

Regular Session, 2013

SENATE BILL NO. 139

BY SENATOR WARD AND REPRESENTATIVE ST. GERMAIN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONSERVATION. Provides relative to fines levied by the commissioner of conservation for certain violations. (2/3 - CA7s2.1(A)) (gov sig)

AN ACT

To amend and reenact R.S. 30:148.9(B) and to enact R.S. 30:18(A)(6), relative to underground caverns for hydrocarbon storage or solution mining; to provide for penalties for violations of laws, regulations, or orders relative to drilling or use of such underground caverns; to provide factors for determining penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:148.9(B) is hereby amended and reenacted and R.S. 30:18(A)(6) is hereby enacted to read as follows:

§18. Penalties for violation of Chapter; venue

A.(1) * * *

(6)(a)(i) Notwithstanding any provision of this Section to the contrary, any person found to be in violation of any provision of this Chapter related to the drilling or use of underground caverns for hydrocarbon storage or solution mining, or any requirement, rule, regulation, or order related thereto, may be liable for a civil penalty, to be assessed by the commissioner or the court, of not more than the cost to the state of any response action made necessary by such

1 violation which is not voluntarily paid by the violator, and a penalty of not more
2 than thirty-two thousand five hundred dollars for each day of violation.
3 However, such person may be liable for an additional penalty of not more than
4 one million dollars when any such violation is done intentionally, willfully, or
5 knowingly; and either results in a discharge or disposal which causes
6 irreparable or severe damage to the environment, or involves the discharge of
7 a substance which endangers human life or health.

8 (ii) If the penalty assessed by the commissioner is upheld in full or in
9 part, the commissioner shall be entitled to legal interest as provided in R.S.
10 9:3500 from the date of imposition of the penalty until paid.

11 (iii) Any person found to be in violation of any provision of this Chapter
12 related to the drilling or use of underground caverns for hydrocarbon storage
13 or solution mining, or any requirement, rule, regulation, or order related
14 thereto, may be subject to the revocation or suspension of any permit, license,
15 or variance which has been issued to the person related to the drilling or use of
16 such underground caverns for hydrocarbon storage or solution mining.

17 (b) Any person to whom a compliance order or a cease and desist order
18 is issued pursuant to this Chapter who fails to take corrective action within the
19 time specified in said order shall be liable for a civil penalty to be assessed by
20 the commissioner or the court of not more than fifty thousand dollars for each
21 day of continued violation or noncompliance.

22 (c)(i) In determining whether or not a civil penalty is to be assessed and
23 in determining the amount of the penalty or the amount agreed upon in
24 compromise, the following factors shall be considered:

25 (aa) The history of previous violations or repeated noncompliance.

26 (bb) The nature and gravity of the violation.

27 (cc) The gross revenues generated by the respondent.

28 (dd) The degree of culpability, recalcitrance, defiance, or indifference
29 to regulations or orders.

part, the commissioner will be entitled to legal interest. Further provides that if the penalty is vacated or reduced as a result of an appeal of the assessment, the court will award to the respondent legal interest.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 30:148.9(B); adds R.S. 30:18(A)(6))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Changes criteria for the \$1 million penalty.
2. Requires that permit revocation be related to a certain cavern.