

By: Hancock

S.B. No. 1509

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. Each day of a continuing violation is a separate violation.

(c) Civil penalties assessed under Subsection (b) shall not be calculated beyond 1,340 days from the last date of the 120-day period under Subsection (a).

(d) The amount of civil penalties assessed under this

1 section is subject to the limitations prescribed by Section 7.361.

2 Sec. 7.360. FACTORS TO BE CONSIDERED IN DETERMINING AMOUNT  
3 OF PENALTY. When determining the amount of a civil penalty to be  
4 assessed in a suit brought under this subchapter, the court or jury  
5 shall consider the factors in Section 7.053.

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

10 (1) the maximum penalty calculated under Section  
11 7.359(a) for each day of each violation; and

12 (2) the additional penalty calculated under Section  
13 7.359(b) for each day of each violation.

14 (b) The total amount of civil penalties that may be assessed  
15 in a suit under this subchapter may not exceed the penalty for each  
16 day of each violation for 1,460 days.

17 (c) Notwithstanding Subsection (a), the complaining party  
18 may not recover civil penalties from a person for the time period  
19 from the date on which a person initiates written notification and  
20 performs any necessary assessment or remediation under a program  
21 required by the commission.

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

25 (1) the date a person initiates written notification  
26 to the commission and otherwise complies with the requirements of  
27 Section 7.361(c); or

1           (2) the date the person received a notice of  
2 enforcement from the commission with respect to the alleged  
3 violation.

4           Sec. 7.363. INJUNCTIVE RELIEF NOT AFFECTED. Nothing in  
5 this subchapter shall be construed to limit a suit for injunctive  
6 relief brought under Section 7.351.

7           SECTION 2. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2015.