

BILL ANALYSIS

Senate Research Center
81R2902 JAM-D

S.B. 457
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Natural Resources
5/8/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently the Texas Commission on Environmental Quality assesses penalties and fines for air permit violations based on a complicated formula. There is also currently a statutory cap on the maximum allowable fine amount at \$10,000 per day per violation. However, sometimes the economic benefits gained by the major source violating their permit are more than the maximum allowable fine for that violation. Therefore, there is no incentive for the major source facility to keep emissions within their permitted amount.

As proposed, S.B. 457 creates an incentive for facilities to stay within permitted amounts by making each violation fined by an amount that is equal to or more than the economic benefit gained through the violation, or enough to deter future violations. S.B. 457 also states that each day a continuing violation occurs will be considered a separate violation.

[**Note:** While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

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 Section 7.052(c), Water Code, to create an exception under Section 7.0526.

SECTION 2. Amends Subchapter C, Chapter 7, Water Code, by adding Section 7.0526, as follows:

Sec. 7.0526. PENALTIES FOR CERTAIN VIOLATIONS OF CLEAN AIR ACT. (a) Defines "major source."

(b) Requires the Texas Natural Resource Conservation Commission (TNRCC) for a violation of Chapter 382 (Clean Air Act), Health and Safety Code, committed by a major source that is required to obtain a permit under that chapter, to assess a penalty in an amount that is equal to or more than the total of the economic benefit gained through the violation, including any costs avoided due to the violation and the amount necessary to deter future violations.

(c) Provides that for purposes of assessing a penalty for a violation of Chapter 382, Health and Safety Code, against a major source that is required to obtain a permit under that chapter, each day that a continuing violation occurs is a separate violation.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.