

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1875

By: Rader

AS INTRODUCED

An Act relating to oil and gas; creating the Oil and Gas Water Recycling and Reuse Act; defining terms; declaring Legislative findings; specifying ownership and responsibility of oil and gas produced water and waste in certain circumstances; providing that certain persons are not liable in tort for certain actions; authorizing liability in certain litigation; authorizing disposal of produced water and waste with certain permitting; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 86.6 of Title 52, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oil and Gas Water Recycling and Reuse Act".

B. As used in this act:

1. "Commission" means the Oklahoma Corporation Commission;

2. "Nonoperator" means persons, other than the operator, participating in the cost and expense of drilling, completing or operating a well for the intended development and production of oil,

1 gas or other hydrocarbons, regardless of whether the well is  
2 completed or produces any;

3 3. "Oil and gas produced water and waste" means the fluid  
4 containing salt or other mineralized substances, brine, hydraulic  
5 fracturing fluid, flowback water, formation water, injection water  
6 and any chemicals added downhole, associated with, incidental to or  
7 extracted from hydrocarbon bearing strata during the drilling,  
8 completion or production of an oil or gas well. Oil and gas  
9 produced water and waste, including its constituents, shall not be  
10 considered as brine, as defined in the Oklahoma Brine Development  
11 Act.

12 4. "Operator" means the person authorized by the Corporation  
13 Commission to drill, complete and operate a well for the intended  
14 development and production of oil, gas or other hydrocarbons,  
15 regardless of whether the well is completed or produces any;

16 5. "Person" means any individual, partnership, corporation,  
17 limited liability company or any type of association;

18 6. "Recycled Water" means oil and gas produced water and waste  
19 that has been reconditioned or treated by mechanical or chemical  
20 processes into a reusable form; and

21 7. "Treated constituents" means any non-hydrocarbon chemical,  
22 compound or other byproduct removed from oil and gas produced water  
23 and waste through reconditioning or treating of the fluid by  
24 mechanical or chemical processes.

1 C. The Legislature finds that oil and gas produced water and  
2 waste has no intrinsic value and it is desirable, necessary and in  
3 the public interest to designate the parties who shall own and be  
4 responsible for the handling, transfer and disposition of the water  
5 and waste. It is further found to be in the public interest to  
6 foster, encourage and promote the development of methods and means  
7 to process and treat oil and gas produced water and waste for  
8 beneficial uses and to ensure appropriate disposal in accordance  
9 with Corporation Commission rules.

10 D. Upon extraction of oil and gas produced water and waste from  
11 the ground, the operator and nonoperators of the well are the sole  
12 owners of the produced water and waste. Unless otherwise provided  
13 by Corporation Commission order or contract, the operator and  
14 nonoperators shall have a possessory interest in the produced water  
15 and waste, including the right to use, possess, handle, dispose of,  
16 transfer, sell, convey, transport, process, recycle, reuse or treat  
17 the substance. They shall also have the right to obtain proceeds  
18 for any of the uses of the produced water and waste or some portion  
19 thereof, including recycled water and treated constituents.

20 E. Unless otherwise provided by Commission order or contract,  
21 until there is a transfer to another person, the operator and  
22 nonoperators shall be responsible for the use, disposition,  
23 transfer, sale, conveyance, transport, recycling, reuse, treatment  
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1 or disposal of the transferred oil and gas produced water and waste,  
2 recycled water and treated constituents or any other byproducts.

3 F. When oil and gas produced water and waste is transferred to  
4 a person for the purpose of processing or treating for subsequent  
5 beneficial use, disposal or both, the transferred material, recycled  
6 water and treated constituents shall be the property of that person  
7 until such time that the person disposes of the produced water and  
8 waste in accordance with Commission rules or there is a transfer of  
9 the material to a subsequent person. Transferred oil and gas  
10 produced water and waste shall be the property of the person to whom  
11 it is transferred and he or she shall have control of and  
12 responsibility for the substance, including the right to use,  
13 possess, handle, dispose of, transfer, sell, convey, transport,  
14 process, recycle, reuse or treat the produced water and waste and to  
15 obtain proceeds for any uses of the substance or any portion  
16 thereof, including recycled water and treated constituents.

17 G. Except as provided in subsection E of this section, a person  
18 is not liable in tort for consequences of subsequent use of recycled  
19 water or treated constituents if that person:

20 1. Processes oil and gas produced water and waste in order to  
21 produce recycled water or treated constituents that are generally  
22 considered in the oil and gas industry to be suitable for use in  
23 connection with drilling, completion or production operations of oil  
24 and gas, or both; or

1        2. Transfers the recycled water or treated constituents, or  
2 both, to another person for use in connection with oil and gas  
3 drilling, completion or production operations.

4        This subsection shall not be construed to affect the liability  
5 of a person in possession of oil and gas produced water and waste,  
6 recycled water or treated constituents, or both, in an action  
7 brought by a person for damages for personal injury, death or  
8 property damage arising from exposure to the substances.

9        H. A person who acquires possession of oil and gas produced  
10 water or waste for the purpose of recycling it for subsequent  
11 beneficial use may dispose of the produced water or waste, including  
12 recycled water, treated constituents or other byproducts of the  
13 recycling process, in his or her permitted disposal well or wells,  
14 regardless of the source or prior ownership of the produced water  
15 and waste. The disposal shall not require a commercial disposal  
16 well permit from the Corporation Commission but shall otherwise be  
17 subject to any other permit restrictions applicable to disposal  
18 wells.

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