

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 977 Session of 2009

INTRODUCED BY MAJOR, MILLARD, BAKER, BEYER, BOBACK, BOYD, CREIGHTON, CUTLER, EVERETT, FLECK, GEORGE, GINGRICH, GOODMAN, GRELL, GROVE, HALUSKA, HARRIS, HENNESSEY, HESS, MARSHALL, MARSICO, MILLER, MUNDY, PHILLIPS, PICKETT, QUINN, SCAVELLO, SIPTROTH, K. SMITH, SOLOBAY, STERN, SWANGER, TRUE, WANSACZ AND YOUNGBLOOD, MARCH 18, 2009

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 18, 2009

AN ACT

1 Amending the act of July 25, 1961 (P.L.825, No.359), entitled
2 "An act defining and prohibiting waste in the production of
3 oil and gas; defining the powers and duties of the Oil and
4 Gas Conservation Commission and the Oil and Gas Division of
5 the Department of Mines and Mineral Industries with respect
6 to the prevention of waste in the production of oil and gas
7 from certain geological horizons; the protection of
8 correlative rights; the spacing of well drilling operations;
9 the unitization of lands and horizons for the purpose of
10 regulating well spacing; providing for the enforcement of
11 this act; and the issuance of rules, regulations and orders
12 prescribing the rights, obligations and duties of owners and
13 operators of interests in lands and leasehold interests
14 therein with respect to the drilling of oil and gas wells
15 thereon; providing for hearings and the procedures to be
16 followed therein; imposing duties upon the courts; providing
17 methods for the enforcement of the provisions of this act,
18 limiting all the provisions hereof to certain geological
19 horizons; imposing penalties and making an appropriation,"
20 further providing for definitions and for applicability,
21 exclusions and construction.

22 The General Assembly of the Commonwealth of Pennsylvania
23 hereby enacts as follows:

24 Section 1. Section 2(7) of the act of July 25, 1961
25 (P.L.825, No.359), known as the Oil and Gas Conservation Law, is

1 amended and the section is amended by adding clauses to read:

2 Section 2. Definitions.--As used in this act--

3 * * *

4 (5.1) "Lease" means a contract between a landowner and an
5 operator, in which the landowner grants the operator a right to
6 explore, drill and produce oil, gas and other minerals for a
7 specified primary term and as long thereafter as oil, gas or
8 other minerals are being produced in paying quantities in
9 exchange for monetary compensation to the landowner.

10 * * *

11 (7) "Operator" shall mean any owner of the right to develop,
12 operate, and produce oil and gas from the pool. In the event
13 that there is no oil and gas lease in existence, the owner of
14 the oil and gas rights shall be considered as "operator" to the
15 extent of seven-eighths of the oil and gas in that portion of
16 the pool underlying the tract owned by such owner, and a royalty
17 owner as to a one-eighth interest in such oil and gas. The
18 dollar amount of the one-eighth interest shall represent one-
19 eighth of the current market value of the oil and gas, and
20 constituents thereof, at the point the operator markets the
21 product calculated without deduction directly or indirectly for
22 the cost of producing, gathering, storing, separating, treating,
23 dehydration compressing, processing, transporting or marketing
24 the product. In the event that the oil is owned separately from
25 the gas, the owner of the substance being produced or sought to
26 be produced from the pool shall be considered as "operator" as
27 to such pool. Nothing in this clause shall be construed as
28 prohibiting a landowner from negotiating a royalty under a lease
29 that is greater than a one-eighth interest.

30 * * *

1 (11.1) "Royalty owner" means the following:

2 (i) Any landowner who is the owner of oil or gas in place,
3 or oil or gas rights, subject to a lease covering such oil or
4 gas in place or oil or gas rights.

5 (ii) Any owner of an interest in an oil or gas lease which
6 entitles him to a share in the production of the oil or gas
7 under such lease or the proceeds therefrom without obligating
8 him to pay any costs under such lease, including any costs of
9 production under the lease.

10 (iii) The owner of any interest in the oil or gas in place,
11 or oil or gas rights, who has not executed an oil and gas lease,
12 to the extent that such owner is not designated an "operator"
13 under subclause (ii).

14 * * *

15 Section 2. Section 3 of the act is amended to read:

16 Section 3. Applicability; Exclusions; Construction.--(a)
17 Except as provided in subsection (b) of this section, this act
18 shall apply to all lands in the Commonwealth, including any
19 lands owned or administered by the Commonwealth, or any
20 political subdivision thereof, except the excluded horizons. The
21 commission shall have jurisdiction over all persons and property
22 necessary to enforce effectively the provisions of this act.

23 (a.1) Any oil or gas well that penetrates the Marcellus
24 Shale horizon shall be subject to the requirements of this act
25 that pertain to the unitization of lands for well spacing and
26 the protection of correlative rights. Such wells shall be
27 regulated in the same manner as a well which penetrates the
28 Onondaga horizon.

29 (b) This act shall not apply to or affect--

30 (1) [Any] Except as otherwise provided under subsection

1 (a.1) of this section, any well or wells which do not penetrate
2 the Onondaga horizon, or in those areas in which the Onondaga
3 horizon is nearer to the surface than thirty-eight hundred feet,
4 any well or wells which do not exceed a depth of thirty-eight
5 hundred feet beneath the surface. For the purposes of this act,
6 the question whether a pool is covered by the act shall be
7 determined by the depth of the producing interval in the
8 discovery well in such pool, and if such producing interval is
9 covered by the act, then all wells drilled to such pool shall be
10 covered by this act, even though some of the wells in the pool,
11 if considered alone, would not be covered by the act.

12 (2) Any well or wells of whatever depth commenced prior to
13 the effective date of this act, except such wells previously
14 completed in strata above the [Onondaga] Marcellus Shale
15 horizon, but subsequent to the effective date of this act
16 drilled deeper than the [Onondaga] Marcellus Shale horizon, or
17 three thousand eight hundred feet, whichever is deeper, provided
18 that such wells may be considered in spacing and pooling orders
19 entered by the commission.

20 (3) Any well or wells drilled to inject gas into or withdraw
21 gas from gas storage reservoir.

22 (b.1) Before drilling any well which is to penetrate the
23 Marcellus Shale or deeper horizons or a depth of thirty-eight
24 hundred feet, whichever is deeper, the well operator shall on
25 the plat prepared on the same form required by the division
26 under the act of December 19, 1984 (P.L.1140, No.223), known as
27 the "Oil and Gas Act," demonstrate and assure that any
28 anticipated horizontal drilling shall not be conducted under or
29 through any lands where an oil and gas lease does not exist
30 between a landowner and an operator.

1 (c) This act shall not be construed to grant to the
2 commission authority or power to--

3 (1) Limit production or output, or prorate production of any
4 oil or gas well, except as provided in clause (6) of section 7;
5 or

6 (2) Fix prices of oil or gas.

7 Section 3. This act shall take effect immediately.