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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

HOUSE BILL No. 2681

(By Delegate Davis, Fantasia, Kuhn, Flanigan,
Heck, Willison and Azinger)



Passed April 12, 1997

In Effect July 1, 1997 Passage

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SERVICES

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H. B. 2681

(BY DELEGATES DAVIS, FANTASIA, KUHN, FLANIGAN, HECK,
WILLISON AND AZINGER)

[Passed April 12, 1997; in effect July 1, 1997.]

AN ACT to amend and reenact sections two, four and thirteen, article nine, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terminating the oil and gas conservation commission; continuing certain functions relating to oil and gas resource conservation under the oil and gas conservation commissioner; and providing that the chief of the office of oil and gas serve as commissioner.

Be it enacted by the Legislature of West Virginia:

That sections two, four and thirteen, article nine, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-2. Definitions.

1 (a) Unless the context in which used clearly requires
2 a different meaning, as used in this article:

3 (1) "Commissioner" means the oil and gas
4 conservation commissioner as provided for in section four
5 of this article;

6 (2) "Director" means the director of the division of

7 environmental protection or such other person to whom
8 the director has delegated authority or duties pursuant to
9 sections six or eight, article one, chapter twenty-two of this
10 code;

11 (3) "Person" means any natural person, corporation,
12 partnership, receiver, trustee, executor, administrator,
13 guardian, fiduciary or other representative of any kind,
14 and includes any government or any political subdivision
15 or any agency thereof;

16 (4) "Operator" means any owner of the right to
17 develop, operate and produce oil and gas from a pool and
18 to appropriate the oil and gas produced therefrom, either
19 for such person or for such person and others; in the event
20 that there is no oil and gas lease in existence with respect
21 to the tract in question, the owner of the oil and gas rights
22 therein shall be considered as "operator" to the extent of
23 seven eighths of the oil and gas in that portion of the pool
24 underlying the tract owned by such owner, and as
25 "royalty owner" as to one-eighth interest in such oil and
26 gas; and in the event the oil is owned separately from the
27 gas, the owner of the substance being produced or sought
28 to be produced from the pool shall be considered as
29 "operator" as to such pool;

30 (5) "Royalty owner" means any owner of oil and
31 gas in place, or oil and gas rights, to the extent that such
32 owner is not an operator as defined in subdivision (4) of
33 this section;

34 (6) "Independent producer" means a person who is
35 actively engaged in the production of oil and gas in West
36 Virginia, but whose gross revenue from such production
37 in West Virginia does not exceed five hundred thousand
38 dollars per year;

39 (7) "Oil" means natural crude oil or petroleum and
40 other hydrocarbons, regardless of gravity, which are
41 produced at the well in liquid form by ordinary
42 production methods and which are not the result of
43 condensation of gas after it leaves the underground
44 reservoir;

45 (8) "Gas" means all natural gas and all other fluid
46 hydrocarbons not defined as oil in subdivision (7) of this
47 section;

48 (9) "Pool" means an underground accumulation of
49 petroleum in a single and separate natural reservoir
50 (ordinarily a porous sandstone or limestone). It is
51 characterized by a single natural-pressure system so that
52 production of petroleum from one part of the pool affects
53 the reservoir pressure throughout its extent. A pool is
54 bounded by geologic barriers in all directions, such as
55 geologic structural conditions, impermeable strata, and
56 water in the formations, so that it is effectively separated
57 from any other pools that may be presented in the same
58 district or on the same geologic structure;

59 (10) "Well" means any shaft or hole sunk, drilled,
60 bored or dug into the earth or underground strata for the
61 extraction of oil or gas;

62 (11) "Shallow well" means any well drilled and
63 completed in a formation above the top of the uppermost
64 member of the "Onondaga Group": *Provided*, That in
65 drilling a shallow well the operator may penetrate into the
66 "Onondaga Group" to a reasonable depth, not in excess
67 of twenty feet, in order to allow for logging and
68 completion operations, but in no event may the
69 "Onondaga Group" formation be otherwise produced,
70 perforated or stimulated in any manner;

71 (12) "Deep well" means any well, other than a
72 shallow well, drilled and completed in a formation at or
73 below the top of the uppermost member of the
74 "Onondaga Group";

75 (13) "Drilling unit" means the acreage on which
76 one well may be drilled;

77 (14) "Waste" means and includes: (A) Physical
78 waste, as that term is generally understood in the oil and
79 gas industry; (B) the locating, drilling, equipping,
80 operating or producing of any oil or gas well in a manner
81 that causes, or tends to cause, a reduction in the quantity
82 of oil or gas ultimately recoverable from a pool under

