

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1356

By: Kouplen

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 87.1, as amended by Section 4, Chapter
9 201, O.S.L. 2012 (52 O.S. Supp. 2016, Section 87.1),
10 which relates to well spacing and drilling units;
11 requiring certain notice be given prior to
12 application; amending 52 O.S. 2011, Section 320.1,
13 which relates to restrictions on the location of
14 habitable structures; specifying types of wells
15 subject to restriction; changing habitable structure
16 term; changing distance; defining term; clarifying
17 waiver of certain provisions by a surface owner;
18 requiring minimum level of security for certain types
19 of drilling; providing for codification; and
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.1, as
23 amended by Section 4, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2016,
24 Section 87.1), is amended to read as follows:

25 Section 87.1 Whenever the production from any common source of
26 supply of oil or natural gas in this state can be obtained only
27 under conditions constituting waste or drainage not compensated by
28 counterdrainage, then any person having the right to drill into and
29 produce from such common source of supply may, except as otherwise

1 authorized or in this section provided, take therefrom only such
2 proportion of the oil or natural gas that may be produced therefrom
3 without waste or without such drainage as the productive capacity of
4 the well or wells of any such person considered with the acreage
5 properly assignable to each such well bears to the total productive
6 capacities of the wells in such common source of supply considered
7 with the acreage properly assignable to each well therein.

8 (a) To prevent or to assist in preventing the various types of
9 waste of oil or gas prohibited by statute, or any wastes, or to
10 protect or assist in protecting the correlative rights of interested
11 parties, the Corporation Commission, upon a proper application and
12 notice given as hereinafter provided, and after a hearing as
13 provided in the notice, shall have the power to establish well
14 spacing and drilling units of specified and approximately uniform
15 size and shape covering any common source of supply, or prospective
16 common source of supply, of oil or gas within the State of Oklahoma;
17 provided, that the Commission may authorize the drilling of an
18 additional well or wells on any spacing and drilling unit or units
19 or any portion or portions thereof or may establish, reestablish, or
20 reform well spacing and drilling units of different sizes and shapes
21 when the Commission determines that a common source of supply
22 contains predominantly oil underlying an area or areas and contains
23 predominantly gas underlying a different area or areas; provided
24 further that the units in the predominantly oil area or areas shall

1 be of approximately uniform size and shape, and the units in the
2 predominantly gas area or areas shall be of approximately uniform
3 size and shape, except that the units in the gas area or areas may
4 be of nonuniform size and shape when they adjoin the units in the
5 oil area or areas; provided further that the drilling pattern for
6 such nonuniform units need not be uniform, and provided further that
7 the Commission shall adjust the allowable production within the
8 common source of supply, or any part thereof, and take such other
9 action as may be necessary to protect the rights of interested
10 parties. Any order issued pursuant to the provisions hereof may be
11 entered after a hearing upon the petition of any person owning an
12 interest in the minerals in lands embraced within such common source
13 of supply, or the right to drill a well for oil or gas on the lands
14 embraced within such common source of supply, or on the petition of
15 the Conservation Officer of the State of Oklahoma. When such a
16 petition is filed with the Commission, the Commission shall give at
17 least fifteen (15) days' notice of the hearing to be held upon such
18 petition by one publication, at least fifteen (15) days prior to the
19 hearing, in some newspaper of general circulation published in
20 Oklahoma County, and by one publication, at least fifteen (15) days
21 prior to the date of the hearing, in some newspaper published in the
22 county, or in each county, if there be more than one, in which the
23 lands embraced within the application are situated. Except as to
24 the notice of hearing on such a petition, the procedural

1 requirements of Section 86.1 et seq. of this title shall govern all
2 proceedings and hearings provided for by this section.

