

## **BILL ANALYSIS**

Senate Research Center  
79R13270 JTS-F

C.S.S.B. 785  
By: Fraser  
Natural Resources  
4/18/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

At the end of the 78th Legislature, Regular Session, 2003, the governor created the Advisory Committee on Rock Crushers and Quarries which was charged with studying the permitting process for rock crushers and quarries. Current law seeks only to protect air quality in the permitting process by limiting emissions through measures specified in the permit. Similarly, protection of water quality is addressed in a limited fashion through the issuance of a stormwater discharge permit.

C.S.S.B. 785 requires a quarry permit to be obtained before quarry operations begin. The quarry permit includes a site plan, assessing the environmental soundness of the proposed operation, including a report from an independent hydrologist; a blasting plan, including a requirement that all blasting be monitored with a seismograph or vibration monitor; and a requirement that quarry operators properly construct and maintain all access driveways, acceleration/deceleration lanes, and turn lanes when needed so that the site entrances are safe for the traveling public.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Subtitle C, Title 5, Health and Safety Code, to read as follows:

#### SUBTITLE C. AIR AND ENVIRONMENTAL QUALITY

SECTION 2. Amends Subtitle C, Title 5, Health and Safety Code, by adding Chapter 390, as follows:

#### CHAPTER 390. QUARRY PERMIT

Sec. 390.001. DEFINITIONS. Defines "aggregates," "air quality permit," "commission," "operator," "pit," and "quarry."

Sec. 390.002. APPLICABILITY. Provides that this chapter applies only to a quarry that begins operation on or after September 1, 2005, and does not apply to a quarry or pit in operation before that date.

Sec. 390.003. PERMITS REQUIRED. Prohibits an operator of a quarry (operator) from creating or beginning to operate a quarry unless the operator has obtained a quarry permit under this chapter from the Texas Commission on Environmental Quality (commission) and an air quality permit for any rock crusher to be operated in the quarry.

Sec. 390.004. APPLICATION PROCEDURE. (a) Sets forth what plans, permits, reports, proof, and information must be included in the application for a quarry permit.

(b) Requires an application fee of \$1,000 to accompany the application.

(c) Requires the commission, if it denies an application, to notify the applicant in writing, not later than the 60th day after the date the commission received the application, specifying any defects in the application. Authorizes an applicant denied a permit to submit a modified application.

(d) Provides that a proceeding to consider a quarry permit application or to issue a quarry permit is not a contested case for purposes of Chapter 2001 (Administrative Procedure), Government Code.

(e) Provides that an application for a permit under this section for a quarry that does not have groundwater or surface water in the quarried area is not required to include a hydrologist's report or a description of how the operator will address the recommendations in the hydrologist's report.

Sec. 390.005. PERMIT EXPIRATION AFTER NONUSE. Provides that a permit issued to create or begin operating a quarry expires on the fifth anniversary of the date that the permit was issued if quarry operations have not begun at the permit area before that date.

Sec. 390.006. PERMIT AMENDMENT. (a) Requires a quarry operator to obtain a permit amendment in certain circumstances.

(b) Requires the applicant for a permit amendment to submit an application that contains the information required by Section 390.004.

Sec. 390.007. NOTICE TO CERTAIN OFFICIALS. Requires the commission, on receipt of an application for a quarry permit, to send notice of the application to each state senator and state representative who represents the area in which the quarry will be located and the county judge and county commissioners of each county in which the quarry will be located.

Sec. 390.008. TRAFFIC SAFETY. Requires the operator of a quarry to adhere to all Texas Department of Transportation rules relating to safe movement of normal highway traffic.

Sec. 390.009. BLASTING RECORD. (a) Requires the operator, if blasting is conducted in a quarry, to keep a blasting record that includes certain information.

(b) Requires the operator to maintain the blasting records for not less than two years after detonation.

(c) Requires the operator to maintain the blasting records at the quarry site.

(d) Requires the operator to make the blasting records available for inspection by the commission.

Sec. 390.010. CIVIL PENALTY; INJUNCTION. (a) Sets forth the monetary civil penalties for violation of this chapter.

(b) Requires the attorney general, at the request of the commission, to bring suit for injunctive relief to restrain a continuing violation of this chapter, to recover a civil penalty as provided by Subsection (a), or both.

SECTION 3. Amends Section 725.003, Transportation Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Creates an exception, as provided by Subsection (d), to the provision that an offense (of transportation of loose materials) under this section is punishable by a certain fine.

(d) Provides that an offense involving the violation of Section 725.021(e) is a misdemeanor punishable by a fine of not less than \$25 or more than \$500.

SECTION 4. Amends Section 725.021, Transportation Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Creates an exception, as provided by Subsection (e), to the requirement that the load be covered and the covering firmly secured at the front and back, unless certain conditions apply.

(e) Requires the load to be covered and the covering firmly secured that the front and back, or completely enclosed by the load-carrying compartment, if the vehicle is a commercial motor vehicle transporting aggregates from a quarry or pit. Defines "commercial motor vehicle."

SECTION 5. Amends Section 5.013(a), Water Code, to provide that the commission has general jurisdiction over the responsibilities assigned to the commission by Chapter 390, Health and Safety Code.

SECTION 6. Amends Subchapter L, Chapter 5, Water Code, by adding Section 5.517, as follows:

Sec. 5.517. EMERGENCY ORDER CONCERNING OPERATION OF QUARRY WITHOUT PERMIT. (a) Requires the commission, except as provided by Subsection (b), to issue an emergency order under this subchapter suspending operations of a quarry or other facility that is producing aggregates, is required to obtain a permit under Chapter 26, Water Code, and is operating without the necessary permit.

(b) Provides that the commission is not required to impose the penalty under Subsection (a) if the operator submits to the commission information demonstrating that the quarry operator relied in good faith on the opinion of a professional engineer or licensed attorney that a permit under Chapter 26, Water Code, was not required at the facility.

SECTION 7. Amends Section 7.052, Water Code, by adding Subsections (b-1) and (b-2), and amending Subsection (d), as follows:

(b-1) Provides that the amount of the penalty for operating a quarry or other facility that produces aggregates, that is required to obtain a permit under Chapter 26, Water Code, and that is operating without the required permit is \$10,000. Provides that each day that a continuing violation occurs is a separate violation.

(b-2) Provides that the amount of penalty under Subsection (b-1) is not less than \$1,000 or more than \$10,000 if the operator submits to the commission information demonstrating that the quarry operator relied in good faith on the opinion of a professional engineer or licensed attorney that a permit under Chapter 26, Water Code, was not required at the facility.

(d) Creates an exception, as provided by Subsection (b-1), to the provision that each day that a continuing violation occurs may be considered a separate violation.

SECTION 8. Makes application of Sections 725.003 and 725.021, Transportation Code, as amended by this Act, prospective.

SECTION 9. Makes application of Section 5.517, Water Code, as added by this Act, and Section 7.052, Water Code, as amended by this Act, prospective.

SECTION 10. Requires the commission to be prepared to accept applications for permits under Chapter 390, Health and Safety Code, as added by this Act, not later than March 1, 2006. Provides that a person is not required to hold a permit to create or operate a quarry under Chapter 390, Health and Safety Code, as added by this Act, before June 1, 2006.

SECTION 11. Effective date: September 1, 2005.