

An Act

ENROLLED HOUSE
BILL NO. 3039

By: Boles of the House

and

Taylor of the Senate

An Act relating to oil and gas; amending 52 O.S. 2021, Section 87.1, which relates to common source of supply and well spacing and drilling units; allowing drilling of wells within location tolerance areas while spacing applications are pending; allowing the Oklahoma Corporation Commission to issue a permit to drill a well prior to issuance of an order; requiring final order with respect to drilling activity related to certain underground storage facilities; providing exception; and declaring an emergency.

SUBJECT: Oil and gas

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

SECTION 1. AMENDATORY 52 O.S. 2021, Section 87.1, is amended to read as follows:

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

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

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

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

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

(c) In establishing a well spacing or drilling unit for a common source of supply thereunder, the acreage to be embraced within each unit may include acreage from more than one governmental section, but shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless the unit is a governmental section and the governmental section contains more than six hundred forty (640) acres in which case the unit may comprise the entire section. Provided, however, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing, and the following facts, among other things, shall be material: (1) the lands embraced in the actual or prospective common source of supply; (2) the plan of well spacing then being employed or contemplated in the source of supply; (3) the depth at which production from the common source of supply has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations; and (5) any other available geological or scientific data pertaining to the actual or prospective source of supply which may be of probative value to the Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners interested therein.

The order establishing such spacing or drilling units shall set forth: (1) the outside boundaries of the surface area included in such order; (2) the size, form, and shape of the spacing or drilling units so established; (3) the drilling pattern for the area, which shall be uniform except as hereinbefore provided; and (4) the location of the permitted well on each such spacing or drilling unit. To such order shall be attached a plat upon which shall be indicated the foregoing information. Subject to other provisions of Section 86.1 et seq. of this title, the order establishing such spacing or drilling units shall direct that no more than one well

shall thereafter be produced from the common source of supply on any unit so established, and that the well permitted on that unit shall be drilled at the location thereon as prescribed by the Commission, with such exception as may be reasonably necessary where it is shown, upon application, notice and hearing in conformity with the procedural requirements of Section 86.1 et seq. of this title, and the Commission finds that any such spacing unit is located on the edge of a pool and adjacent to a producing unit, or for some other reason that to require the drilling of a well at the prescribed location on such spacing unit would be inequitable or unreasonable. Whenever such an exception is granted, the Commission shall adjust the allowable production for the spacing unit and take such other action as may be necessary to protect the rights of interested parties.

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

(d) The Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) of this section, to decrease the size of the well spacing units or to permit additional wells to be drilled within the established units, or to increase the size or modify the shape of the well spacing units, upon proper proof at such hearing that such modification or extension of the order establishing drilling or spacing units will prevent or assist in preventing the various types of wastes prohibited by statute, or any of the wastes, or will protect or assist in protecting the correlative rights of persons interested in the common source of supply, or upon the filing of a proper application therefor to enlarge the area covered by the spacing order, if such proof discloses that the development or the trend of development indicates that such common source of supply underlies an area not covered by the spacing order and such proof discloses that the applicant is an owner within the area or within a drilling and spacing unit contiguous to the area covered by the

application. Except in the instance of reservoir dewatering as described herein, the Commission shall not establish well spacing units of more than forty (40) acres in size covering common sources of supply of oil, the top of which lies less than four thousand (4,000) feet below the surface as determined by the original or discovery well in the common source of supply, and the Commission shall not establish well spacing units of more than eighty (80) acres in size covering common sources of supply of oil, the top of which lies less than nine thousand nine hundred ninety (9,990) feet and more than four thousand (4,000) feet below the surface as determined by the original or discovery well in the common source of supply. In the instance of reservoir dewatering to extract oil from reservoirs having initial water saturations at or above fifty percent (50%), the Commission may establish drilling and spacing units not to exceed six hundred forty (640) acres in size.

