

ENROLLED SENATE
BILL NO. 136

By: Crutchfield of the Senate

and

Hyman of the House

An Act relating to oil and gas; amending 52 O.S. 2001, Section 29, which relates to production levels of gas wells; providing exemption from allowables for certain gas reservoirs; amending 52 O.S. 2001, Section 87.1, which relates to common source of supply; authorizing Corporation Commission to increase certain drilling and spacing units; amending Section 5, Chapter 252, O.S.L. 2006 (52 O.S. Supp. 2006, Section 317.1), which relates to seeping natural gas; modifying definition; limiting expenditures from certain fund; prohibiting access of other funds; authorizing the Commission to expend certain monies for certain purposes; amending 52 O.S. 2001, Section 703, as amended by Section 1, Chapter 382, O.S.L. 2002 (52 O.S. Supp. 2006, Section 703), which relates to the Commission on Marginally Producing Oil and Gas Wells; modifying certain fee; clarifying statutory language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 2001, Section 29, is amended to read as follows:

Section 29. A. Every corporation, joint stock company, limited copartnership, partnership or other person now or hereafter claiming or exercising the right to produce natural gas within the limits of

this state, as owner, lessee, licensee, or by virtue of any other right or claim is hereby prohibited from producing from any gas well an amount in excess of that prescribed by the Oklahoma Corporation Commission.

B. Except as otherwise provided in this section, the Corporation Commission shall have the power and authority to promulgate production rules from time to time for all natural gas wells producing within this state, or for such categories of natural gas wells producing within this state as the Commission may deem appropriate, establishing levels of production upon a finding that the levels of production so established will be sufficient to prevent waste as the same is defined in Section 86.3 of this title and will protect the interests of the public against production of the natural gas reserves underlying this state in amounts in excess of the reasonable market demand therefor.

C. For thirty (30) months from the date of first production, a discovery gas well, as defined in this subsection, subject to the provisions of this section, shall have a production allowable which shall be the greater of one thousand three hundred (1,300) MCFD or sixty-five percent (65%) of the absolute open flow (AOF) as specified by the Corporation Commission. Such discovery well allowable shall not be available for any discovery gas well wherein two (2) or more separate common sources of supply are commingled and one (1) common source of supply would not qualify a new gas well as a discovery gas well, as defined in this section.

Drilling and spacing units which are downspaced after June 1, 1997, shall not qualify for the discovery gas well allowable.

For purposes of this subsection, "discovery gas well" shall mean a new gas well, which is not an off-pattern well, which is the first well completed in a common source of supply within a drilling and spacing unit and is at least one (1) mile from all existing gas wells which are completed in the same common source of supply. In the absence of spacing, a discovery well shall be the first well in the governmental section completed in a common source of supply, provided that the discovery gas well shall not be drilled closer than one thousand three hundred twenty (1,320) feet from the boundaries of the governmental section and is at least one (1) mile

from all existing gas wells which are completed in the same common source of supply.

Allowables shall not apply, regardless of unit size, in the instance of production of gas by reservoir dewatering to extract said gas from reservoirs having initial water saturations at or above fifty percent (50%).

D. The authority granted to the Corporation Commission by this section is in addition to that provided for in Section 239 of this title.

E. The Corporation Commission may, for good cause shown under the exigencies of a particular case and after appropriate notice and hearing, establish a production level different from the levels provided by this section or established by rule promulgated by the Corporation Commission.

F. Production rules promulgated by the Corporation Commission pursuant to the authority granted in subsection B of this section shall be promulgated pursuant to Article I of the Administrative Procedures Act, Sections 250.3 through 308.2 of Title 75 of the Oklahoma Statutes, including the provisions contained therein prescribing the required notice and hearing for rulemaking.

G. The provisions of subsection A of this section and production rules promulgated by the Corporation Commission pursuant to subsection B of this section shall not supersede or invalidate the provisions of any rule or order of the Corporation Commission establishing production levels for natural gas from a well which has been expressly authorized by Corporation Commission order to produce at a specified rate applicable only to that well where the basis for the rate established is based upon a determination by the Corporation Commission that reasonable cause exists to expect that production below the rate would damage the well and cause waste, a so-called "hardship well", or establishing field rules under Section 239 of this title governing the taking of gas from a specified common source of supply or field.

