

BILL ANALYSIS

C.S.H.B. 1331
By: King, Phil
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The process of drilling and completing an oil or gas well involves drilling through rock from the surface to a preset depth using a drill bit and pipe. As drilling progresses, mud is circulated through the pipe and out of the drill bit to float rock cuttings, commonly referred to as drill cuttings, out of the drill hole and to the surface. Usually, the drill cuttings are temporarily stored at the well site and then transferred to a third-party site for disposal. Interested parties note that there are currently many different methods of disposal for oil-based drill cuttings, such as land filling, land farming, and injection into a salt dome. The parties further note that recent heightened activity with energy development in Texas has inspired a number of environmentally minded companies to create and pioneer new methods of recycling the waste from drill sites but that, as with every new industry, certain legal questions arise that need clarification. In the past, discussions with well operators looking to recycle drill cuttings have included conversations about liability associated with the cuttings once recycled. C.S.H.B. 1331 seeks to add clarification to this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1331 amends the Natural Resources Code to establish that unless otherwise expressly provided by a contract, bill of sale, or other legally binding document when drill cuttings are transferred to a permit holder who takes possession of the cuttings for the purpose of treating the cuttings for a subsequent beneficial use the transferred material is considered to be the property of the permit holder until the permit holder transfers the cuttings or treated cuttings to another person for disposal or use. The bill also establishes that unless otherwise expressly provided by a contract, bill of sale, or other legally binding document when a permit holder who takes possession of drill cuttings for the purpose of treating the cuttings for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use the transferred product or byproduct is considered to be the property of the person to whom the material is transferred. The bill defines "drill cuttings" as bits of rock or soil cut from a subsurface formation by a drill bit during the process of drilling an oil or gas well and lifted to the surface by means of the circulation of drilling mud. The bill defines "permit holder" as a person who holds a permit from the Railroad Commission of Texas to operate a stationary commercial solid oil and gas waste recycling facility.

C.S.H.B. 1331 waives liability in tort for a person who generates drill cuttings and transfers the drill cuttings to a permit holder with the contractual understanding that the drill cuttings will be used in connection with road building or another beneficial use for a consequence of the subsequent use of the drill cuttings by the permit holder or by another person. The bill requires a permit holder who takes possession of drill cuttings from the person who generated the drill cuttings to provide to the generator a copy of the holder's permit. The bill requires the railroad commission to adopt rules to govern the treatment and beneficial use of drill cuttings.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1331 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

No equivalent provision. (*But see SECTION 2 below.*)

No equivalent provision.

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

(1-a) "Drill cuttings" means bits of rock or soil cut from a subsurface formation by a drill bit during the process of drilling an oil or gas well and lifted to the surface by means of the circulation of drilling mud.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. The heading to Chapter 122, Natural Resources Code, is amended to read as follows:

CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF FLUID [~~CERTAIN~~] OIL AND GAS WASTE

SECTION 2. The heading to Section 122.002, Natural Resources Code, is amended to read as follows:

Sec. 122.002. OWNERSHIP OF FLUID [~~CERTAIN~~] OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE.

SECTION 3. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 123 to read as follows:

CHAPTER 123. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF DRILL CUTTINGS

Sec. 123.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Drill cuttings" means bits of rock or soil cut from a subsurface formation by a drill bit during the process of drilling an oil or gas well and lifted to the surface by means of the circulation of drilling mud.

(3) "Permit holder" means a person who holds a permit from the commission to operate a stationary commercial solid oil and gas waste recycling facility.

SECTION 2. Section 122.002, Natural Resources Code, is amended to read as follows:

Sec. 122.002. OWNERSHIP OF CERTAIN OIL AND GAS WASTE TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE. (a) This section applies only to oil and gas waste that consists of drill cuttings or fluid oil and gas waste.

(b) Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document:

(1) when [fluid] oil and gas waste is transferred to a person who takes possession of that waste for the purpose of treating the waste for a subsequent beneficial use, the transferred material is considered to be the property of the person who takes possession of it for the purpose of treating the waste for subsequent beneficial use until the person transfers the waste or treated waste to another person for disposal or use; and

(2) when a person who takes possession of [fluid] oil and gas waste for the purpose of treating the waste for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

SECTION 3. Chapter 122, Natural Resources Code, is amended by adding Section 122.0025 to read as follows:

Sec. 122.0025. RESPONSIBILITY IN TORT FOR DRILL CUTTINGS. A person who generates drill cuttings and transfers the drill cuttings to another person with the contractual understanding that the drill cuttings will be treated and used in connection with road building or another beneficial use is not liable in tort for a consequence of the subsequent use of the drill cuttings by the person to whom the drill cuttings are transferred or by another person.

Sec. 123.002. OWNERSHIP OF DRILL CUTTINGS TRANSFERRED FOR TREATMENT AND SUBSEQUENT BENEFICIAL USE.

Unless otherwise expressly provided by a contract, bill of sale, or other legally binding document:

(1) when drill cuttings are transferred to a permit holder who takes possession of the cuttings for the purpose of treating the cuttings for a subsequent beneficial use, the transferred material is considered to be the property of the permit holder until the permit holder transfers the cuttings or treated cuttings to another person for disposal or use; and

(2) when a permit holder who takes possession of drill cuttings for the purpose of treating the cuttings for a subsequent beneficial use transfers possession of the treated product or any treatment byproduct to another person for the purpose of subsequent disposal or beneficial use, the transferred product or byproduct is considered to be the property of the person to whom the material is transferred.

Sec. 123.003. RESPONSIBILITY IN TORT. A person who generates drill cuttings and transfers the drill cuttings to a permit holder with the contractual understanding that the drill cuttings will be used in connection with road building or another beneficial use is not liable in tort for a consequence of the subsequent use of the drill cuttings by the permit holder or by another person.

No equivalent provision.

Sec. 123.004. PERMIT COPY REQUIRED. A permit holder who takes possession of drill cuttings from the person who generated the drill cuttings shall provide to the generator a copy of the holder's permit.

No equivalent provision.

Sec. 123.005. COMMISSION RULES FOR TREATMENT AND BENEFICIAL USE. The commission shall adopt rules to govern the treatment and beneficial use of drill cuttings.

SECTION 4. The heading to Section 122.003, Natural Resources Code, is amended to read as follows:

Sec. 122.003. RESPONSIBILITY IN TORT FOR FLUID OIL AND GAS WASTE.

No equivalent provision.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 4. Same as introduced version.