

By: Paddie

H.B. No. 1522

A BILL TO BE ENTITLED

AN ACT

relating to a prohibition against covenants not to compete for independent contractors in connection with oil and gas operations.

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

SECTION 1. Section 15.50(a), Business & Commerce Code, is amended to read as follows:

(a) Notwithstanding Section 15.05 of this code, and subject to any applicable provision of Subsection (b), a covenant not to compete is enforceable if it is ancillary to or part of an otherwise enforceable agreement at the time the agreement is made to the extent that it contains limitations as to time, geographical area, and scope of activity to be restrained that are reasonable and do not impose a greater restraint than is necessary to protect the goodwill or other business interest of the promisee, except as provided by Section 15.501.

SECTION 2. Subchapter E, Chapter 15, Business & Commerce Code, is amended by adding Section 15.501 to read as follows:

Sec. 15.501. PROHIBITION AGAINST CERTAIN COVENANTS NOT TO COMPETE IN CONNECTION WITH OIL AND GAS OPERATIONS. (a) In this section:

(1) "Downstream oil and gas operation" means an activity associated with the processing and refining of oil and gas into petroleum products and the distribution, marketing, and shipping of those products, including safety-related activities.

1 (2) "Midstream oil and gas operation" means an
2 activity associated with the transportation, processing, and
3 storage of oil and gas between the upstream oil and gas operation
4 and the downstream oil and gas operation, including safety-related
5 activities.

6 (3) "Upstream oil and gas operation" means an activity
7 associated with the exploration, development, production,
8 processing, and transportation of oil and gas, including drilling,
9 hydraulic fracture stimulation, completion, maintenance,
10 reworking, recompletion, disposal, plugging and abandonment,
11 secondary and tertiary recovery, and remediation or safety-related
12 activities.

13 (b) An entity engaged in a downstream, midstream, or
14 upstream oil and gas operation may not require an independent
15 contractor with whom the entity contracts to enter into a covenant
16 not to compete that restricts the independent contractor from
17 performing work or providing a service for another entity engaged
18 in a downstream, midstream, or upstream oil and gas operation.

19 (c) A covenant not to compete described by Subsection (b) is
20 void and unenforceable.

21 (d) Section 15.51 does not apply to a covenant not to
22 compete described by Subsection (b).

23 SECTION 3. Section 15.52, Business & Commerce Code, is
24 amended to read as follows:

25 Sec. 15.52. PREEMPTION OF OTHER LAW. The criteria for
26 enforceability of a covenant not to compete provided by Sections
27 ~~[Section]~~ 15.50 and 15.501 of this code and the procedures and

1 remedies in an action to enforce a covenant not to compete provided
2 by Section 15.51 of this code are exclusive and preempt any other
3 criteria for enforceability of a covenant not to compete or
4 procedures and remedies in an action to enforce a covenant not to
5 compete under common law or otherwise.

6 SECTION 4. The change in law made by this Act applies only
7 to a covenant entered into on or after the effective date of this
8 Act. A covenant entered into before the effective date of this Act
9 is governed by the law in effect on the date the covenant was
10 entered into, and the former law is continued in effect for that
11 purpose.

12 SECTION 5. This Act takes effect September 1, 2019.