SECTION 2. AMENDATORY 52 O.S. 2001, Section 87.1, is amended to read as follows:

Section 87.1 Whenever the production from any common source of supply of oil or natural gas in this state can be obtained only under conditions constituting waste or drainage not compensated by counterdrainage, then any person having the right to drill into and produce from such common source of supply may, except as otherwise authorized or in this section provided, take therefrom only such proportion of the oil or natural gas that may be produced therefrom without waste or without such drainage as the productive capacity of the well or wells of any such person considered with the acreage properly assignable to each such well bears to the total productive capacities of the wells in such common source of supply considered with the acreage properly assignable to each well therein.

(a) To prevent or to assist in preventing the various types of waste of oil or gas prohibited by statute, or any of said wastes, or to protect or assist in protecting the correlative rights of interested parties, the Corporation Commission, upon a proper application and notice given as hereinafter provided, and after a hearing as provided in said notice, shall have the power to establish well spacing and drilling units of specified and approximately uniform size and shape covering any common source of supply, or prospective common source of supply, of oil or gas within the State of Oklahoma; provided, that the Commission may authorize the drilling of an additional well or wells on any spacing and drilling unit or units or any portion or portions thereof or may establish, reestablish, or reform well spacing and drilling units of different sizes and shapes when the Commission determines that a common source of supply contains predominantly oil underlying an area or areas and contains predominantly gas underlying a different area or areas; provided further that the units in the predominantly oil area or areas shall be of approximately uniform size and shape, and the units in the predominantly gas area or areas shall be of approximately uniform size and shape, except that the units in the gas area or areas may be of nonuniform size and shape when they adjoin the units in the oil area or areas; provided further that the drilling pattern for such nonuniform units need not be uniform, and provided further that the Commission shall adjust the allowable production within said common source of supply, or any part thereof, and take such other action as may be necessary to protect the rights of interested parties. Any order issued pursuant to the provisions hereof may be entered after a hearing upon the petition of any person owning an interest in the minerals in lands embraced within

such common source of supply, or the right to drill a well for oil or gas on the lands embraced within such common source of supply, or on the petition of the Conservation Officer of the State of Oklahoma. When such a petition is filed with the Commission, the Commission shall give at least fifteen (15) days' notice of the hearing to be held upon such petition by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the application are situated. Except as to the notice of hearing on such a petition, the procedural requirements of Sections 86.1 et seq. of this title, shall govern all proceedings and hearings provided for by this section.

(b) In case of a spacing unit of one hundred sixty (160) acres or more, no oil and/or gas leasehold interest outside the spacing unit involved may be held by production from the spacing unit more than ninety (90) days beyond expiration of the primary term of the lease.

(c) In establishing a well spacing or drilling unit for a common source of supply thereunder, the acreage to be embraced within each unit shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless a governmental section contains more than six hundred forty (640) acres in which case the unit may comprise the entire section. Provided, however, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing, and the following facts, among other things, shall be material: (1) The lands embraced in the actual or prospective common source of supply; (2) the plan of well spacing then being employed or contemplated in said source of supply; (3) the depth at which production from said common source of supply has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations; and (5) any other available geological or scientific data pertaining to said actual or prospective source of supply which may be of probative value to said

Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners interested therein.

The order establishing such spacing or drilling units shall set forth: (1) the outside boundaries of the surface area included in such order; (2) the size, form, and shape of the spacing or drilling units so established; (3) the drilling pattern for the area, which shall be uniform except as hereinbefore provided; and (4) the location of the permitted well on each such spacing or drilling unit. To such order shall be attached a plat upon which shall be indicated the foregoing information. Subject to other provisions of this act, Section 81 et seq. of this title, the order establishing such spacing or drilling units shall direct that no more than one well shall thereafter be produced from the common source of supply on any unit so established, and that the well permitted on that unit shall be drilled at the location thereon as prescribed by the Commission, with such exception as may be reasonably necessary where it is shown, upon application, notice and hearing in conformity with the procedural requirements of Sections 86.1 et seq. of this title, and the Commission finds that any such spacing unit is located on the edge of a pool and adjacent to a producing unit, or for some other reason that to require the drilling of a well at the prescribed location on such spacing unit would be inequitable or unreasonable. Whenever such an exception is granted, the Commission shall adjust the allowable production for said spacing unit and take such other action as may be necessary to protect the rights of interested parties.

Any well spacing or drilling unit for a common source of supply thereunder which exceeds six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance or exceeds the total amount of acreage contained in a governmental section, and is not in production or in the process of drilling development on the effective date of this act shall be de-spaced. However, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission.

