

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 949

By: Kerr

COMMITTEE SUBSTITUTE

( Oil and gas - amending 17 O.S., Section 354 - creating  
the Oil and Gas Well Indemnity Fund - codification -  
noncodification -

emergency )

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 710 of Title 52, unless there  
is created a duplication in numbering, reads as follows:

A. There is hereby created the Oil and Gas Well Indemnity  
Fund within the Oklahoma Corporation Commission.

B. The Oil and Gas Well Indemnity Fund shall be administered  
by the General Administrator of the Oklahoma Corporation  
Commission, hereinafter referred to as Commission, for the benefit  
of those persons determined to be eligible to be indemnified  
against future costs and damages associated with environmental  
remediation of oil and gas well sites.

SECTION 2. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 711 of Title 52, unless there  
is created a duplication in numbering, reads as follows:

A. The Oklahoma Corporation Commission is hereby authorized  
to promulgate rules governing the Oil and Gas Well Indemnity Fund  
and identifying those persons eligible for indemnification by the  
fund. In promulgating such rules regarding eligibility for  
accessing the fund, the Commission shall require each person  
transferring ownership of an oil or gas well to have had an  
environmental assessment, demonstrating no environmental problems

as of the date of the transfer, performed on the site and shall further ensure that the selling and purchasing operators are in good standing with the laws of the State of Oklahoma and the rules of the Oklahoma Corporation Commission including possessing adequate surety.

B. The Oklahoma Corporation Commission shall promulgate rules governing the Oil and Gas Well Indemnity Fund, according to the provisions of this act, no later than January 1, 1995. Such rules shall be subject to the provisions of the Administrative Procedures Act, Section 250 et seq. of Title 75 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 17 O.S. 1991, Section 354, as amended by Section 34, Chapter 324, O.S.L. 1993 (17 O.S. Supp. 1993, Section 354), is amended to read as follows:

Section 354. A. Except as otherwise provided by this section, there shall be an assessment of ~~one cent (\$0.01)~~ two cents (\$0.02) per gallon upon the sale of each gallon of motor fuel, diesel fuel and blending materials sold to a person in this state by a distributor. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to:

1. The Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund pursuant to paragraph 1 of subsection C of this section;

2. The Environmental Trust Revolving Fund pursuant to paragraph 2 of subsection C of this section; ~~and~~

3. The Oil and Gas Well Indemnity Fund pursuant to paragraph 2 of subsection C of this section; and

4. The State Highway Construction and Maintenance Fund pursuant to paragraph 2 of subsection C of this section.

The assessment shall be imposed at the time of the sale of the motor fuel, diesel fuel and blending materials and shall be collected and remitted to the Oklahoma Tax Commission by such distributor as provided by Section 355 of this title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

- a. the state government,
- b. the federal government,
- c. class I railroads, and
- d. sales between distributors, except for distributors required to operate on a tax-paid basis, and sales for exportation outside of this state specified by Section 507 of Title 68 of the Oklahoma Statutes.

2. Exempt from the assessment imposed for purposes specified in paragraphs 2 and ~~3~~ 4 of subsection A of this section are sales of:

- a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H club trucks for the purposes of legally transporting public school children, or in the operation of vehicles used in driver training,
- b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town or volunteer fire department specified by Section 527 of Title 68 of the Oklahoma Statutes,
- c. motor fuel, diesel fuel and blending materials to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 509 of Title 68 of the Oklahoma Statutes,
- e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 509 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel, diesel fuel and blending materials used in aircraft or in aircraft engines pursuant to Section 508 of Title 68 of the Oklahoma Statutes.