(e) The drilling of any well or wells into any common source of supply for the purpose of producing oil or gas therefrom, after a spacing order has been entered by the Commission covering such common source of supply, at a location other than that fixed by the order is hereby prohibited. The drilling of any well or wells into a common source of supply, covered by a pending spacing application, at a location or within location tolerance areas other than that approved by a special order of the Commission authorizing the drilling of such well is hereby prohibited. The operation of any well drilled in violation of any spacing order so entered is also hereby prohibited. Notwithstanding any provision of this section to the contrary, the Commission, in the exercise of its authority to prevent waste and protect correlative rights, may issue a permit to drill any well for which notice and hearing have occurred for a special order or an order on the merits in any type case prior to the issuance of any such order. Any such permit shall be subject to and conform with the final provisions of any such order when entered. A final order from the Commission shall be required prior to drilling for any well that falls within one (1) mile of the certified boundary of an underground storage facility. The Commission may issue a permit to drill any well prior to the issuance of any such order in cases where the underground storage operator does not object. When two or more separately owned tracts of land are embraced within an established spacing unit, or where there are undivided interests separately owned, or both such separately owned tracts and undivided interests embraced within such established spacing unit, the owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owners have not agreed to pool their interests and where one such

separate owner has drilled or proposes to drill a well on the unit to the common source of supply, the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, shall, upon a proper application therefor and a hearing thereon, require such owners to pool and develop their lands in the spacing unit as a unit. The applicant shall give all the owners whose addresses are known or could be known through the exercise of due diligence at least fifteen (15) days' notice by mail, return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the spacing unit are situated. The applicant shall file proof of publication and an affidavit of mailing with the Commission prior to the hearing. All orders requiring such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner of such tract in the unit the opportunity to recover or receive without unnecessary expense the owner's just and fair share of the oil and gas. The portion of the production allocated to the owner of each tract or interests included in a well spacing unit formed by a pooling order shall, when produced, be considered as if produced by such owner from the separately owned tract or interest by a well drilled thereon. Such pooling order of the Commission shall make definite provisions for the payment of cost of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision. In the event of any dispute relative to such costs, the Commission shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the pooling order or orders of the Commission, shall have a lien on the mineral leasehold estate or rights owned by the other owners therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon the unit are a charge against such interest by order of the Commission or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order. The Commission is specifically authorized to provide that the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to

production from such well which would be received by the owner or owners for whose benefit the well was drilled or operated, after payment of royalty, until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner of a separate interest in such unit shall be applied toward payment of any cost properly chargeable to any other interest in the unit.

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

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

(f) Notwithstanding any provision of this title to the contrary, the Corporation Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) of this section, to establish spacing rules for horizontally drilled oil or gas wells whereby horizontally drilled oil or gas wells may have well spacing units established of up to one thousand two hundred eighty (1,280) acres plus tolerances and variances as allowed pursuant to subsection (c) of this section. For purposes of this subsection a "horizontally drilled oil or gas well" shall mean an oil or gas well drilled, completed or recompleted in a manner in which the horizontal component of the completion interval in the geological formation exceeds the vertical component thereof and which horizontal component extends a minimum of one hundred fifty (150) feet in the formation. The Corporation Commission shall promulgate rules necessary for the proper administration of this subsection. For the creation and continuation of any horizontal spacing unit pursuant to this subsection that exceeds six hundred forty (640) acres plus tolerances and variances as allowed pursuant to subsection (c) of this section:

(1) absent a showing of reasonable cause, the unit shall include all lands within each governmental section to be included in the horizontal spacing unit;

(2) the applicant or applicants requesting the Commission to form the horizontal spacing unit must be the owner of an interest in the oil, gas and other minerals in each of the governmental sections to be included in the horizontal spacing unit;

(3) the applicant or applicants requesting the Commission to form a horizontal spacing unit must include in the application the basis for requesting a spacing unit size greater than six hundred forty (640) acres plus tolerances and variances as allowed pursuant to subsection (c) of this section. Absent a showing of reasonable cause, the contemplated horizontal lateral length for the initial unit well in the horizontal spacing unit shall be at least seven thousand five hundred (7,500) feet. If the lateral length of the initial horizontal well does not actually measure a minimum of seven thousand five hundred (7,500) feet, the Commission shall require the applicant to show cause as to why such spacing order should not be modified, superseded or vacated under the circumstances; and

(4) absent a showing of reasonable cause, the drilling of a multiunit horizontal well pursuant to Section 87.8 of this title shall not be available as the initial unit well for a horizontal spacing unit unless the contemplated completed portion of the lateral for said well is to exceed ten thousand five hundred sixty (10,560) feet.

(g) A horizontal spacing unit may be established for a common source of supply for which there are already established ~~non-~~horizontal nonhorizontal drilling and spacing units. A horizontal spacing unit formed under subsection (f) of this section may exist concurrently with any previously formed nonhorizontal drilling and spacing unit, or any portion thereof, such that each concurrently existing unit may be separately developed with a well drilled into, completed in and hydrocarbons produced from the same common source of supply in each such concurrently existing unit, with production from each such well to be governed by and allocated pursuant to the applicable unit. Subject to all of the provisions of this section, a pooling order for a horizontal spacing unit which overlies an existing, producing nonhorizontal drilling and spacing unit, shall provide that, if a working interest owner in such producing nonhorizontal drilling and spacing unit does not agree to develop the horizontal spacing unit, the owner shall relinquish its nonparticipating working interest in the horizontal spacing unit while retaining all other rights, including the right to concurrently develop the producing nonhorizontal unit.

