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HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: Donna Howard

1 Amend C.S.H.B. No. 1818 (house committee report) by adding  
2 the following appropriately numbered SECTIONS to the bill and  
3 renumbering subsequent SECTIONS of the bill and any  
4 cross-references to those SECTIONS accordingly:

5 SECTION \_\_\_\_\_. Sections 81.0531(b), (c), and (d), Natural  
6 Resources Code, are amended to read as follows:

7 (b) The penalty may not exceed:

8 (1) \$25,000 [~~\$10,000~~] a day for each violation that is  
9 not related to pipeline safety; or

10 (2) \$200,000 a day for each violation that is related  
11 to pipeline safety.

12 (c) In determining the amount of the penalty, the commission  
13 shall consider the [~~permittee's history of previous violations, the~~  
14 ~~seriousness of the violation, any hazard to the health or safety of~~  
15 ~~the public, and the demonstrated good faith of the person charged.~~  
16 ~~In determining the amount of the penalty for a violation of a~~  
17 ~~provision of this title or a rule, order, license, permit, or~~  
18 ~~certificate that relates to pipeline safety, the commission shall~~  
19 ~~consider the~~] guidelines adopted under Subsection (d).

20 (d) The commission [~~by rule~~] shall adopt guidelines to be  
21 used in determining the amount of the penalty. The commission shall  
22 provide an opportunity for public input on the guidelines [~~for a~~  
23 ~~violation of a provision of this title or a rule, order, license,~~  
24 ~~permit, or certificate that relates to pipeline safety)]. The  
25 guidelines must [~~shall~~] include a penalty calculation worksheet  
26 that specifies the typical penalty for certain violations,  
27 circumstances justifying enhancement of a penalty and the amount of  
28 the enhancement, and circumstances justifying a reduction in a  
29 penalty and the amount of the reduction. The guidelines must~~

1 provide for different penalties for different violations based on  
2 the seriousness of the violation and any hazard to the health or  
3 safety of the public resulting from the violation. The guidelines  
4 must [~~shall~~] take into account:

5 (1) the permittee's history of previous violations,  
6 including the number of previous violations;

7 (2) the seriousness of the violation and of any  
8 pollution resulting from the violation;

9 (3) any hazard to the health or safety of the public;

10 (4) the degree of culpability;

11 (5) the demonstrated good faith of the person charged;

12 [~~and~~]

13 (6) the number of times the permittee's certificate of  
14 compliance issued under Subchapter P, Chapter 91, has been  
15 canceled;

16 (7) any economic benefit gained through the violation;

17 (8) the penalty necessary to deter future violations;

18 and

19 (9) any other factor the commission considers  
20 relevant.

21 SECTION \_\_\_\_\_. Section 81.058(d), Natural Resources Code, is  
22 amended to read as follows:

23 (d) An administrative penalty imposed under this section  
24 may not exceed \$25,000 [~~\$5,000~~] a day for each violation. Each day  
25 a violation continues or occurs is a separate violation for  
26 purposes of imposing a penalty under this section.

27 SECTION \_\_\_\_\_. Section 91.002(b), Natural Resources Code, is  
28 amended to read as follows:

29 (b) An offense under Subsection (a) of this section is  
30 punishable by a fine of not more than \$25,000 [~~\$10,000~~] a day for  
31 each day a violation is committed.

1 SECTION \_\_\_\_\_. Section 27.101(a), Water Code, is amended to  
2 read as follows:

3 (a) A person who violates any provision of this chapter  
4 under the jurisdiction of the railroad commission, any rule of the  
5 railroad commission made under this chapter, or any term,  
6 condition, or provision of a permit issued by the railroad  
7 commission under this chapter shall be subject to a civil penalty in  
8 any sum not exceeding \$25,000 [~~\$5,000~~] for each day of  
9 noncompliance and for each act of noncompliance. A violation under  
10 the jurisdiction of the commission is enforceable as provided by  
11 Chapter 7.

12 SECTION \_\_\_\_\_. Section 27.1011(b), Water Code, is amended to  
13 read as follows:

14 (b) The penalty may not exceed \$25,000 [~~\$10,000~~] a day for  
15 each violation. Each day a violation continues may be considered a  
16 separate violation for purposes of penalty assessments.

17 SECTION \_\_\_\_\_. Section 27.105(a), Water Code, is amended to  
18 read as follows:

19 (a) A person who knowingly or intentionally violates a  
20 provision of this chapter under the jurisdiction of the railroad  
21 commission, a rule of the railroad commission, or a term,  
22 condition, or provision of a permit issued by the railroad  
23 commission under this chapter is subject to a fine of not more than  
24 \$25,000 [~~\$5,000~~] for each violation and for each day of violation.  
25 A violation under the jurisdiction of the commission is enforceable  
26 under Section 7.157.

27 SECTION \_\_\_\_\_. The changes in law made by this Act apply only  
28 to a violation committed on or after the effective date of this Act.  
29 A violation committed before the effective date of this Act is  
30 governed by the law in effect when the violation was committed, and  
31 the former law is continued in effect for that purpose. For

1 purposes of this section, a violation was committed before the  
2 effective date of this Act if any element of the violation was  
3 committed before that date.