

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3039

By: Boles

AS INTRODUCED

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 prior to Oklahoma Corporation Commission granting order; and providing an effective date.

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

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

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

1 such nonuniform units need not be uniform, and provided further that
2 the Commission shall adjust the allowable production within the
3 common source of supply, or any part thereof, and take such other
4 action as may be necessary to protect the rights of interested
5 parties. Any order issued pursuant to the provisions hereof may be
6 entered after a hearing upon the petition of any person owning an
7 interest in the minerals in lands embraced within such common source
8 of supply, or the right to drill a well for oil or gas on the lands
9 embraced within such common source of supply, or on the petition of
10 the Conservation Officer of the State of Oklahoma. When such a
11 petition is filed with the Commission, the Commission shall give at
12 least fifteen (15) days' notice of the hearing to be held upon such
13 petition by one publication, at least fifteen (15) days prior to the
14 hearing, in some newspaper of general circulation published in
15 Oklahoma County, and by one publication, at least fifteen (15) days
16 prior to the date of the hearing, in some newspaper published in the
17 county, or in each county, if there be more than one, in which the
18 lands embraced within the application are situated. Except as to
19 the notice of hearing on such a petition, the procedural
20 requirements of Section 86.1 et seq. of this title shall govern all
21 proceedings and hearings provided for by this section.

22 (b) In case of a spacing unit of one hundred sixty (160) acres
23 or more, no oil and/or gas leasehold interest outside the spacing
24 unit involved may be held by production from the spacing unit more

1 than ninety (90) days beyond expiration of the primary term of the
2 lease.

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

1 drilling unit therefor, with due and relative allowance for the
2 correlative rights and obligations of the producers and royalty
3 owners interested therein.

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

1 the allowable production for the spacing unit and take such other
2 action as may be necessary to protect the rights of interested
3 parties.

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

16 (d) The Commission shall have jurisdiction upon the filing of a
17 proper application therefor, and upon notice given as provided in
18 subsection (a) of this section, to decrease the size of the well
19 spacing units or to permit additional wells to be drilled within the
20 established units, or to increase the size or modify the shape of
21 the well spacing units, upon proper proof at such hearing that such
22 modification or extension of the order establishing drilling or
23 spacing units will prevent or assist in preventing the various types
24 of wastes prohibited by statute, or any of the wastes, or will

1 protect or assist in protecting the correlative rights of persons
2 interested in the common source of supply, or upon the filing of a
3 proper application therefor to enlarge the area covered by the
4 spacing order, if such proof discloses that the development or the
5 trend of development indicates that such common source of supply
6 underlies an area not covered by the spacing order and such proof
7 discloses that the applicant is an owner within the area or within a
8 drilling and spacing unit contiguous to the area covered by the
9 application. Except in the instance of reservoir dewatering as
10 described herein, the Commission shall not establish well spacing
11 units of more than forty (40) acres in size covering common sources
12 of supply of oil, the top of which lies less than four thousand
13 (4,000) feet below the surface as determined by the original or
14 discovery well in the common source of supply, and the Commission
15 shall not establish well spacing units of more than eighty (80)
16 acres in size covering common sources of supply of oil, the top of
17 which lies less than nine thousand nine hundred ninety (9,990) feet
18 and more than four thousand (4,000) feet below the surface as
19 determined by the original or discovery well in the common source of
20 supply. In the instance of reservoir dewatering to extract oil from
21 reservoirs having initial water saturations at or above fifty
22 percent (50%), the Commission may establish drilling and spacing
23 units not to exceed six hundred forty (640) acres in size.

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

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

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

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 title 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 or gas wells whereby horizontally
18 drilled oil or gas wells may have well spacing units established of
19 up to one thousand two hundred eighty (1,280) acres plus tolerances
20 and variances as allowed pursuant to subsection (c) of this section.
21 For purposes of this subsection a "horizontally drilled oil or gas
22 well" shall mean an oil or gas well drilled, completed or
23 recompleted in a manner in which the horizontal component of the
24 completion interval in the geological formation exceeds the vertical

1 component thereof and which horizontal component extends a minimum
2 of one hundred fifty (150) feet in the formation. The Corporation
3 Commission shall promulgate rules necessary for the proper
4 administration of this subsection. For the creation and
5 continuation of any horizontal spacing unit pursuant to this
6 subsection that exceeds six hundred forty (640) acres plus
7 tolerances and variances as allowed pursuant to subsection (c) of
8 this section:

