

By: Bonnen of Galveston

H.B. No. 1625

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the procedures for the enforcement by the General Land  
3 Office of the Oil Spill Prevention and Response Act of 1991.

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

5 SECTION 1. Section 40.108(c), Natural Resources Code, is  
6 amended to read as follows:

7 (c) The commissioner must comply with the requirements of  
8 Section 40.254 before removing or disposing of a vessel or  
9 structure described in Subsection (a), except that the commissioner  
10 may remove a vessel or structure without first providing notice and  
11 an opportunity for a hearing if the vessel or structure:

12 (1) is involved in an actual or threatened  
13 unauthorized discharge of oil;

14 (2) creates an imminent and significant threat to life  
15 or property; or

16 (3) creates a significant navigation hazard [~~without a~~  
17 ~~hearing~~].

18 SECTION 2. Section 40.254, Natural Resources Code, is  
19 amended by amending Subsections (b-1), (c-1), (c-2), and (d) and  
20 adding Subsections (c-3), (c-4), and (d-1) to read as follows:

21 (b-1) The preliminary report must:

22 (1) state the facts that support the commissioner's  
23 conclusion;

24 (2) in the case of a derelict vessel or structure,

1 determine whether the vessel or structure is considered:

2 (A) a numbered vessel; ~~[or]~~

3 (B) a vessel or structure that has no intrinsic  
4 value; or

5 (C) a vessel or structure described by Section  
6 40.108(c)(1), (2), or (3);

7 (3) recommend:

8 (A) that a penalty be imposed;

9 (B) that a certificate be suspended;

10 (C) that a derelict vessel or structure be  
11 removed or disposed of; ~~[or]~~

12 (D) that a derelict vessel or structure be  
13 removed or disposed of because it is a vessel or structure described  
14 by Section 40.108(c)(1), (2), or (3); or

15 (E) any combination of remedies under Paragraphs  
16 (A)-(D) [~~(A)-(C)~~]; and

17 (4) if a penalty under Subdivision (3)(A) is  
18 recommended, recommend the amount of the penalty.

19 (c-1) Except as provided by Subsection (c-3), the ~~[The]~~  
20 notice required by Subsection (c) must be given:

21 (1) by service in person or by registered or certified  
22 mail, return receipt requested; or

23 (2) if personal service cannot be obtained or the  
24 address of the person is unknown, by posting a copy of the notice on  
25 the facility, vessel, or structure and by publishing notice on the  
26 Internet website of the General Land Office and in the Texas  
27 Register at least two times within 10 consecutive days.

1           (c-2) If notice is given in the manner provided by  
2 Subsection (c-1), not later than the 20th day after the date on  
3 which the notice is served or mailed, or not later than the 20th day  
4 after the later of the date on which the notice was posted or the  
5 last date the notice was published, as applicable, the person  
6 charged with the violation or a person claiming ownership of the  
7 facility, vessel, or structure may consent in writing to the  
8 report, including the commissioner's recommendations, or make a  
9 written request for a hearing.

10           (c-3) The notice required by Subsection (c) must be given by  
11 posting a copy of the notice on a derelict vessel or structure or by  
12 publishing notice on the Internet website of the General Land  
13 Office for 10 consecutive days if the derelict vessel or structure  
14 has been determined to have no intrinsic value under Subsection  
15 (b-1) and:

16                   (1) the vessel or structure is not a numbered vessel or  
17 structure;

18                   (2) there are no identifiable markings on the vessel  
19 or structure for which the current owner can be reasonably  
20 identified for service; or

21                   (3) the address of the person charged with the  
22 violation is unknown.

23           (c-4) If notice is given in the manner provided by  
24 Subsection (c-3), not [~~(d) Not~~] later than the 10th [~~20th~~] day  
25 after the date on which the notice was posted or the last date the  
26 notice was published [~~is served~~], the person charged with the  
27 violation or a person claiming ownership of the [~~a~~] vessel or

1 structure [~~for which notice is posted under Subsection (c-2)~~] may  
2 consent in writing to the report, including the commissioner's  
3 recommendations, or make a written request for a hearing.

4 (d) If a vessel or structure is removed without notice as  
5 authorized by Section 40.108(c), the commissioner shall serve  
6 written notice of the removal to the person charged with the  
7 violation not later than the 10th day after the date on which the  
8 removal occurs. The removal notice must:

9 (1) include the information required to be in a  
10 preliminary report notice under Subsection (c); and

11 (2) be provided in the manner described by Subsection  
12 (c-1), except that notice provided under the circumstances  
13 described by Subsection (c-1)(2) is not required to be posted on the  
14 vessel or structure.

15 (d-1) If notice is given in the manner provided by  
16 Subsection (d), not later than the 20th day after the date on which  
17 the notice is served or mailed, or not later than the 20th day after  
18 the last date the notice was published, as applicable, the person  
19 charged with the violation or a person claiming ownership of the  
20 vessel or structure may consent in writing to the report, including  
21 the commissioner's recommendations, or make a written request for a  
22 hearing.

23 SECTION 3. Section 40.254(e), Natural Resources Code, is  
24 amended by amending Subdivision (1) and adding Subdivision (3) to  
25 read as follows:

26 (1) If the person charged with the violation or a  
27 person claiming ownership of a facility, vessel, or structure for

1 which notice is provided under Subsection (c-1), (c-3), or (d)  
2 ~~[posted under Subsection (c-2)]~~ consents to the commissioner's  
3 recommendations or does not timely respond to the notice, the  
4 commissioner by order shall take the recommended action or order a  
5 hearing to be held on the findings and recommendations in the  
6 report.

7 (3) The commissioner is not required to provide notice  
8 under Subdivision (2) of this subsection if notice was provided  
9 under Subsection (c-1)(2), (c-3), or (d) and the subject of the  
10 notice is a vessel or structure that was removed in the manner  
11 provided by Section 40.108.

12 SECTION 4. Section 40.254(f)(1), Natural Resources Code, is  
13 amended to read as follows:

14 (1) If the person charged with the violation or a  
15 person claiming ownership of a facility, vessel, or structure for  
16 which notice is provided under Subsection (c-1), (c-3), or (d)  
17 ~~[posted under Subsection (c-2)]~~ requests a hearing, the  
18 commissioner shall order a hearing and shall give written notice of  
19 that hearing.

20 SECTION 5. Section 40.254(g)(1), Natural Resources Code, is  
21 amended to read as follows:

22 (1) Not later than the 30th day after the date on which  
23 the commissioner's order is final, the person charged with the  
24 violation or a person claiming ownership of the facility, [a]  
25 vessel, or structure ~~[for which notice is posted under Subsection~~  
26 ~~(c-2)]~~ shall comply with the order or file a petition for judicial  
27 review.

1           SECTION 6. The changes in law made by this Act apply only to  
2 an enforcement proceeding commenced by the General Land Office on  
3 or after the effective date of this Act. A proceeding commenced  
4 before the effective date of this Act is governed by the law in  
5 effect on the date the proceeding was commenced, and the former law  
6 is continued in effect for that purpose.

7           SECTION 7. This Act takes effect September 1, 2017.