C. The assessment imposed by subsection A of this section shall be distributed in the following manner:

1. Revenue from the assessment shall be deposited in the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund created in Section 353 of this title in amounts necessary to maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section;

2. Revenue from the assessment shall be deposited, except as otherwise provided in ~~subsection~~ subsections D and E of this section, as follows:

- a. the first One Million Dollars (\$1,000,000.00) collected during each fiscal year shall be deposited in the Environmental Trust Revolving Fund created in Section ~~6 1-3-101~~ of ~~this act~~ Title 27A of the Oklahoma Statutes,
- b. the remaining monies collected shall be deposited in the Oil and Gas Well Indemnity Fund created in Section 1 of this act in such amounts to attain and maintain the balance of said fund pursuant to subsection E of this section,
- c. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation Fund. Revenue from the assessment which is deposited in the State Transportation Fund shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.

D. 1. If at any time the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund falls below the required maintenance level on or before December 31, 1999, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.

2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the

Administrator that the Indemnity Fund has fallen below the required maintenance level, shall notify the distributors that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the distributor shall also assess, for the specified period required by the Tax Commission, the sales of:

- a. motor fuel, diesel fuel and blending materials used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,
- b. motor fuels, diesel fuels and blending materials used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town or volunteer fire department specified by Section 527 of Title 68 of the Oklahoma Statutes,
- c. motor fuel, diesel fuel and blending materials to counties and cities and towns,
- d. diesel fuel for off-road purposes specified by Section 509 of Title 68 of the Oklahoma Statutes,
- e. motor fuel, diesel fuel and blending materials used for agricultural purposes specified by Section 509 of Title 68 of the Oklahoma Statutes, and
- f. motor fuel, diesel fuel and blending materials used in aircraft and aircraft engines pursuant to Section 508 of Title 68 of the Oklahoma Statutes.

3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited in the Environmental Trust Revolving Fund, the Oil

and Gas Well Indemnity Fund and the State Transportation Fund as provided in subsection C of this section.

E. The monies assessed pursuant to the provisions of subparagraph b of paragraph 2 of subsection C of this section are hereby authorized to accumulate in the Oil and Gas Well Indemnity Fund until such time as the fund contains Twenty Million Dollars (\$20,000,000.00). If at any time the Oil and Gas Well Indemnity Fund falls below Twenty Million Dollars (\$20,000,000.00), the General Administrator of the Oklahoma Corporation Commission shall notify the Oklahoma Tax Commission that the Indemnity Fund has fallen below Twenty Million Dollars (\$20,000,000.00) and that the assessment is to be deposited into said fund in the same manner as provided for in subsection D of this section until the fund contains a minimum of Twenty Million Dollars (\$20,000,000.00).

SECTION 4. A. In an effort to preserve the marginally producing oil and gas wells of this state, the Oklahoma Corporation Commission is hereby directed to conduct a study of all nonactive oil and gas wells in the State of Oklahoma and assess the operational opportunity of each well, noting especially those wells that may be located in environmentally sensitive areas, such as over water aquifers, for the purpose of attempting to save such wells from permanent plugging and preserving the opportunity that such wells may be put back into production in the future. Any well that is found to be in noncompliance with Commission rules and is creating a hazard to the health or safety of the public may be plugged by the Commission. The Oklahoma Corporation Commission is authorized to promulgate rules as necessary to carry out the provisions of this section.

B. The Commission is further directed not to permanently plug any abandoned well under its control pursuant to the provisions of Section 53 et seq. of Title 17 of the Oklahoma Statutes for a period not to exceed three (3) years, unless such well has been declared by the Commission to be a hazard to the health or safety of the public.

SECTION 5. The Oklahoma Tax Commission is hereby directed to collect and enforce all sales tax levied on the sale of oil and

gas interests and properties. Fifty percent (50%) of all monies collected above the levels collected in 1993 shall be apportioned to the Commission on Marginally Producing Oil and Gas Wells for the purpose of promoting the end use of petroleum products and natural gas and the recruitment of industries to the State of Oklahoma who have a need for such products.

SECTION 6. NONCODIFICATION The provisions of Sections 4 and 5 of this act shall not be codified in the Oklahoma Statutes.

SECTION 7. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-2202

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