

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1435

By: Paxton

AS INTRODUCED

An Act relating to oil and gas; amending Section 2, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2019, Section 902), which relates to oil and gas statutes and governmental orders; requiring operators to take certain reasonable protective actions after receiving certain notice of hydraulic fracturing operations; providing examples of such actions; updating references; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2019, Section 902), is amended to read as follows:

Section 902. The sanctity of private agreements, and the consistent and predictable application and interpretation of statutes, governmental orders and common law, being essential to the oil and gas industry, the following are declared to be paramount rules of construction to be applied by the courts of this state in the construction of private agreements, statutes and governmental orders relating to the exploration for, operations for, producing

1 of, or marketing oil or gas, or disbursing proceeds of production of  
2 oil or gas:

3 1. A person is bound as a reasonably prudent operator to  
4 operate the well on behalf of all owners in the well and perform any  
5 duties owed to any person under a private agreement, statute,  
6 governmental order or common law relating to the exploration for,  
7 operations for, producing of, or marketing oil or gas, or disbursing  
8 proceeds of production of oil or gas, and performance of the duties  
9 described herein is that performance which an operator acting  
10 reasonably would have undertaken given the circumstances at the  
11 time, without being required to subordinate its own business  
12 interests, but with due regard to the interests of all affected  
13 parties, including the operator; ~~and~~

14 2. Upon timely receipt of notice of hydraulic fracturing  
15 operations under OAC 165: 10-3-10, an operator of a producing well  
16 is bound as a reasonably prudent operator to take protective actions  
17 to prevent the producing well from causing pollution and to prevent  
18 or mitigate potential damage to the producing well during the  
19 hydraulic fracturing operations prior to commencement of such  
20 operations. Evidence of protective actions shall include but is not  
21 limited to the shut-in of such producing well during the hydraulic  
22 fracturing operations, sufficient tank storage on location to handle  
23 the increased water production that may occur during such operations  
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1 or any other reasonable protective measures as determined and  
2 demonstrated by the operator; and

3 3. There shall not be implied in the duties in ~~paragraph~~  
4 paragraphs 1 and 2 of this section or otherwise any fiduciary duty,  
5 quasi-fiduciary duty or other similar special relationship in any  
6 private agreement, statute or governmental order or common law  
7 relating to the exploration for, operations for, producing of, or  
8 marketing oil or gas, or disbursing proceeds of production of oil or  
9 gas.

10 Nothing in this section shall either prohibit the parties to a  
11 private agreement from expressly agreeing in writing otherwise or  
12 prohibit the Legislature from expressly providing otherwise in any  
13 statute subsequently enacted or prohibit any governmental order from  
14 expressly providing otherwise to the extent within the power or  
15 authority of the issuer of such order. However, the provisions of  
16 paragraph ~~2~~ 3 of this section shall not apply to Sections 287.1  
17 through 287.15 of ~~Title 52 of the Oklahoma Statutes~~ this title and  
18 nothing in ~~this act~~ the Energy Litigation Reform Act shall be  
19 interpreted to relieve an operator or owner from any obligation or  
20 duty set forth expressly in the Production Revenue Standards Act or  
21 the Natural Gas Market Sharing Act; provided the performance of such  
22 obligations or duties shall be subject to the same reasonably  
23 prudent operator standard set forth in ~~paragraph~~ paragraphs 1 and 2  
24 of this section.

1       SECTION 2.   This act shall become effective November 1, 2020.

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