

By: Geren

H.B. No. 1760

A BILL TO BE ENTITLED

AN ACT

relating to maximum penalties for certain environmental violations.

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

SECTION 1. Subchapter H, Chapter 7, Water Code, is amended by adding Sections 7.359, 7.360, 7.361, 7.362, and 7.363 to read as follows:

Sec. 7.359. MAXIMUM PENALTY. (a) In a suit brought under this subchapter, if the local government proves that a person knowingly or intentionally committed a violation, the person shall be assessed for each violation a civil penalty not less than \$50 nor greater than \$25,000 for each day of each violation, up to a maximum of 120 days, as the court or jury considers proper.

(b) In a suit brought under this subchapter, if a person is found to have committed a violation and that violation is a continuing violation that exceeds the 120-day duration, the person may be assessed for each violation an additional civil penalty not less than \$50 nor greater than \$1,000 for each day of each violation beyond the 120-day period, as the court or jury considers proper.

(c) The amount of civil penalties assessed under this section is subject to the limitations prescribed by Section 7.361.

Sec. 7.360. FACTORS TO BE CONSIDERED IN DETERMINING AMOUNT OF PENALTY. When determining the amount of a civil penalty to be assessed in a suit brought under this subchapter, the court or jury

1 shall consider the factors in section 7.053.

2 Sec. 7.361. LIMITATION ON CIVIL PENALTIES. (a) In a suit
3 brought under this subchapter, a complaining party may recover
4 civil penalties from a person for continuing daily violations at a
5 single site in an amount not to exceed the product of:

6 (1) the maximum penalty calculated under section 7.359
7 for each day of each violation; and

8 (2) \$1,460.

9 (b) Notwithstanding Subsection (a), the complaining party
10 may not recover civil penalties for the time period from the date on
11 which a person initiates written notification and performs any
12 necessary assessment or remediation under a program administered by
13 the commission.

14 Sec. 7.362. LIMITATIONS. A suit for civil penalties under
15 this subchapter must be brought not later than five years from the
16 earlier of:

17 (1) the date a person initiates written notification
18 to the commission and otherwise complies with the requirements of
19 Section 7.361(b); or

20 (2) the date the person received a notice of
21 enforcement from the commission with respect to the alleged
22 violation.

23 Sec. 7.363. INJUNCTIVE RELIEF NOT AFFECTED. Nothing in
24 this subchapter shall be construed to limit a suit for injunctive
25 relief brought under section 7.351.

26 SECTION 2. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2015.