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

8 (c) In establishing a well spacing or drilling unit for a
9 common source of supply thereunder, the acreage to be embraced
10 within each unit may include acreage from more than one governmental
11 section, but shall not exceed six hundred forty (640) acres for a
12 gas well plus ten percent (10%) tolerance, unless the unit is a
13 governmental section and the governmental section contains more than
14 six hundred forty (640) acres in which case the unit may comprise
15 the entire section. Provided, however, fractional sections along
16 the state boundary line and within the townships along the boundary
17 where the survey west of the Indian Meridian meets the survey east
18 of the Cimarron Meridian may be spaced with adjoining section unit,
19 and the shape thereof shall be determined by the Commission from the
20 evidence introduced at the hearing, and the following facts, among
21 other things, shall be material: (1) The lands embraced in the
22 actual or prospective common source of supply; (2) the plan of well
23 spacing then being employed or contemplated in the source of supply;
24 (3) the depth at which production from the common source of supply

1 has been or is expected to be found; (4) the nature and character of
2 the producing or prospective producing formation or formations; and
3 (5) any other available geological or scientific data pertaining to
4 the actual or prospective source of supply which may be of probative
5 value to the Commission in determining the proper spacing and well
6 drilling unit therefor, with due and relative allowance for the
7 correlative rights and obligations of the producers and royalty
8 owners interested therein.

9 The order establishing such spacing or drilling units shall set
10 forth: (1) the outside boundaries of the surface area included in
11 such order; (2) the size, form, and shape of the spacing or drilling
12 units so established; (3) the drilling pattern for the area, which
13 shall be uniform except as hereinbefore provided; and (4) the
14 location of the permitted well on each such spacing or drilling
15 unit. To such order shall be attached a plat upon which shall be
16 indicated the foregoing information. Subject to other provisions of
17 Section 86.1 et seq. of this title, the order establishing such
18 spacing or drilling units shall direct that no more than one well
19 shall thereafter be produced from the common source of supply on any
20 unit so established, and that the well permitted on that unit shall
21 be drilled at the location thereon as prescribed by the Commission,
22 with such exception as may be reasonably necessary where it is
23 shown, upon application, notice and hearing in conformity with the
24 procedural requirements of Section 86.1 et seq. of this title, and

1 the Commission finds that any such spacing unit is located on the
2 edge of a pool and adjacent to a producing unit, or for some other
3 reason that to require the drilling of a well at the prescribed
4 location on such spacing unit would be inequitable or unreasonable.
5 Whenever such an exception is granted, the Commission shall adjust
6 the allowable production for the spacing unit and take such other
7 action as may be necessary to protect the rights of interested
8 parties.

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

20 (d) The Commission shall have jurisdiction upon the filing of a
21 proper application therefor, and upon notice given as provided in
22 subsection (a) of this section, to decrease the size of the well
23 spacing units or to permit additional wells to be drilled within the
24 established units, or to increase the size or modify the shape of

1 the well spacing units, upon proper proof at such hearing that such
2 modification or extension of the order establishing drilling or
3 spacing units will prevent or assist in preventing the various types
4 of wastes prohibited by statute, or any of the wastes, or will
5 protect or assist in protecting the correlative rights of persons
6 interested in the common source of supply, or upon the filing of a
7 proper application therefor to enlarge the area covered by the
8 spacing order, if such proof discloses that the development or the
9 trend of development indicates that such common source of supply
10 underlies an area not covered by the spacing order and such proof
11 discloses that the applicant is an owner within the area or within a
12 drilling and spacing unit contiguous to the area covered by the
13 application. Except in the instance of reservoir dewatering as
14 described herein, the Commission shall not establish well spacing
15 units of more than forty (40) acres in size covering common sources
16 of supply of oil, the top of which lies less than four thousand
17 (4,000) feet below the surface as determined by the original or
18 discovery well in the common source of supply, and the Commission
19 shall not establish well spacing units of more than eighty (80)
20 acres in size covering common sources of supply of oil, the top of
21 which lies less than nine thousand nine hundred ninety (9,990) feet
22 and more than four thousand (4,000) feet below the surface as
23 determined by the original or discovery well in the common source of
24 supply. In the instance of reservoir dewatering to extract oil from

1 reservoirs having initial water saturations at or above fifty
2 percent (50%), the Commission may establish drilling and spacing
3 units not to exceed six hundred forty (640) acres in size.

