

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 2052

By: Thompson

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7 COMMITTEE SUBSTITUTE

8 An Act relating to oil and gas; amending 52 O.S. 2001, Section 87.1, as
9 amended by Section 2, Chapter 331, O.S.L. 2007 (52 O.S. Supp. 2008, Section
10 87.1), which relates to common source of supply and well spacing and drilling
11 units; updating statutory language and citations; providing an exception for
12 horizontal units from certain well spacing and drilling unit limits; establishing
13 the maximum size of a well spacing and drilling unit for certain horizontal units;
14 and providing an effective date.

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

16 SECTION 1. AMENDATORY 52 O.S. 2001, Section 87.1, as amended by Section 2,
17 Chapter 331, O.S.L. 2007 (52 O.S. Supp. 2008, Section 87.1), is amended to read as follows:

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

1 productive capacities of the wells in ~~such~~ the common source of supply considered with the acreage
2 properly assignable to each well therein.

3 (a) B. To prevent or to assist in preventing the various types of waste of oil or gas prohibited by
4 statute, or any of ~~said~~ the wastes, or to protect or assist in protecting the correlative rights of interested
5 parties, the Corporation Commission, upon a proper application and notice given as ~~hereinafter~~
6 provided in this section, and after a hearing as provided in ~~said~~ the notice, shall have the power to
7 establish well spacing and drilling units of specified and approximately uniform size and shape
8 covering any common source of supply, or prospective common source of supply, of oil or gas within
9 the State of Oklahoma; ~~provided, that the.~~ The Commission may authorize the drilling of an additional
10 well or wells on any spacing and drilling unit or units or any portion or portions thereof or may
11 establish, reestablish, or reform well spacing and drilling units of different sizes and shapes when the
12 Commission determines that a common source of supply contains predominantly oil underlying an
13 area or areas and contains predominantly gas underlying a different area or areas; ~~provided further that~~
14 ~~the.~~ The units in the predominantly oil area or areas shall be of approximately uniform size and shape,
15 and the units in the predominantly gas area or areas shall be of approximately uniform size and shape,
16 except that the units in the gas area or areas may be of nonuniform size and shape when they adjoin the
17 units in the oil area or areas; ~~provided further that the.~~ The drilling pattern for ~~such~~ nonuniform units
18 need not be uniform, and provided further that the Commission shall adjust the allowable production
19 within ~~said~~ the common source of supply, or any part thereof, and take ~~such~~ other action as may be
20 necessary to protect the rights of interested parties. Any order issued pursuant to the provisions ~~hereof~~
21 of this subsection may be entered after a hearing upon the petition of any person owning an interest in
22 the minerals in lands embraced within ~~such~~ the common source of supply, or the right to drill a well for
23 oil or gas on the lands embraced within ~~such~~ the common source of supply, or on the petition of the
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1 Conservation Officer of the State of Oklahoma. When ~~such~~ a petition is filed with the Commission,
2 the Commission shall give ~~at least fifteen (15) days'~~ notice of the hearing to be held upon ~~such~~ the
3 petition by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general
4 circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to
5 the date of the hearing, in some newspaper published in the county, or in each county, if there ~~be~~ are
6 more than one county, in which the lands embraced within the application are situated. Except as to
7 the notice of hearing on ~~such~~ a petition, the procedural requirements of Sections 86.1 et seq. of this
8 title, shall govern all proceedings and hearings provided for by this section.

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

12 ~~(e)~~ D. 1. In establishing a well spacing or drilling unit for a common source of supply
13 thereunder, except for horizontal units, the acreage to be embraced within each unit shall not exceed
14 six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless a governmental
15 section contains more than six hundred forty (640) acres in which case the unit may comprise the
16 entire section. In establishing a well spacing or drilling unit for a common source of supply thereunder
17 for a horizontal unit that will contain at least one lateral exceeding five thousand (5,000) feet in length,
18 the acreage to be embraced within each unit shall not exceed one thousand two hundred eighty (1,280)
19 acres for a gas well plus ten percent (10%) tolerance. Provided, however, fractional sections along the
20 state boundary line and within the townships along the boundary where the survey west of the Indian
21 Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit,
22 and the shape ~~thereof~~ of the well spacing or drilling unit shall be determined by the Commission from
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1 the evidence introduced at the hearing, and the following facts, among other things, shall be material:

2 ~~(1) The~~

- 3 a. the lands embraced in the actual or prospective common source of supply; ~~(2)~~,
- 4 b. the plan of well spacing then being employed or contemplated in ~~said~~ the source
5 of supply; ~~(3)~~,
- 6 c. the depth at which production from ~~said~~ the common source of supply has been or
7 is expected to be found; ~~(4)~~,
- 8 d. the nature and character of the producing or prospective producing formation or
9 formations; ~~and (5)~~
- 10 e. any other available geological or scientific data pertaining to ~~said~~ the actual or
11 prospective source of supply which may be of probative value to ~~said~~ the
12 Commission in determining the proper spacing and well drilling unit therefor,
13 with due and relative allowance for the correlative rights and obligations of the
14 producers and royalty owners interested therein.

