this chapter and has been assessed a penalty under this section or has received a warning letter from the board one other time before the first anniversary of the date of the most recent violation, the excavator is liable for a civil penalty of not less than \$1,000 or more than \$5,000 [~~\$2,000~~].

(b-1) If it is found at the trial on a civil penalty that the excavator has violated Section 251.155(d) and has been assessed a penalty under this section or has received a warning letter from the

1 board one other time before the first anniversary of the date of the  
2 most recent violation, the excavator is liable for a civil penalty  
3 of not less than \$2,000 or more than \$10,000 [~~\$5,000~~].

4 (c) Except as provided by Subsection (c-1), if it is found  
5 at the trial on a civil penalty that the excavator has violated this  
6 chapter and has been assessed a penalty under this section at least  
7 two other times before the first anniversary of the date of the most  
8 recent violation, or has been assessed a penalty at least one other  
9 time before the first anniversary of the date of the most recent  
10 violation and has received a warning letter from the board during  
11 that period, the excavator is liable for a civil penalty of not less  
12 than \$2,000 or more than \$10,000 [~~\$5,000~~].

13 (c-1) If it is found at the trial on a civil penalty that the  
14 excavator has violated Section 251.155(d) and has been assessed a  
15 penalty under this section at least two other times before the first  
16 anniversary of the date of the most recent violation, or has been  
17 assessed a penalty at least one other time before the first  
18 anniversary of the date of the most recent violation and has  
19 received a warning letter from the board during that period, the  
20 excavator is liable for a civil penalty of not less than \$5,000 or  
21 more than \$20,000 [~~\$10,000~~].

22 SECTION 2. The change in law made by this Act applies only  
23 to conduct occurring in violation of Section 251.201, Utilities  
24 Code, on or after the effective date of this Act. Conduct occurring  
25 in violation of that section before the effective date of this Act  
26 is governed by the law in effect on the date the conduct occurred,  
27 and the former law is continued in effect for that purpose.

1 SECTION 3. This Act takes effect September 1, 2013.