4 (e) The drilling of any well or wells into any common source of
5 supply for the purpose of producing oil or gas therefrom, after a
6 spacing order has been entered by the Commission covering such
7 common source of supply, at a location other than that fixed by the
8 order is hereby prohibited. The drilling of any well or wells into
9 a common source of supply, covered by a pending spacing application,
10 at a location other than that approved by a special order of the
11 Commission authorizing the drilling of such well is hereby
12 prohibited. The operation of any well drilled in violation of any
13 spacing so entered is also hereby prohibited. When two or more
14 separately owned tracts of land are embraced within an established
15 spacing unit, or where there are undivided interests separately
16 owned, or both such separately owned tracts and undivided interests
17 embraced within such established spacing unit, the owners thereof
18 may validly pool their interests and develop their lands as a unit.
19 Where, however, such owners have not agreed to pool their interests
20 and where one such separate owner has drilled or proposes to drill a
21 well on the unit to the common source of supply, the Commission, to
22 avoid the drilling of unnecessary wells, or to protect correlative
23 rights, shall, upon a proper application therefor and a hearing
24 thereon, require such owners to pool and develop their lands in the

1 spacing unit as a unit. The applicant shall give all the owners
2 whose addresses are known or could be known through the exercise of
3 due diligence at least fifteen (15) days' notice by mail, return
4 receipt requested. The applicant shall also give notice by one
5 publication, at least fifteen (15) days prior to the hearing, in
6 some newspaper of general circulation published in Oklahoma County,
7 and by one publication, at least fifteen (15) days prior to the date
8 of the hearing, in some newspaper published in the county, or in
9 each county, if there be more than one, in which the lands embraced
10 within the spacing unit are situated. The applicant shall file
11 proof of publication and an affidavit of mailing with the Commission
12 prior to the hearing. All orders requiring such pooling shall be
13 made after notice and hearing, and shall be upon such terms and
14 conditions as are just and reasonable and will afford to the owner
15 of such tract in the unit the opportunity to recover or receive
16 without unnecessary expense the owner's just and fair share of the
17 oil and gas. The portion of the production allocated to the owner
18 of each tract or interests included in a well spacing unit formed by
19 a pooling order shall, when produced, be considered as if produced
20 by such owner from the separately owned tract or interest by a well
21 drilled thereon. Such pooling order of the Commission shall make
22 definite provisions for the payment of cost of the development and
23 operation, which shall be limited to the actual expenditures
24 required for such purpose not in excess of what are reasonable,

1 including a reasonable charge for supervision. In the event of any
2 dispute relative to such costs, the Commission shall determine the
3 proper costs after due notice to interested parties and a hearing
4 thereon. The operator of such unit, in addition to any other right
5 provided by the pooling order or orders of the Commission, shall
6 have a lien on the mineral leasehold estate or rights owned by the
7 other owners therein and upon their shares of the production from
8 such unit to the extent that costs incurred in the development and
9 operation upon the unit are a charge against such interest by order
10 of the Commission or by operation of law. Such liens shall be
11 separable as to each separate owner within such unit, and shall
12 remain liens until the owner or owners drilling or operating the
13 well have been paid the amount due under the terms of the pooling
14 order. The Commission is specifically authorized to provide that
15 the owner or owners drilling, or paying for the drilling, or for the
16 operation of a well for the benefit of all shall be entitled to
17 production from such well which would be received by the owner or
18 owners for whose benefit the well was drilled or operated, after
19 payment of royalty, until the owner or owners drilling or operating
20 the well have been paid the amount due under the terms of the
21 pooling order or order settling such dispute. No part of the
22 production or proceeds accruing to any owner of a separate interest
23 in such unit shall be applied toward payment of any cost properly
24 chargeable to any other interest in the unit.