(d) The Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) above, to decrease the size of the well spacing units or to permit additional wells to be drilled within the established units, upon proper proof at such hearing that such modification or extension of the order establishing drilling or spacing units will prevent or assist in preventing the various types of wastes prohibited by statute, or any of said wastes, or will protect or assist in protecting the correlative rights of persons interested in said common source of supply, or upon the filing of a proper application therefor to enlarge the area covered by the spacing order, if such proof discloses that the development or the trend of development indicates that such common source of supply underlies an area not covered by the spacing order and such proof discloses that the applicant is an owner within the area or within a drilling and spacing unit contiguous to the area covered by the application. Except in the instance of reservoir dewatering as described herein, the Commission shall not establish well spacing units of more than forty (40) acres in size covering common sources of supply of oil, the top of which lies less than four thousand (4,000) feet below the surface as determined by the original or discovery well in said common source of supply, and the Commission shall not establish well spacing units of more than eighty (80) acres in size covering common sources of supply of oil, the top of which lies less than nine thousand nine hundred ninety (9,990) feet and more than four thousand (4,000) feet below the surface as determined by the original or discovery well in said common source of supply. In the instance of reservoir dewatering to extract oil from reservoirs having initial water saturations at or above fifty percent (50%), the Commission may establish drilling and spacing units not to exceed ~~one hundred sixty (160)~~ six hundred forty (640) acres in size.

(e) The drilling of any well or wells into any common source of supply for the purpose of producing oil or gas therefrom, after a spacing order has been entered by the Commission covering such common source of supply, at a location other than that fixed by said order is hereby prohibited. The drilling of any well or wells into a common source of supply, covered by a pending spacing application, at a location other than that approved by a special order of the Commission authorizing the drilling of such well is hereby prohibited. The operation of any well drilled in violation of any

spacing so entered is also hereby prohibited. When two or more separately owned tracts of land are embraced within an established spacing unit, or where there are undivided interests separately owned, or both such separately owned tracts and undivided interests embraced within such established spacing unit, the owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owners have not agreed to pool their interests and where one such separate owner has drilled or proposes to drill a well on said unit to the common source of supply, the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, shall, upon a proper application therefor and a hearing thereon, require such owners to pool and develop their lands in the spacing unit as a unit. The applicant shall give all the owners whose addresses are known or could be known through the exercise of due diligence at least fifteen (15) days' notice by mail, return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the spacing unit are situated. The applicant shall file proof of publication and an affidavit of mailing with the Commission prior to the hearing. All orders requiring such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner of such tract in the unit the opportunity to recover or receive without unnecessary expense his just and fair share of the oil and gas. The portion of the production allocated to the owner of each tract or interests included in a well spacing unit formed by a pooling order shall, when produced, be considered as if produced by such owner from the separately owned tract or interest by a well drilled thereon. Such pooling order of the Commission shall make definite provisions for the payment of cost of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision. In the event of any dispute relative to such costs, the Commission shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the pooling order or orders of the Commission, shall have a lien on the mineral leasehold estate or rights owned by the

other owners therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon said unit are a charge against such interest by order of the Commission or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order. The Commission is specifically authorized to provide that the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to production from such well which would be received by the owner or owners for whose benefit the well was drilled or operated, after payment of royalty, until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner of a separate interest in such unit shall be applied toward payment of any cost properly chargeable to any other interest in said unit.

For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths (7/8) interest in and to said rights and a lessor to the extent of the remaining one-eighth (1/8) interest therein. Should the owners of separate tracts or interests embraced within a spacing unit fail to agree upon a pooling of their interests and the drilling of a well on the unit, and should it be established by final, unappealable judgment of a court of competent jurisdiction that the Commission is without authority to require pooling as provided for herein, then, subject to all other applicable provisions of this act, the owner of each tract or interest embraced within a spacing unit may drill on his separately owned tract, and the allowable production therefrom shall be that portion of the allowable for the full spacing unit as the area of such separately owned tract bears to the full spacing unit.

In the event a producing well or wells are completed upon a unit where there are, or may thereafter be, two or more separately owned tracts, each royalty interest owner shall share in all production from the well or wells drilled within the unit, or in the gas well rental provided for in the lease covering such separately owned tract or interest in lieu of the customary fixed royalty, to the extent of such royalty interest owner's interest in the unit. Each

royalty interest owner's interest in the unit shall be defined as the percentage of royalty owned in each separate tract by the royalty owner, multiplied by the proportion that the acreage in each separately owned tract or interest bears to the entire acreage of the unit.