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

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

16 (3) the applicant or applicants requesting the Commission to
17 form a horizontal spacing unit must include in the application the
18 basis for requesting a spacing unit size greater than six hundred
19 forty (640) acres plus tolerances and variances as allowed pursuant
20 to subsection (c) of this section. Absent a showing of reasonable
21 cause, the contemplated horizontal lateral length for the initial
22 unit well in the horizontal spacing unit shall be at least seven
23 thousand five hundred (7,500) feet. If the lateral length of the
24 initial horizontal well does not actually measure a minimum of seven

1 thousand five hundred (7,500) feet, the Commission shall require the
2 applicant to show cause as to why such spacing order should not be
3 modified, superseded or vacated under the circumstances; and

4 (4) absent a showing of reasonable cause, the drilling of a
5 multiunit horizontal well pursuant to Section 87.8 of this title
6 shall not be available as the initial unit well for a horizontal
7 spacing unit unless the contemplated completed portion of the
8 lateral for said well is to exceed ten thousand five hundred sixty
9 (10,560) feet.

10 (g) A horizontal spacing unit may be established for a common
11 source of supply for which there are already established non-
12 horizontal drilling and spacing units. A horizontal spacing unit
13 formed under subsection (f) of this section may exist concurrently
14 with any previously formed nonhorizontal drilling and spacing unit,
15 or any portion thereof, such that each concurrently existing unit
16 may be separately developed with a well drilled into, completed in
17 and hydrocarbons produced from the same common source of supply in
18 each such concurrently existing unit, with production from each such
19 well to be governed by and allocated pursuant to the applicable
20 unit. Subject to all of the provisions of this section, a pooling
21 order for a horizontal spacing unit which overlies an existing,
22 producing nonhorizontal drilling and spacing unit, shall provide
23 that, if a working interest owner in such producing nonhorizontal
24 drilling and spacing unit does not agree to develop the horizontal

1 spacing unit, the owner shall relinquish its nonparticipating
2 working interest in the horizontal spacing unit while retaining all
3 other rights, including the right to concurrently develop the
4 producing nonhorizontal unit.

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

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

10 (1) as to a multiunit horizontal well authorized under Section
11 87.8 of this title, each party owning a right to participate in
12 development of the proposed multiunit horizontal well with a vested
13 interest as to which there is existing production in the
14 geographical area of the spacing unit for the proposed multiunit
15 well shall be allowed, and as to the extent of their development
16 rights as to which there is existing production, an election as to
17 the targeted reservoir or targeted reservoirs covered by each
18 pooling order for such proposed multiunit horizontal well described
19 above, unless otherwise agreed to or waived in writing after the
20 effective date of this act. If said multiunit well is drilled in
21 accordance with the pooling order, the relinquished rights of an
22 owner who elects or is deemed to have elected not to participate
23 with all or any part of that owner's interest in the multiunit
24 horizontal well shall be limited to only the owner's

1 nonparticipating working interest in the common source or common
2 sources of supply within the targeted reservoir or targeted
3 reservoirs covered by said election which are actually horizontally
4 drilled and completed by said well. The owner shall retain all
5 other rights, including all rights in any existing wellbores in
6 which the owner has participated;

7 (2) as to a horizontal well authorized by the Commission for a
8 horizontal spacing unit created under subsection (f) of this
9 section, if the horizontal spacing unit contains more than six
10 hundred forty (640) acres plus tolerances and variances as allowed
11 for pursuant to subsection (c) of this section, or is comprised of
12 more than one governmental section, each party owning a right to
13 participate in development of the proposed horizontal well with a
14 vested interest as to which there is existing production in the
15 geographical area of the spacing unit for the proposed horizontal
16 well shall be allowed, and as to the extent of their development
17 rights as to which there is existing production, a separate election
18 as to each common source of supply or common sources of supply
19 covered by the pooling order for a proposed horizontal well
20 described above, unless otherwise agreed to or waived in writing
21 after the effective date of this act. If said horizontal well is
22 drilled in accordance with the pooling order, the relinquished
23 rights of an owner who elects or is deemed to have elected not to
24 participate with all or any part of that owner's interest in the

1 horizontal well shall be limited to only the owner's
2 nonparticipating working interest in the common source or common
3 sources of supply covered by said election which are actually
4 horizontally drilled and completed by said well. The owner shall
5 retain all other rights, including any rights in all existing
6 wellbores in which the owner has participated;

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

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

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

19 SECTION 2. This act shall become effective November 1, 2022.
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