

AN ACT

relating to the treatment and recycling for beneficial use of certain waste arising out of or incidental to the drilling for or production of oil or gas.

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

SECTION 1. Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. TREATMENT AND RECYCLING FOR BENEFICIAL USE OF CERTAIN OIL AND GAS WASTE

Sec. 122.001. DEFINITIONS. In this chapter:

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

(2) "Fluid oil and gas waste" means waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water, or other fluid that arises out of or is incidental to the drilling for or production of oil or gas.

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

1 material is considered to be the property of the person who takes
2 possession of it for the purpose of treating the waste for
3 subsequent beneficial use until the person transfers the waste or
4 treated waste to another person for disposal or use; and

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

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

23 (b) This section does not affect the liability of a person
24 that treats fluid oil and gas waste for beneficial use in an action
25 brought by a person for damages for personal injury, death, or
26 property damage arising from exposure to fluid oil and gas waste or
27 a treated product.

1 Sec. 122.004. COMMISSION RULES FOR TREATMENT AND BENEFICIAL
2 USE. The commission shall adopt rules to govern the treatment and
3 beneficial use of oil and gas waste.

4 SECTION 2. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 2767 was passed by the House on May 9, 2013, by the following vote: Yeas 137, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2767 was passed by the Senate on May 22, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor