

## COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1184 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by  
inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Amendment submitted by: Charles McCall

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

PROPOSED  
COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 1184

By: Paddack and Simpson of the  
Senate

and

McCall of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to mines and mining; amending 45 O.S. 2011, Section 724, which relates to mining permits; modifying types of hearings; changing time limit for filing a protest; deleting certain location requirement; requiring certain hearings to comply with Administrative Procedures Act; updating statutory language; modifying types of persons with the right to request a formal hearing; allowing an informal conference upon agreement of certain parties; specifying vicinity of an informal conference; providing for retention of the right for a formal hearing; providing for a stay of the time period for filing a request for a formal hearing; and declaring an emergency.

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

SECTION 1. AMENDATORY 45 O.S. 2011, Section 724, is amended to read as follows:

Section 724. A. It shall be unlawful for any operator to engage in any mining operations in this state without first

1 obtaining a permit or a Limited Use Permit from the Department of  
2 Mines for each separate mining operation. The Department shall  
3 determine what constitutes a separate mining operation by rules  
4 promulgated under the Mining Lands Reclamation Act.

5 B. Any operator desiring to engage in limited mining activity  
6 may apply for a Limited Use Permit for those mining operations not  
7 eligible for a surface mining permit. Application for such permit  
8 shall be made upon forms furnished by the Department. The form  
9 shall contain a description of the tract or tracts of land and shall  
10 include the section, township, range and county in which the land is  
11 located. A map shall be attached to the application which  
12 accurately outlines and locates the tract of land. A statement that  
13 the applicant has the right and power by legal estate owned to mine  
14 the land so described shall be included with the application. In  
15 addition, the following conditions and requirements shall apply to  
16 Limited Use Permits:

17 1. The maximum acreage shall be restricted to two (2) acres;

18 2. The term of a Limited Use Permit shall not exceed twelve  
19 (12) months from the date of issuance;

20 3. A Limited Use Permit shall not carry a right of successive  
21 renewal;

22 4. A Limited Use Permit site must be reclaimed as required by  
23 Section 725 of this title within six (6) months following the  
24 expiration of the permit term;

1        5. A three-thousand-five-hundred-dollar reclamation bond must  
2 be filed with the Department prior to issuance of the permit;

3        6. Failure to reclaim the site disturbance within the permitted  
4 time frame or revocation of the Limited Use Permit will be cause for  
5 bond forfeiture or other action as may be ordered by the Department;

6        7. The use of processing equipment shall not be approved for a  
7 Limited Use Permit;

8        8. The use of explosives shall not be approved under a Limited  
9 Use Permit;

10       9. A processing fee of One Hundred Dollars (\$100.00) shall  
11 accompany the application for a Limited Use Permit; and

12       10. Mining production shall be reported and paid as required by  
13 Section 931 of this title.

14       If the above listed conditions and requirements are met, the  
15 Department may issue a Limited Use Permit which shall not be subject  
16 to the notice and publication requirements as otherwise required by  
17 this section.

18       C. 1. Any operator desiring to engage in surface mining shall  
19 make written application to the Department for a permit.  
20 Application for such permit shall be made upon a form furnished by  
21 the Department. The form shall contain a description of the tract  
22 or tracts of land and the estimated number of acres to be affected  
23 by surface mining by the operator. The description shall include  
24 the section, township, range and county in which the land is located

1 and shall otherwise describe the land with sufficient certainty so  
2 that it may be located and distinguished from other lands.

3 2. Transmission lines shall be plotted on a location map  
4 submitted with the application. A statement that the operator has  
5 the right and power by legal estate owned to mine by surface mining  
6 the land so described shall be included with the application.

7 D. 1. Any operator desiring to engage in underground mining  
8 shall make written application to the Department for a permit.  
9 Application for such permit shall be made upon a form furnished by  
10 the Department. The form shall contain a description of the tract  
11 or tracts of land to be used as refuse disposal areas. The  
12 description shall include the section, township, range and county in  
13 which the land is located and shall otherwise describe the land with  
14 sufficient certainty so that it may be located and distinguished  
15 from other lands.

16 2. A statement that the applicant has the right and power by  
17 legal estate owned to use the land so described as a refuse disposal  
18 area shall be included with the application.

19 E. Each application for a permit under subsections C and D of  
20 this section shall be accompanied by a plan of reclamation of the  
21 affected land that meets the requirements of the Mining Lands  
22 Reclamation Act. The application shall set forth the proposed use  
23 to be made of the affected land, the grading to be accomplished, the  
24

1 type of revegetation, and shall include the approximate time of  
2 grading and initial revegetation effort.

3 F. Each application for a permit under subsections C and D of  
4 this section shall be accompanied by the bond or security meeting  
5 the requirements of Section 728 of this title, or proof that such  
6 bond or security is still in effect, and a fee of One Hundred  
7 Seventy-five Dollars (\$175.00) for each permit year, payable at the  
8 rate of One Hundred Seventy-five Dollars (\$175.00) per year on the  
9 anniversary date of the year in which the permit or permit renewal  
10 was issued. All application fees shall be submitted to the State  
11 Treasurer, who shall deposit them in the Department of Mines  
12 Revolving Fund.

13 G. 1. Upon the receipt of such application, bond or security  
14 and fee due from the operator, the Department may issue a permit to  
15 the applicant which shall entitle the applicant to engage in mining  
16 on the land therein described in accordance with the rules  
17 promulgated by the Department, for the life expectancy of the  
18 operation unless the operator is in violation of any state statute  
19 or rule of the Department in which case the Department shall take  
20 appropriate action against the operator.

21 2. All applications for renewal of existing permits shall be  
22 filed prior to the expiration of the existing permit in accordance  
23 with the rules promulgated by the Department.  
24

1        3. No permit shall be issued except upon proper application and  
2 ~~public~~ formal hearing, if requested.

3        H. 1. a. Upon filing the application with the Department, the  
4                applicant shall place an advertisement in a newspaper  
5                of general circulation in the vicinity of the mining  
6                operation, containing such information as is required  
7                by the Department, at least once a week for four (4)  
8                consecutive weeks.

9                b. The advertisement shall contain, at a minimum, the  
10               following:

- 11               (1) the name and business address of the applicant,  
12               (2) a description which clearly shows or describes  
13               the precise location and boundaries of the  
14               proposed permit area and is sufficient to enable  
15               local residents to readily identify the proposed  
16               permit area. It may include towns, bodies of  
17               water, local landmarks, and any other information  
18               which would identify the location,  
19               (3) the location where a copy of the application is  
20               available for public inspection,  
21               (4) the name and address of the Department where  
22               written comments, objections, or requests for  
23               informal conferences on the application may be  
24

submitted pursuant to subsection P of this section,

(5) if an applicant seeks a permit to mine which includes relocation or closing of a public road, a copy of the county resolution pertaining to the affected county road, and

(6) such other information as is required by the Department.

2. Any property owner or resident of an occupied dwelling who may be adversely affected located within one (1) mile of the mining operation shall have the right to protest the issuance of a permit and request a ~~public~~ formal hearing.

3. The Department shall notify the surface owners of any formal hearings in connection with applications or permits in the same manner as the operator is notified.

4. Such protests must be received by the Department within ~~fourteen (14)~~ thirty (30) days after the date of publication of the newspaper advertisement. If a ~~public~~ formal hearing is requested, the Department shall then hold ~~an informal~~ a formal hearing in ~~the vicinity of the proposed mining~~ accordance with the Administrative Procedures Act.

5. Upon completion of findings after the formal hearing, the Department shall determine whether to issue or deny the permit, and shall notify all parties of its decision.

1       6. Any decision regarding the issuance of a permit under this  
2 section shall be appealable when entered, as provided in the  
3 Administrative Procedures Act.

4       I. Each application for a new operation shall contain, where  
5 applicable, a list of all other licenses and permits needed by the  
6 applicant to conduct the proposed mining operation. This list shall  
7 identify each license and permit by:

8       1. Type of permit or license;

9       2. Name and address of issuing authority;

10       3. Identification number or a copy of the application for  
11 permits or licenses or, if issued, a copy of the permit or license;  
12 and

13       4. If a decision has been made, the date of approval or  
14 disapproval by each issuing authority.

15       An existing operation which does not have on file a list of the  
16 applicable licenses or permits with the Department on ~~the date of~~  
17 ~~enactment of this act~~ June 5, 1998, shall not be out of compliance  
18 with the provisions of this section. Any renewal of an existing  
19 permit or expansion or amendment to an existing operation upon time  
20 of application shall submit a copy of all approved licenses and  
21 permits issued by other agencies or jurisdictions.

22       Identifications of all permits and licenses shall include local  
23 government agencies with jurisdiction over or an interest in the  
24 area of the proposed mining operation including, but not limited to,

1 planning agencies, water and sewer authorities; and all state and  
2 federal government agencies with authority to issue permits and  
3 licenses applicable to the proposed mining operation, including all  
4 state environmental agencies, U.S. Army Corps of Engineers, U.S.  
5 Department of Agriculture Natural Resources Conservation Service  
6 district office, and federal fish and wildlife agencies.