(h) Notwithstanding anything in this title or a pooling order to the contrary, each party owning a right to participate in development of a horizontal well described in this subsection with a vested interest as to which there is production in the geographical area of the spacing unit or spacing units for a proposed horizontal well which is drilled after the effective date of this act pursuant to a pooling order, whether the pooling order was issued before or after the effective date of this act, shall be afforded separate elections as set forth below, subject to the following, provided; however, a geographic area in which there is no existing producing unit as of the date of the filing of the application for the governing pooling order and which is initially developed pursuant to a multiunit horizontal well authorized under Section 87.8 of this title, or a horizontal spacing unit which contains more than six hundred forty (640) acres plus tolerances and variances as allowed for pursuant to subsection (c) of this section shall not be considered to contain existing production for purposes of this subsection, unless the geographical area of any spacing unit covered

by the governing pooling order: is overlain by a horizontal spacing unit greater than six hundred forty (640) acres plus tolerances and variances as allowed for pursuant to subsection (c) of this section which is not subject to said pooling order; has a multiunit well drilled pursuant to Section 87.8 of this title which includes a horizontal spacing unit which contains more than six hundred forty (640) acres plus tolerances and variances as allowed for pursuant to subsection (c) of this section which is subject to said pooling order; or has a multiunit well drilled pursuant to Section 87.8 of this title for a combination of units different than drilled by the initial multiunit well pursuant to said pooling order:

(1) as to a multiunit horizontal well authorized under Section 87.8 of this title, each party owning a right to participate in development of the proposed multiunit horizontal well with a vested interest as to which there is existing production in the geographical area of the spacing unit for the proposed multiunit well shall be allowed, and as to the extent of their development rights as to which there is existing production, an election as to the targeted reservoir or targeted reservoirs covered by each pooling order for such proposed multiunit horizontal well described above, unless otherwise agreed to or waived in writing after the effective date of this act. If said multiunit well is drilled in accordance with the pooling order, the relinquished rights of an owner who elects or is deemed to have elected not to participate with all or any part of that owner's interest in the multiunit horizontal well shall be limited to only the owner's nonparticipating working interest in the common source or common sources of supply within the targeted reservoir or targeted reservoirs covered by said election which are actually horizontally drilled and completed by said well. The owner shall retain all other rights, including all rights in any existing wellbores in which the owner has participated;

(2) as to a horizontal well authorized by the Commission for a horizontal spacing unit created under subsection (f) of this section, if the horizontal spacing unit contains more than six hundred forty (640) acres plus tolerances and variances as allowed for pursuant to subsection (c) of this section, or is comprised of more than one governmental section, each party owning a right to participate in development of the proposed horizontal well with a vested interest as to which there is existing production in the geographical area of the spacing unit for the proposed horizontal well shall be allowed, and as to the extent of their development rights as to which there is existing production, a separate election

as to each common source of supply or common sources of supply covered by the pooling order for a proposed horizontal well described above, unless otherwise agreed to or waived in writing after the effective date of this act. If said horizontal well is drilled in accordance with the pooling order, the relinquished rights of an owner who elects or is deemed to have elected not to participate with all or any part of that owner's interest in the horizontal well shall be limited to only the owner's nonparticipating working interest in the common source or common sources of supply covered by said election which are actually horizontally drilled and completed by said well. The owner shall retain all other rights, including any rights in all existing wellbores in which the owner has participated;

(3) as to any well which is subject to a pooling order which was entered prior to the effective date of this act, in order to be entitled to the rights and benefits of this subsection, the owner must have been vested with the right to participate in the subject well as of the effective date of this act;

(4) any relinquishment of rights under this subsection shall be pursuant to the governing pooling order and at such fair value as determined by the Commission; and

(5) the provisions of subsections (g) and (h) of this section shall supplement each affected pooling order as to development of the affected spacing unit by use of horizontal wells from and after the effective date of this act.

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

Passed the House of Representatives the 16th day of May, 2022.

Presiding Officer of the House
of Representatives

Passed the Senate the 20th day of April, 2022.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____