

By: Perry

S.B. No. 1399

A BILL TO BE ENTITLED

AN ACT

relating to fluid oil and gas waste and products and byproducts of that waste.

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

SECTION 1. Section 122.001, Natural Resources Code, is amended by adding Subdivision (3) to read as follows:

(3) "Treated product" means the product of a process that treats, filters, refines, extracts, or otherwise alters any portion or component of fluid oil and gas waste to render it suitable for a beneficial use.

SECTION 2. Sections 122.002 and 122.003, Natural Resources Code, are amended to read as follows:

Sec. 122.002. OWNERSHIP OF FLUID OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE. Unless otherwise expressly provided by an oil or gas lease, a surface use agreement, a contract, a bill of sale, or another legally binding document:

(1) when fluid oil and gas waste is produced and used by or transferred to a person who takes possession of that waste for the purpose of generating treated product [~~treating the waste for a subsequent beneficial use~~], the waste is considered to be the property of the person who takes possession of it for the purpose of generating the treated product [~~treating the waste for subsequent beneficial use~~] until the person transfers the waste or treated

1 product [~~waste~~] to another person for disposal or use; and

2 (2) when a person who takes possession of fluid oil and
3 gas waste for the purpose of generating treated product [~~treating~~
4 ~~the waste for a subsequent beneficial use~~] transfers possession of
5 the treated product or any [~~treatment~~] byproduct of the process
6 that generated the treated product to another person for the
7 purpose of subsequent disposal or beneficial use, the transferred
8 product or byproduct is considered to be the property of the person
9 to whom the material is transferred.

10 Sec. 122.003. RESPONSIBILITY IN TORT. (a) Except as
11 provided by Subsection (b), a person who takes possession of fluid
12 oil and gas waste, produces from that waste a treated product
13 [~~generally considered in the oil and gas industry to be suitable for~~
14 ~~use in connection with the drilling for or production of oil or~~
15 ~~gas~~], and either puts the treated product to a beneficial use or
16 transfers the treated product to another person with the
17 contractual understanding that the treated product will be put to a
18 beneficial use [~~used in connection with the drilling for or~~
19 ~~production of oil or gas~~] is not liable in tort for a consequence of
20 the subsequent use of that treated product by any [~~the person to~~
21 ~~whom the treated product is transferred or by another~~] person.

22 (a-1) Except as provided by Subsection (b), a person who
23 produces fluid oil and gas waste or who supplies or conveys fluid
24 oil and gas waste to a treatment facility for the purpose of
25 generating a treated product is not liable in tort for:

26 (1) a consequence of the subsequent treatment of that
27 fluid oil and gas waste to generate treated product;

1 (2) the subsequent use of that treated product by any
2 person; or

3 (3) exposure to a byproduct of the process used to
4 generate treated product.

5 (b) This section does not affect the liability of a person
6 [~~that treats fluid oil and gas waste for beneficial use~~] in an
7 action brought by a claimant [~~person~~] for damages for personal
8 injury, death, or property damage arising from exposure to fluid
9 oil and gas waste, a treated product, or a byproduct of a process
10 used to generate treated product if that exposure occurred as a
11 result of the person's:

12 (1) gross negligence or intentional, wrongful act or
13 omission; or

14 (2) negligence and the person did not treat, generate,
15 use, or dispose of the fluid oil and gas waste, treated product, or
16 byproduct in conformity with:

17 (A) rules adopted under Section 122.004; or

18 (B) a Texas Pollutant Discharge Elimination
19 System program permit issued by the Texas Commission on
20 Environmental Quality under Section 26.027 or 26.131, Water Code.

21 (c) A claimant awarded damages for a tort premised solely on
22 the person's negligence and regulatory nonconformity under
23 Subsection (b)(2) may not be awarded exemplary damages.

24 SECTION 3. Section 122.004(a), Natural Resources Code, is
25 amended to read as follows:

26 (a) The commission shall adopt rules to govern the treatment
27 and beneficial use of fluid oil and gas waste, treated product, and

1 any byproduct of a process used to generate treated product.

2 SECTION 4. Chapter 122, Natural Resources Code, as amended
3 by this Act, applies only to a cause of action that accrues on or
4 after the effective date of this Act. A cause of action that
5 accrues before the effective date of this Act is governed by the law
6 as it existed immediately before the effective date of this Act, and
7 that law is continued in effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2025.