(f) Notwithstanding any provision of this section to the contrary, the Corporation Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) above, to establish spacing rules for horizontally drilled oil wells whereby horizontally drilled oil wells may have well spacing units established of up to six hundred forty (640) acres plus tolerances and variances as allowed for gas wells pursuant to subsection C of this section. For purposes of this subsection a "horizontally drilled oil well" shall mean an oil well drilled, completed or recompleted in a manner in which the horizontal component of the completion interval in the geological formation exceeds the vertical component thereof and which horizontal component extends a minimum of one hundred fifty (150) feet in the formation. The Corporation Commission shall promulgate rules necessary for the proper administration of this subsection.

SECTION 3. AMENDATORY Section 5, Chapter 252, O.S.L. 2006 (52 O.S. Supp. 2006, Section 317.1), is amended to read as follows:

Section 317.1 A. The Corporation Commission is vested with jurisdiction, power, and authority, and it shall be its duty, to promulgate and enforce rules, and issue and enforce orders relating to seeping natural gas.

B. For purposes of this section, "seeping natural gas" shall mean natural gas which has migrated into, under, or around a structure at hazardous concentrations or is leaking from a distribution pipeline operated by a private natural gas utility regulated by the Commission that serves no more than three hundred (300) customers.

C. The jurisdiction, power, and authority of the Commission shall extend to responding to any occurrences of seeping gas and coordinating response efforts of private industry, state, county, municipal, and local government entities. The Commission is

authorized to investigate seeping natural gas occurrences as provided for in this section and to order any person responsible for a facility which is found to be causing a seeping natural gas occurrence to abate the hazard.

D. The Commission is authorized to form emergency response teams to immediately respond to seeping natural gas occurrences as provided for in this section.

E. There is hereby created in the State Treasury a fund for the Commission to be designated the "Corporation Commission Gas Seep Fund". The fund shall consist of monies appropriated by the Legislature or monies designated by law to be deposited in the fund. The fund shall be subject to legislative appropriations. The Commission is authorized to make expenditures from the fund as necessary and appropriate for coordinating the response to and investigating seeping natural gas occurrences as specified in this section. Expenditures from the fund shall be made pursuant to the Oklahoma Central Purchasing Act. For purposes of responding to serious environmental emergencies, expenditures from the fund may be made without requisition pursuant to paragraph 5 of subsection A of Section 85.7 of Title 74 of the Oklahoma Statutes. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employee of the Commission and approved for payment by the Director of State Finance. Expenditures made pursuant to this act shall be limited to the available balance in the fund and no other fund shall be accessible for any remediation or repair arising under the provisions of this act.

F. 1. When there is an occurrence of seeping natural gas, the Commission shall seek to abate the hazard by:

- a. issuing an order to a responsible person pursuant to subsection C of this section, or
- b. plugging a well if the source of the seeping natural gas is a well drilled for the exploration or production of oil or gas, including an injection or disposal well.

2. If the Commission is unable to abate the hazard of a seeping natural gas occurrence as provided for in paragraph 1 of this subsection, the Commission may: (1) expend up to Twenty Thousand Dollars (\$20,000.00) from the Corporation Commission Gas Seep Fund for the cost of installing a system to divert natural gas away from a structure or otherwise abate the hazards; or (2) expend up to One Hundred Twenty-five Thousand Dollars (\$125,000.00) to repair or replace a distribution pipeline identified in subsection B of this section.

3. The Commission may seek reimbursement of expenditures made by the Commission pursuant to this subsection from a responsible person who has not complied with an order issued pursuant to subsection C of this section. Any monies received as reimbursement shall be deposited to the credit of the Corporation Commission Gas Seep Fund.

4. The Commission shall promulgate rules defining the criteria for determining the eligibility of the owner of a structure for assistance pursuant to this subsection. Eligibility shall be determined based on the nature and extent of the hazard, the financial need of the owner of the structure, and other relevant factors.

G. The Commission shall not be responsible for damages to land or improvements resulting from the investigation of seeping natural gas occurrences as provided for in this section. Any person entering upon the land pursuant to the authority of the Commission under this section shall not be liable or held responsible for any damages resulting from operations reasonably necessary or proper for the investigation of the seeping natural gas occurrence or the abatement of associated hazards.

