

AN ACT

relating to the release of hazardous waste in connection with dredging and placement or storage of dredged materials by a port authority or navigation district.

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

SECTION 1. Section 361.271, Health and Safety Code, is amended by adding Subsections (g), (h), and (i) to read as follows:

(g) A port authority or navigation district created under Section 59, Article XVI, or Section 52, Article III, Texas Constitution, is not a person responsible under this chapter for the release or threatened release of hazardous waste from a facility or at a site solely for its activities related to construction or maintenance of waterways to facilitate navigation if, in performing those activities:

(1) the port authority or navigation district is acting by virtue of the authority's or district's function as sovereign;

(2) the port authority or navigation district requires that dredged materials be sampled and analyzed before placement or storage of those materials on land or submerged land; and

(3) the port authority or navigation district, after exercising due diligence, does not accept dredged materials that are hazardous waste.

(h) Subsection (g) may not be construed to relieve a port

1 authority or navigation district of liability if the port authority
2 or navigation district causes or contributes to the generation of
3 hazardous waste.

4 (i) As used in Subsection (g), activities related to
5 construction or maintenance of waterways to facilitate navigation
6 include:

7 (1) the dredging of materials from navigable waters or
8 the banks of navigable waters;

9 (2) the placement or storage of dredged materials on
10 land or submerged land; and

11 (3) the construction, operation, or maintenance of a
12 placement area for dredged material.

13 SECTION 2. The change in law made by this Act does not apply
14 to an act or governmental proceeding of a port authority or
15 navigation district created under Section 59, Article XVI, or
16 Section 52, Article III, Texas Constitution, that is the subject of
17 litigation pending on the effective date of this Act.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.

David Newburn

President of the Senate

Tom Craddock

Speaker of the House

I certify that H.B. No. 1705 was passed by the House on March 31, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1705 on May 23, 2005, by the following vote: Yeas 136, Nays 0, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 1705 was passed by the Senate, with amendments, on May 19, 2005, by the following vote: Yeas 31, Nays 0.

Datsy Grew
Secretary of the Senate

APPROVED: 17 JUNE '05

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM JUN 17 2005
Roger Williams
Secretary of State