

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill Number

BY DELEGATES DOYLE AND EVANS

[Introduced March 15, 2021; Referred to the
Committee on Energy and Manufacturing then
Finance]

1 A BILL to amend and reenact §11-13A-3a of the Code of West Virginia, 1931, as amended,
2 relating to increasing the tax on the privilege of severing natural gas and oil.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil.

1 (a) *Imposition of tax*— For the privilege of engaging or continuing within this state in the
2 business of severing natural gas or oil for sale, profit or commercial use, there is levied and shall
3 be collected from every person exercising the privilege an annual privilege tax at the rate and
4 measure provided in subsection (b) of this section: *Provided*, That effective for all taxable periods
5 beginning on or after January 1, 2000, there is an exemption from the imposition of the tax
6 provided in this article on the following: (1) Free natural gas provided to any surface owner; (2)
7 natural gas produced from any well which produced an average of less than 5,000 cubic feet of
8 natural gas per day during the calendar year immediately preceding a given taxable period; (3)
9 oil produced from any oil well which produced an average of less than one-half barrel of oil per
10 day during the calendar year immediately preceding a given taxable period; and (4) for a
11 maximum period of 10 years, all natural gas or oil produced from any well which has not produced
12 marketable quantities of natural gas or oil for five consecutive years immediately preceding the
13 year in which a well is placed back into production and thereafter produces marketable quantities
14 of natural gas or oil.

15 (b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is ~~five~~
16 10 percent of the gross value of the natural gas or oil produced by the producer as shown by the
17 gross proceeds derived from the sale thereof by the producer, except as otherwise provided in
18 this article: *Provided*, That effective for taxable periods beginning on or after January 1, ~~2020~~
19 2021:

20 (1) For all natural gas produced from any well which produced an average in excess of
21 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given

22 taxable year, and for oil produced from any well which produced an average in excess of 10
23 barrels of oil per day, during the calendar year immediately preceding the beginning date of a
24 given taxable year, the rate of tax is ~~five~~ 10 percent of the gross value of the natural gas or oil
25 produced as shown by the gross proceeds derived from the sale thereof by the producer;

26 (2) For all natural gas produced from any well, excluding wells utilizing horizontal drilling
27 techniques targeting shale formations, which produced an average between 5,000 cubic feet of
28 natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year
29 immediately preceding the beginning date of a given taxable year, and for oil produced from any
30 well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which
31 produced an average between one-half barrel per day and 10 barrels per day, during the calendar
32 year immediately preceding the beginning date of a given taxable year, the rate of tax is ~~two and~~
33 ~~five tenths~~ five percent of the gross value of the natural gas or oil produced as shown by the gross
34 proceeds derived from the sale thereof by the producer; and

35 (3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting
36 shale formations, which produced an average between 5,000 cubic feet of natural gas per day
37 and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the
38 beginning date of a given taxable year, and for oil produced from wells utilizing horizontal drilling
39 techniques targeting shale formations, which produced an average between one-half barrel per
40 day and 10 barrels per day, during the calendar year immediately preceding the beginning date
41 of a given taxable year, the rate of tax is ~~five~~ 10 percent of the gross value of the natural gas or
42 oil produced as shown by the gross proceeds derived from the sale thereof by the producer.

43 (c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons
44 severing gas or oil in this state, and is in addition to all other taxes imposed by law.

45 (d) For purposes of this section, in determining the average amount of production of gas
46 and oil in any given calendar year, a taxpayer must calculate the actual production of such well

47 in the calendar year and divide the same by the number of days the well was in operation and
48 producing gas or oil in such calendar year.

49 (e) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the
50 tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are
51 dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this
52 code: *Provided*, That if on June 1, 2023, or on June 1 of any year thereafter, there exists in the
53 Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6
54 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is
55 reduced to zero for the taxable year beginning on and after the next succeeding January 1. The
56 Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the
57 balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant
58 to this subsection.

NOTE: The purpose of this bill is to double the tax on the privilege of severing natural gas and oil.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.