

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2453 Session of  
2008

INTRODUCED BY MAJOR, EVERETT, PICKETT, WANSACZ, PEIFER, BAKER,  
BEYER, BOBACK, BOYD, CAPPELLI, CREIGHTON, CUTLER, ELLIS,  
FLECK, GEORGE, GINGRICH, GRELL, HALUSKA, HARHART, HERSHEY,  
MARSHALL, MENSCH, MILLARD, R. MILLER, PHILLIPS, RUBLEY,  
SCAVELLO, SIPTROTH, K. SMITH, SOLOBAY, J. WHITE AND  
YOUNGBLOOD, JUNE 4, 2008

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JUNE 4, 2008

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 definitions to  
2 read:

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

4 \* \* \*

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

11 \* \* \*

12 (7) "Operator" shall mean any owner of the right to develop,  
13 operate, and produce oil and gas from the pool. In the event  
14 that there is no oil and gas lease in existence, the owner of  
15 the oil and gas rights shall be considered as "operator" to the  
16 extent of seven-eighths of the oil and gas in that portion of  
17 the pool underlying the tract owned by such owner, and a royalty  
18 owner as to a one-eighth interest in such oil and gas. The  
19 dollar amount of the one-eighth interest shall represent one-  
20 eighth of the current market value of all gas and constituents  
21 thereof, produced, saved, marketed and sold as measured at the  
22 well head when produced. In the event that the oil is owned  
23 separately from the gas, the owner of the substance being  
24 produced or sought to be produced from the pool shall be  
25 considered as "operator" as to such pool. Nothing in this clause  
26 shall be construed as prohibiting a landowner from negotiating a  
27 royalty under a lease that is greater than a one-eighth  
28 interest.

29 \* \* \*

30 (11.1) "Royalty owner" means the following:

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

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

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

13       \* \* \*

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

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

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

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

29       (1) [Any] Except as otherwise provided under subsection  
30       (a.1) of this section, any well or wells which do not penetrate

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

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

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

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

30 (c) This act shall not be construed to grant to the

1 commission authority or power to--

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

5 (2) Fix prices of oil or gas.

6 Section 3. This act shall take effect immediately.