SENATE BILL NO. 139

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BY SENATOR WARD AND REPRESENTATIVES ARMES, ARNOLD, BADON, BERTHELOT, BROSSETT, BROWN, COX, GISCLAIR, HARRISON, JONES, KLECKLEY, LEOPOLD, MONTOUCET, MORENO, ORTEGO, RICHARD, SCHEXNAYDER, ST. GERMAIN AND THIBAUT

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

1	AN ACT
2	To amend and reenact R.S. 30:148.9(B) and to enact R.S. 30:18(A)(6), relative to
3	underground caverns for hydrocarbon storage or solution mining; to provide for
4	penalties for violations of laws, regulations, or orders relative to drilling or use of
5	such underground caverns; to provide factors for determining penalties; and to
6	provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 30:148.9(B) is hereby amended and reenacted and R.S. 30:18(A)(6)
9	is hereby enacted to read as follows:
10	§18. Penalties for violation of Chapter; venue
11	A.(1) * * *
12	(6)(a)(i) Notwithstanding any provision of this Section to the contrary.
13	any person found to be in violation of any provision of this Chapter related to
14	the drilling or use of underground caverns for hydrocarbon storage or solution
15	mining, or any requirement, rule, regulation, or order related thereto, may be
16	liable for a civil penalty, to be assessed by the commissioner or the court, of not
17	more than the cost to the state of any response action made necessary by such
18	violation that is not voluntarily paid by the violator, and a penalty of not more
19	than thirty-two thousand five hundred dollars for each day of violation
20	However, such person may be liable for an additional penalty of not more than
21	one million dollars when any such violation is done intentionally, willfully, or

knowingly and either results in a discharge or disposal that causes irreparable

SB NO. 139	<b>ENROLLED</b>
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1	or severe damage to the environment or involves the discharge of a substance
2	which endangers human life or health.
3	(ii) If the penalty assessed by the commissioner is upheld in full or in
4	part, the commissioner shall be entitled to legal interest as provided in R.S.
5	9:3500 from the date of imposition of the penalty until paid.
6	(iii) Any person found to be in violation of any provision of this Chapter
7	related to the drilling or use of underground caverns for hydrocarbon storage
8	or solution mining, or any requirement, rule, regulation, or order related
9	thereto, may be subject to the revocation or suspension of any permit, license,
10	or variance that has been issued to the person related to the drilling or use of
11	such underground caverns for hydrocarbon storage or solution mining.
12	(b) Any person to whom a compliance order or a cease and desist order
13	is issued pursuant to this Chapter who fails to take corrective action within the
14	time specified in said order shall be liable for a civil penalty to be assessed by
15	the commissioner or the court of not more than fifty thousand dollars for each
16	day of continued violation or noncompliance.
17	(c)(i) In determining whether or not a civil penalty is to be assessed and
18	in determining the amount of the penalty or the amount agreed upon in
19	compromise, the following factors shall be considered:
20	(aa) The history of previous violations or repeated noncompliance.
21	(bb) The nature and gravity of the violation.
22	(cc) The degree of culpability, recalcitrance, defiance, or indifference to
23	regulations or orders.
24	(dd) The monetary benefits realized through noncompliance.
25	(ee) The degree of risk to human health or property caused by the
26	violation.
27	(ff) Whether the noncompliance or violation and the surrounding
28	circumstances were immediately reported to the commissioner and whether the
29	violation or noncompliance was concealed or if there was an attempt to conceal
30	by the person charged.

SB NO. 139	<b>ENROLLED</b>
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1	(gg) whether the person charged has laned to mitigate or to make a
2	reasonable attempt to mitigate the damages caused by his noncompliance or
3	violation.
4	(hh) The costs of bringing and prosecuting an enforcement action, such
5	as staff time, equipment use, hearing records, and expert assistance.
6	(ii) The commissioner may supplement such criteria by rule. In the
7	event that the order with which the person failed to comply was an emergency
8	cease and desist order, no penalty shall be assessed if it appears upon later
9	hearing that said order was issued without reasonable cause.
10	(iii) The commissioner by rule may establish classifications or levels of
11	violations and the appropriate enforcement response.
12	(d) After submission for a penalty determination at a hearing, the
13	commissioner shall provide an opportunity for relevant and material public
14	comment relative to any penalty that may be imposed.
15	(e) If the penalty assessed by the commissioner is upheld in full or in
16	part, the commissioner shall be entitled to legal interest as provided in R.S.
17	9:3500 from the date of imposition of the penalty until paid. If any penalty
18	assessed by the commissioner under the provisions of this Paragraph is vacated
19	or reduced as the result of an appeal of the assessment, the court shall award to
20	the respondent legal interest as provided in R.S. 9:3500 on the amount required
21	to be refunded by the commissioner.
22	* * *
23	§148.9. Oil; natural gas; liquid hydrocarbons; carbon dioxide; lease for
24	underground storage
25	* * *
26	B. Any lease granted hereunder shall be subject to the provisions of R.S.
27	30: <u>18</u> , 22, and 23, Statewide Order No. 29-M (LAC 43:XVII.Chapter 3), and
28	Statewide Order No. 29-N-1 (LAC 43:XVII.Chapter 1), as applicable.
29	Section 2. This Act shall become effective upon signature by the governor or, if not
30	signed by the governor, upon expiration of the time for bills to become law without signature

by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
vetoed by the governor and subsequently approved by the legislature, this Act shall become
effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_\_\_

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**SB NO. 139**