83 prudent and proper operations, or that causes or tends to
84 cause unnecessary or excessive surface loss of oil or gas;
85 or (C) the drilling of more deep wells than are reasonably
86 required to recover efficiently and economically the
87 maximum amount of oil and gas from a pool. Waste does
88 not include gas vented or released from any mine areas as
89 defined in section two, article one, chapter twenty-two-a of
90 this code or from adjacent coal seams which are the
91 subject of a current permit issued under article two of
92 chapter twenty-two-a of this code: *Provided*, That nothing
93 in this exclusion is intended to address ownership of the
94 gas;

95 (15) "Correlative rights" means the reasonable
96 opportunity of each person entitled thereto to recover and
97 receive without waste the oil and gas in and under his tract
98 or tracts, or the equivalent thereof; and

99 (16) "Just and equitable share of production"
100 means, as to each person, an amount of oil or gas or both
101 substantially equal to the amount of recoverable oil and
102 gas in that part of a pool underlying such person's tract or
103 tracts.

104 (b) Unless the context clearly indicates otherwise, the
105 use of the word "and" and the word "or" shall be
106 interchangeable, as, for example, "oil and gas" shall
107 mean oil or gas or both.

**§22C-9-4. Oil and gas conservation commissioner; ap-
pointment and qualifications; general powers
and duties.**

1 (a) The office of oil and gas conservation
2 commissioner within the division of environmental
3 protection is hereby continued. The chief of the office of
4 oil and gas, who shall possess a degree from an accredited
5 college or university in engineering or geology and must
6 be a registered professional engineer with particular
7 knowledge and experience in the oil and gas industry,
8 shall serve in the capacity of oil and gas conservation
9 commissioner without extra compensation.

10 (b) The oil and gas conservation commissioner is

11 hereby empowered and it is the commissioner's duty to
12 execute and carry out, administer and enforce the
13 provisions of this article in the manner provided herein.
14 Subject to the provisions of section three of this article, the
15 commissioner has jurisdiction and authority over all
16 persons and property necessary therefor. The com-
17 missioner is authorized to make such investigation of
18 records and facilities as the commissioner deems proper.
19 In the event of a conflict between the duty to prevent waste
20 and the duty to protect correlative rights, the com-
21 missioner's duty to prevent waste shall be paramount.

22 (c) Without limiting the commissioner's general
23 authority, the commissioner shall have specific authority
24 to:

25 (1) Regulate the spacing of deep wells;

26 (2) Make and enforce reasonable rules and orders
27 reasonably necessary to prevent waste, protect correlative
28 rights, govern the practice and procedure before the
29 commissioner and otherwise administer the provisions of
30 this article;

31 (3) Issue subpoenas for the attendance of witnesses
32 and subpoenas duces tecum for the production of any
33 books, records, maps, charts, diagrams and other pertinent
34 documents, and administer oaths and affirmations to such
35 witnesses, whenever, in the judgment of the commissioner,
36 it is necessary to do so for the effective discharge of the
37 commissioner's duties under the provisions of this article;
38 and

39 (4) Serve as technical advisor regarding oil and gas
40 to the Legislature, its members and committees, to the
41 division of environmental protection and to any other
42 agency of state government having responsibility related
43 to the oil and gas industry.

§22C-9-13. Special oil and gas conservation tax.

1 Owners of leases on oil and gas for the exploration,
2 development or production of oil or natural gas shall pay
3 to the commissioner a special oil and gas conservation tax
4 of three cents for each acre under lease, excluding from

5 the tax the first twenty-five thousand acres. The
6 commissioner shall deposit with the treasurer of the state
7 of West Virginia, to the credit of the special oil and gas
8 conservation fund, all taxes collected hereunder. The
9 special oil and gas conservation fund shall be a special
10 fund and shall be administered by the commissioner for
11 the sole purpose of carrying out all costs necessary to
12 carry out the provisions of this article. This tax shall be
13 paid as provided herein annually on or before the first day
14 of July, one thousand nine hundred seventy-two, and on
15 or before the first day of July in each succeeding year.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Wayne Sherover
Chairman Senate Committee

Maria Santasia
Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

Karetha Salma
Clerk of the Senate

Bugary W. Lee
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

R. L. ...
Speaker of the House of Delegates

The within is disapproved this the 7th
day of May, 1997

Jeff Abernethy
Governor

PRESENTED TO THE

GOVERNOR

Date 5/1/97

Time 3:46 pm