1 For the purpose of this section, the owner or owners of oil and
2 gas rights in and under an unleased tract of land shall be regarded
3 as a lessee to the extent of a seven-eighths (7/8) interest in and
4 to the rights and a lessor to the extent of the remaining one-eighth
5 (1/8) interest therein, unless and until the owner or owners make an
6 election or are deemed to make an election not to participate under
7 a pooling order issued by the Commission, at which time each such
8 owner shall be considered a lessor, subject to the judicially
9 recognized implied covenant to market found to exist by the courts
10 of this state in oil and gas leases covering lands located in this
11 state, to the extent of the full royalty percentage elected under
12 the pooling order. Should the owners of separate tracts or
13 interests embraced within a spacing unit fail to agree upon a
14 pooling of their interests and the drilling of a well on the unit,
15 and should it be established by final, unappealable judgment of a
16 court of competent jurisdiction that the Commission is without
17 authority to require pooling as provided for herein, then, subject
18 to all other applicable provisions of this act, the owner of each
19 tract or interest embraced within a spacing unit may drill on his or
20 her separately owned tract, and the allowable production therefrom
21 shall be that portion of the allowable for the full spacing unit as
22 the area of such separately owned tract bears to the full spacing
23 unit.

24

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

13 (f) Notwithstanding any provision of this section to the
14 contrary, the Corporation Commission shall have jurisdiction upon
15 the filing of a proper application therefor, and upon notice given
16 as provided in subsection (a) of this section, to establish spacing
17 rules for horizontally drilled oil wells whereby horizontally
18 drilled oil wells may have well spacing units established of up to
19 six hundred forty (640) acres plus tolerances and variances as
20 allowed for gas wells pursuant to subsection (c) of this section.
21 For purposes of this subsection a "horizontally drilled oil well"
22 shall mean an oil well drilled, completed or recompleted in a manner
23 in which the horizontal component of the completion interval in the
24 geological formation exceeds the vertical component thereof and

1 which horizontal component extends a minimum of one hundred fifty
2 (150) feet in the formation. The Corporation Commission shall
3 promulgate rules necessary for the proper administration of this
4 subsection.

5 (g). Prior to making application under the provisions of this
6 section, a potential applicant shall provide notice by regular mail
7 to every owner of an occupied structure, as defined in Section 320.1
8 of this title, within one thousand five hundred (1,500) feet of any
9 proposed drilling site identified in such application.

10 SECTION 2. AMENDATORY 52 O.S. 2011, Section 320.1, is
11 amended to read as follows:

12 Section 320.1 A. After the effective date of this act, it
13 shall be unlawful to locate ~~any habitable structure within:~~

14 1. ~~A~~ The wellbore of an active vertically or horizontally
15 drilled oil or gas well within a radius of ~~one hundred twenty-five~~
16 ~~(125)~~ five hundred (500) feet from the wellbore of an active well
17 any occupied structure; ~~or~~

18 2. ~~A radius of fifty (50) feet from the~~ The center of any
19 surface equipment or other equipment necessary for the operation of
20 an active well, including, but not limited to, hydrocarbon and brine
21 storage vessels, tanks, compressors, heaters, separators,
22 dehydrators, or any other related equipment, within a radius of
23 fifty (50) feet from any occupied structure.

24

1 B. ~~Provided, however, the~~ For purposes of this section,
2 "occupied structure" means any building or structure that requires a
3 certificate of occupancy or building or structure intended for human
4 occupancy, including but not limited to, homes, schools and
5 hospitals.

6 C. The provisions of this section shall not prohibit an
7 operator and surface owner from agreeing in writing to setback
8 provisions with distances different from those set forth in this
9 section. Provided, however, the surface owner may waive the
10 provisions of subsection A of this section only with regard to an
11 occupied structure located on the real property of the owner.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 320.3 of Title 52, unless there
14 is created a duplication in numbering, reads as follows:

15 After the effective date of this act, it shall be unlawful to
16 drill for oil or gas in this state, utilizing hydraulic fracturing
17 techniques, unless the operator maintains, no less than a Five
18 Million Dollar (\$5,000,000.00) insurance policy, for security for
19 the payment of loss resulting from the liability imposed by law for
20 bodily injury, death, and property damage sustained by any person
21 arising out of the drilling activities of the well.

22 SECTION 4. This act shall become effective November 1, 2017.

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24 56-1-5234 JM 01/09/17