H. Any person entering upon the land to investigate or abate the associated hazards of a seeping natural gas occurrence, pursuant to the authority of the Commission under this section, shall not be held to have assumed responsibility for future abatement work on the land or be liable for damages or otherwise for conditions subsequently arising from or in connection with the land.

I. Nothing in this section shall relieve any person or persons otherwise legally responsible from any obligation to properly abate hazards associated with seeping natural gas.

J. The term "person" as used in this section means any individual, business association or corporation, partnership, governmental or political subdivision, public corporation, body politic and corporate public authority, trust or any other legal entity.

K. Upon application, the Commission may reimburse: (1) up to Twenty Thousand Dollars (\$20,000.00) of the costs incurred by the applicant in installing a system to divert natural gas away from a structure or otherwise abate the hazards; or (2) up to One Hundred Twenty-Five Thousand Dollars (\$125,000.00) of the costs incurred by the applicant to repair or replace a distribution pipeline identified in Subsection B of this section. Costs associated with occurrences of seeping natural gas reported after January 1, 2003, are eligible for reimbursement under this subsection.

SECTION 4. AMENDATORY 52 O.S. 2001, Section 703, as amended by Section 1, Chapter 382, O.S.L. 2002 (52 O.S. Supp. 2006, Section 703), is amended to read as follows:

Section 703. A. To fund the activities of the Commission on Marginally Producing Oil and Gas Wells, a fee shall be levied in the amount of ~~two tenths of one cent (\$0.002)~~ thirty-five hundredths of one cent (\$0.0035) on each barrel of petroleum liquid and ~~one tenth of one cent (\$0.001) on each ten thousand (10,000)~~ fifteen thousandths of one cent (\$0.00015) on each one thousand (1,000) cubic feet (Mcf) of natural gas, including casinghead gas, produced from each well in the State of Oklahoma except for oil and gas production exempt from the payment of gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes.

B. The fee levied by subsection A of this section shall be deducted from the proceeds of production by the person remitting gross production tax to the Oklahoma Tax Commission pursuant to Section 1001 et seq. of Title 68 of the Oklahoma Statutes. ~~Such~~ The fee shall be remitted to the ~~Oklahoma~~ Tax Commission in the same manner as is provided by law for the payment of gross production tax. However, the fee shall not be required to be paid until the

accrued amount due from any person required to remit ~~such~~ the fee reaches Twenty-five Dollars (\$25.00), except that any amount accrued for any calendar year shall be paid by January 31st of the following year. To defray the costs of receiving and depositing the fees levied by this section, the ~~Oklahoma~~ Tax Commission shall retain three percent (3%) of the fees received for deposit into the Oklahoma Tax Commission Revolving Fund created pursuant to Section 113 of Title 68 of the Oklahoma Statutes. The remaining monies received by the ~~Oklahoma~~ Tax Commission pursuant to this section shall be deposited in the Commission on Marginally Producing Oil and Gas Wells Revolving Fund created by Section 705 of this title.

C. The Commission on Marginally Producing Oil and Gas Wells shall be responsible for taking appropriate and necessary actions to collect any fee which is not paid or is not properly paid. The ~~Oklahoma~~ Tax Commission shall not be responsible for collecting any fee not remitted to the ~~Oklahoma~~ Tax Commission for deposit into the Commission on Marginally Producing Oil and Gas Wells Revolving Fund. The ~~Oklahoma~~ Tax Commission shall report to the Commission on Marginally Producing Oil and Gas Wells any information it obtains regarding failure of any person to properly pay the fee due, including any documentation it may have of ~~such~~ the failure.

D. The ~~Oklahoma~~ Tax Commission shall promulgate rules to establish ~~such~~ procedures and forms necessary for the remittance of the fee levied by this section.

E. The Commission on Marginally Producing Oil and Gas Wells shall be prohibited from utilizing any funds collected through the assessment authorized by this section for the purpose of influencing governmental action or policy, with the exception of recommending amendments to ~~this act~~ Section 700 et seq. of this title. ~~Provided, however, the~~ The Commission shall be authorized to respond to any request for information from the Governor, any members of the Legislature, any public official or state agency.

SECTION 5. Section 4 of this act shall become effective January 1, 2008.

SECTION 6. 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.

Passed the Senate the 24th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of May, 2007.

Presiding Officer of the House
of Representatives