

CHAPTER 4

S.B. No. 19

AN ACT

relating to the regulation of artesian wells and of the use of water from artesian wells.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 11.202, Water Code, is amended to read as follows:

Sec. 11.202. RIGHT TO DRILL ARTESIAN WELL. (a) *Except as provided by this section, a [A] person is entitled to drill an artesian well [~~on his own land~~] for domestic purposes or for stock raising without complying with the general provisions of this code regulating the use of water.*

(b) The artesian well must be on that person's own land and must be [~~However, he shall have the well~~] properly and securely cased.

(c) When[~~, and when~~] water is reached containing mineral or other substances injurious to vegetation or agriculture, the artesian well must be [~~he shall have the well~~] securely capped or its flow controlled so as not to injure another person's land or properly

plugged [~~shall fill the well~~] so as to prevent the water from rising above the first impervious stratum below the surface of the ground.

(d) Except as provided by Subsection (e) of this section, after September 1, 1991, and before January 1, 1994, a person may not drill and operate a free-flowing artesian well in a sole or principal source aquifer as designated by 40 C.F.R., Part 149, pursuant to Section 1424(e), Safe Drinking Water Act (42 U.S.C. 300h-3(e)) that will result in a flow of more than 5,000 gallons per minute or that is within 1,000 feet of another well if the combined flows would exceed 5,000 gallons per minute.

(e) The commission may grant for a well an exemption from the prohibition provided by Subsection (d) of this section for any beneficial use that does not waste water. The commission by rule may delegate the authority to grant exemptions under this subsection to a local water district.

SECTION 2. Subsections (b) and (c), Section 11.205, Water Code, are amended to read as follows:

~~(b) [It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway or for ornamental ponds or fountains or for the propagation of fish.~~

~~[(e)] A person who commits waste as defined in this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.~~

SECTION 3. Nothing in this Act shall limit the authority of local water districts that have jurisdiction over the Edwards Aquifer to control waste, and Subsections (d) and (e), Section 11.202, Water Code, shall not apply to any land that is within a Chapter 52, Water Code, water district.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on August 23, 1991: Yeas 28, Nays 0; the Senate concurred in House amendment on August 25, 1991: Yeas 31, Nays 0; passed the House, with amendment, on August 25, 1991: Yeas 108, Nays 21, one present not voting.

Approved August 29, 1991.

Effective August 29, 1991.