15 2. The order establishing ~~such~~ spacing or drilling units shall set forth: ~~(1)~~

- 16 a. the outside boundaries of the surface area included in ~~such~~ the order; ~~(2)~~,
- 17 b. the size, form, and shape of the spacing or drilling units so established; ~~(3)~~,
- 18 c. the drilling pattern for the area, which shall be uniform except as ~~hereinbefore~~
19 otherwise provided; for in this subsection, and ~~(4)~~
- 20 d. the location of the permitted well on each ~~such~~ spacing or drilling unit.

21 3. To ~~such~~ the order shall be attached a plat upon which shall be indicated the foregoing
22 information. Subject to other provisions of ~~this act~~, Section 81 et seq. of this title, the order
23 establishing ~~such~~ spacing or drilling units shall direct that no more than one well shall thereafter be
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1 produced from the common source of supply on any unit so established, and that the well permitted on
2 that unit shall be drilled at the location ~~thereon~~ as prescribed by the Commission, with ~~such~~ any
3 exception as may be reasonably necessary where it is shown, upon application, notice and hearing in
4 conformity with the procedural requirements of Sections 86.1 et seq. of this title, and the Commission
5 finds that any ~~such~~ spacing unit is located on the edge of a pool and adjacent to a producing unit, or for
6 some other reason that to require the drilling of a well at the prescribed location on ~~such~~ the spacing
7 unit would be inequitable or unreasonable. Whenever ~~such~~ an exception is granted, the Commission
8 shall adjust the allowable production for ~~said~~ the spacing unit and take ~~such~~ other action as may be
9 necessary to protect the rights of interested parties.

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

18 ~~(d)~~ E. The Commission shall have jurisdiction upon the filing of a proper application ~~therefor~~,
19 and upon notice given as provided in subsection ~~(a)~~ above B of this section, to decrease the size of the
20 well spacing units or to permit additional wells to be drilled within the established units, upon proper
21 proof at ~~such~~ the hearing that ~~such~~ the modification or extension of the order establishing drilling or
22 spacing units will prevent or assist in preventing the various types of wastes prohibited by statute, or
23 any of ~~said~~ the wastes, or will protect or assist in protecting the correlative rights of persons interested
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1 in ~~said~~ the common source of supply, or upon the filing of a proper application ~~therefor~~ to enlarge the
2 area covered by the spacing order, if ~~such~~ proof discloses that the development or the trend of
3 development indicates that ~~such~~ the common source of supply underlies an area not covered by the
4 spacing order and ~~such~~ proof discloses that the applicant is an owner within the area or within a
5 drilling and spacing unit contiguous to the area covered by the application. Except in the instance of
6 reservoir dewatering as described ~~herein~~ in this section, the Commission shall not establish well
7 spacing units of more than forty (40) acres in size covering common sources of supply of oil, the top of
8 which lies less than four thousand (4,000) feet below the surface as determined by the original or
9 discovery well in ~~said~~ the common source of supply, and the Commission shall not establish well
10 spacing units of more than eighty (80) acres in size covering common sources of supply of oil, the top
11 of which lies less than nine thousand nine hundred ninety (9,990) feet and more than four thousand
12 (4,000) feet below the surface as determined by the original or discovery well in ~~said~~ the common
13 source of supply. In the instance of reservoir dewatering to extract oil from reservoirs having initial
14 water saturations at or above fifty percent (50%), the Commission may establish drilling and spacing
15 units not to exceed six hundred forty (640) acres in size.