7 J. An operator desiring to have such operator's permit amended  
8 to cover additional land may file an amended application with the  
9 Department. Upon receipt of the amended application, and such  
10 additional bond as may be required under the provisions of the  
11 Mining Lands Reclamation Act, the Department shall issue an  
12 amendment to the original permit covering the additional land  
13 described in the amended application, without the payment of any  
14 additional fee.

15 K. An operator may withdraw any land covered by a permit,  
16 deleting affected land therefrom, by notifying the Department, in  
17 which case the penalty of the bond or security filed by such  
18 operator pursuant to the provisions of the Mining Lands Reclamation  
19 Act shall be reduced proportionately.

20 L. Permits issued to an operator may be transferable to another  
21 operator, provided the new operator can demonstrate to the  
22 Department, prior to the transfer of ownership, that conditions and  
23 obligations required for the permit will be met and the new operator  
24

1 has submitted a performance bond or other guarantee, or has obtained  
2 the bond coverage of the original permittee.

3 M. The perimeter of the permit area shall be clearly marked by  
4 durable and recognizable markers or by other means approved by the  
5 Department.

6 N. The Department shall determine the blasting distance to  
7 transmission lines by rule.

8 O. 1. If any mining operations where blasting is required  
9 occur within the limits of a municipality with a population in  
10 excess of three hundred thousand (300,000) according to the latest  
11 Federal Decennial Census or within the limits of a municipality  
12 within a county with a population in excess of three hundred  
13 thousand (300,000) according to the latest Federal Decennial Census,  
14 the application for a permit pursuant to subsections C and D of this  
15 section shall be accompanied by proof that the operator is in full  
16 compliance with all applicable regulations of the municipality.  
17 Certified copies of any required municipal permits and any other  
18 required written municipal approvals shall be attached to the  
19 application when submitted to the Department. No mining permit  
20 shall be issued by the Department unless the applicant first  
21 complies with the requirements of this subsection. A municipality  
22 is not required to reconsider requests denied by the municipality  
23 related to the same site unless the municipality determines there  
24 has been a material change in the application.

1        2. The provisions of paragraph 1 of this subsection shall not  
2 apply to existing permitted operations, revisions or amendments  
3 thereto, or any application on file with the Department prior to May  
4 25, 2005. In addition, the provisions of paragraph 1 of this  
5 subsection shall not apply to any future operation on property  
6 directly adjacent to property on which a permitted operation is  
7 located, provided that the operation is permitted and the adjacent  
8 property is owned or leased by the operator on ~~the effective date of~~  
9 ~~this act~~ May 25, 2005. For purposes of this subsection, properties  
10 separated by a public road shall be considered to be adjacent.

11        P. Within a reasonable time, as established by the Department,  
12 written comments or objections on permit or bond release  
13 applications may be submitted to the Department by public entities  
14 including but not limited to the local soil conservation district,  
15 with respect to the effects of the proposed mining operations on the  
16 environment.

17        Q. Any ~~person having an interest in or~~ property owner or  
18 resident of an occupied dwelling who is or may be adversely affected  
19 by the decision on a permit or bond release application, or any  
20 federal, state or local agency, shall have the right to request in  
21 writing that the Department hold ~~an informal conference~~ a formal  
22 hearing on the application. The Department shall hold the ~~informal~~  
23 ~~conference~~ formal hearing within a reasonable time following the  
24 receipt of the written request ~~at a location in the vicinity of the~~

1 ~~proposed or active surface mining or reclamation operation.~~ All  
2 formal hearings shall comply with the requirements of the  
3 Administrative Procedures Act.

4 R. An informal conference may be held upon agreement of the  
5 applicant and a property owner or resident of an occupied dwelling  
6 who is or may be adversely affected by the proposed or active  
7 surface mining operation. The informal conference shall be held in  
8 the vicinity of the proposed or active surface mining or reclamation  
9 operation. A property owner or resident shall retain the right to  
10 request a formal hearing as provided for in this section even if an  
11 informal conference is held pursuant to this subsection. If an  
12 informal conference is requested the thirty-day limit on receipt of  
13 a protest as provided for in paragraph 4 of subsection H of this  
14 section shall be stayed until after the informal conference is held,  
15 at which point a request for a formal hearing shall be received by  
16 the Department within thirty (30) days after the date of the  
17 informal conference.

18 SECTION 2. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22  
23 54-2-10843 KB 04/08/14  
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