16 (e) F. The drilling of any well or wells into any common source of supply for the purpose of
17 producing oil or gas therefrom, after a spacing order has been entered by the Commission covering
18 ~~such~~ the common source of supply, at a location other than that fixed by ~~said~~ the order is hereby
19 prohibited. The drilling of any well or wells into a common source of supply, covered by a pending
20 spacing application, at a location other than that approved by a special order of the Commission
21 authorizing the drilling of ~~such~~ the well is hereby prohibited. The operation of any well drilled in
22 violation of any spacing so entered is also hereby prohibited. When two or more separately owned
23 tracts of land are embraced within an established spacing unit, or where there are undivided interests
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1 separately owned, or both ~~such~~ separately owned tracts and undivided interests embraced within ~~such~~
2 the established spacing unit, the owners thereof may validly pool their interests and develop their lands
3 as a unit. Where, however, ~~such~~ the owners have not agreed to pool their interests and where one ~~such~~
4 separate owner has drilled or proposes to drill a well on ~~said~~ the unit to the common source of supply,
5 the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, shall, upon
6 a proper application ~~therefor~~ and a hearing thereon, require ~~such~~ the owners to pool and develop their
7 lands in the spacing unit as a unit. The applicant shall give all the owners whose addresses are known
8 or could be known through the exercise of due diligence at least fifteen (15) days' notice by mail,
9 return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15)
10 days prior to the hearing, in some newspaper of general circulation published in Oklahoma County,
11 and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper
12 published in the county, or in each county, if there ~~be~~ are more than one county, in which the lands
13 embraced within the spacing unit are situated. The applicant shall file proof of publication and an
14 affidavit of mailing with the Commission prior to the hearing. All orders requiring ~~such~~ pooling shall
15 be made after notice and hearing, and shall be upon ~~such~~ the terms and conditions as are just and
16 reasonable and will afford to the owner of ~~such~~ the tract in the unit the opportunity to recover or
17 receive without unnecessary expense ~~his~~ the just and fair share of the oil and gas of the owner. The
18 portion of the production allocated to the owner of each tract or interests included in a well spacing
19 unit formed by a pooling order shall, when produced, be considered as if produced by ~~such~~ the owner
20 from the separately owned tract or interest by a well drilled thereon. ~~Such~~ The pooling order of the
21 Commission shall make definite provisions for the payment of cost of the development and operation,
22 which shall be limited to the actual expenditures required for such purpose not in excess of what are
23 reasonable, including a reasonable charge for supervision. In the event of any dispute relative to ~~such~~
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1 the costs, the Commission shall determine the proper costs after due notice to interested parties and a
2 hearing thereon. The operator of ~~such~~ the unit, in addition to any other right provided by the pooling
3 order or orders of the Commission, shall have a lien on the mineral leasehold estate or rights owned by
4 the other owners therein and upon their shares of the production from ~~such~~ the unit to the extent that
5 costs incurred in the development and operation upon ~~said~~ the unit are a charge against ~~such~~ the
6 interest by order of the Commission or by operation of law. ~~Such liens~~ Liens shall be separable as to
7 each separate owner within ~~such~~ the unit, and shall remain liens until the owner or owners drilling or
8 operating the well have been paid the amount due under the terms of the pooling order. The
9 Commission is specifically authorized to provide that the owner or owners drilling, or paying for the
10 drilling, or for the operation of a well for the benefit of all shall be entitled to production from ~~such~~ the
11 well which would be received by the owner or owners for whose benefit the well was drilled or
12 operated, after payment of royalty, until the owner or owners drilling or operating the well have been
13 paid the amount due under the terms of the pooling order or order settling ~~such~~ the dispute. No part of
14 the production or proceeds accruing to any owner of a separate interest in ~~such~~ the unit shall be applied
15 toward payment of any cost properly chargeable to any other interest in ~~said~~ the unit.

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

3 In the event a producing well or wells are completed upon a unit where there are, or may
4 thereafter be, two or more separately owned tracts, each royalty interest owner shall share in all
5 production from the well or wells drilled within the unit, or in the gas well rental provided for in the
6 lease covering ~~such~~ the separately owned tract or interest in lieu of the customary fixed royalty, to the
7 extent of ~~such royalty interest owner's~~ the interest in the unit of the royalty interest owner. Each
8 royalty interest owner's interest in the unit shall be defined as the percentage of royalty owned in each
9 separate tract by the royalty owner, multiplied by the proportion that the acreage in each separately
10 owned tract or interest bears to the entire acreage of the unit.

11 ~~(F)~~ G. Notwithstanding any provision of this section to the contrary, the Corporation
12 Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice
13 given as provided in subsection ~~(a) above~~ B of this section, to establish spacing rules for horizontally
14 drilled oil wells whereby horizontally drilled oil wells may have well spacing units established of up to
15 six hundred forty (640) acres plus tolerances and variances as allowed for gas wells pursuant to
16 subsection ~~C~~ D of this section. For purposes of this subsection a "horizontally drilled oil well" shall
17 mean an oil well drilled, completed or recompleted in a manner in which the horizontal component of
18 the completion interval in the geological formation exceeds the vertical component thereof and which
19 horizontal component extends a minimum of one hundred fifty (150) feet in the formation. The
20 Corporation Commission shall promulgate rules necessary for the proper administration of this
21 subsection.
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1 SECTION 2. This act shall become effective November 1, 2009.

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