

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 457 Session of 2019

INTRODUCED BY BREWSTER, FARNESE AND HAYWOOD, MARCH 19, 2019

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 19, 2019

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 provisions relating to expiration; providing for the
4 Extraction for Education and Environmental Protection Tax;
5 and establishing the Extraction for Education and
6 Environmental Protection Fund.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2318 of Title 58 of the Pennsylvania
10 Consolidated Statutes is repealed:

11 [§ 2318. Expiration.

12 (a) Notice.--The Secretary of the Commonwealth shall, upon
13 the imposition of a severance tax on unconventional gas wells in
14 this Commonwealth, submit for publication in the Pennsylvania
15 Bulletin notice of the imposition.

16 (b) Date.--This chapter shall expire on the date of the
17 publication of the notice under subsection (a).]

18 Section 2. Title 58 is amended by adding a part to read:

19 PART V

20 TAXATION

1 Chapter

2 51. Extraction for Education and Environmental Protection

3 CHAPTER 51

4 EXTRACTION FOR EDUCATION AND

5 ENVIRONMENTAL PROTECTION

6 Sec.

7 5101. Definitions.

8 5102. Imposition and adjustment of tax.

9 5103. Return and payment.

10 5104. Fund established, deposit and use.

11 § 5101. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Commission." The Pennsylvania Public Utility Commission.

16 "Department." The Department of Revenue of the Commonwealth.

17 "Department of Environmental Protection" or "DEP." The
18 Department of Environmental Protection of the Commonwealth.

19 "Federal pipeline safety laws." The provisions of 49 U.S.C.
20 Ch. 601 (relating to safety), the Hazardous Liquid Pipeline
21 Safety Act of 1979 (Public Law 96-129, 93 Stat. 989) and the
22 Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116
23 Stat. 2985) and the regulations promulgated under those acts.

24 "Gas." Natural gas, liquefied natural gas, landfill gas,
25 synthetic natural gas and other gas as defined under the Federal
26 pipeline safety laws.

27 "Hazardous liquids." Petroleum, a petroleum product,
28 anhydrous ammonia and other hazardous liquids as defined under
29 the Federal pipeline safety laws.

30 "Natural gas." A fossil fuel consisting of a mixture of

1 hydrocarbon gases, primarily methane, possibly including ethane,
2 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
3 hydrogen sulfide and other gas species. The term includes
4 natural gas from oil fields known as associated gas or casing
5 head gas, natural gas fields known as nonassociated gas, coal
6 beds, shale beds and other formations. The term does not include
7 coal bed methane.

8 "Pipeline." A part of the physical facilities through which
9 gas or hazardous liquids move in transportation, including a
10 pipe valve and other appurtenance attached to the pipe,
11 compressor unit, metering station, regulator station, delivery
12 station, holder and fabricated assembly. The term only includes
13 pipeline regulated by Federal pipeline safety laws. The term
14 does not include a pipeline subject to the exclusive
15 jurisdiction of the Federal Energy Regulatory Commission.

16 "Pipeline facility." A new or existing pipeline, right-of-
17 way and any equipment, facility or building used in the
18 transportation of gas or hazardous liquids or in the treatment
19 of gas or hazardous liquids during the course of transportation.
20 The term does not include a pipeline facility subject to the
21 exclusive jurisdiction of the Federal Energy Regulatory
22 Commission.

23 "Pipeline safety inspectors." Individuals employed or
24 contracted by the commission who are certified, qualified and
25 experienced in safety inspections of and all safety protocols
26 for pipelines and pipeline facilities as established under the
27 Federal pipeline safety laws.

28 "Producer." A person who engages or continues within this
29 Commonwealth in the business of severing natural gas for sale,
30 profit or commercial use. The term does not include a person who

1 severs natural gas from a storage field.

2 "Producing site." A point of severance capable of producing
3 natural gas in paying quantities.

4 "Reporting period." A calendar month in which natural gas is
5 severed.

6 "Secretary." The Secretary of Revenue of the Commonwealth.

7 "Sever." To extract or otherwise remove natural gas from the
8 soil or water of this Commonwealth.

9 "Severance." The extraction or other removal of natural gas
10 from the soil or water of this Commonwealth.

11 "Severing." Extracting or otherwise removing natural gas
12 from the soil or water of this Commonwealth.

13 "Transportation of gas." The gathering, transmission or
14 distribution of gas by pipeline or the storage of gas.

15 "Transportation of hazardous liquids." The gathering,
16 transmission or distribution of hazardous liquids by pipeline.

17 "Unit." A thousand cubic feet of natural gas measured at the
18 wellhead at a temperature of 60 degrees Fahrenheit and an
19 absolute pressure of 14.73 pounds per square inch in accordance
20 with American Gas Association standards and according to Boyle's
21 Law for the measurement of gas under varying pressures with
22 deviations as follows:

23 (1) The average absolute atmospheric pressure shall be
24 assumed to be 14.4 pounds to the square inch, regardless of
25 elevation or location of point of delivery above sea level or
26 variations in atmospheric pressure from time to time.

27 (2) The temperature of the gas passing the meters shall
28 be determined by the continuous use of a recording
29 thermometer installed to properly record the temperature of
30 gas flowing through the meters. The arithmetic average of the

1 temperature recorded each 24-hour day shall be used in
2 computing gas volumes. If a recording thermometer is not
3 installed, or is installed and not operating properly, an
4 average flowing temperature of 60 degrees Fahrenheit shall be
5 used in computing gas volume.

6 (3) The specific gravity of the gas shall be determined
7 annually by tests made by the use of an Edwards or Acme
8 gravity balance or at intervals as found necessary in
9 practice. Specific gravity determinations shall be used in
10 computing gas volumes.

11 (4) The deviation of the natural gas from Boyle's Law
12 shall be determined by annual tests or at other shorter
13 intervals as found necessary in practice. The apparatus and
14 method used in making the test shall be in accordance with
15 the Report No. 3 of the Gas Measurement Committee of the
16 American Gas Association or recommendations of the National
17 Bureau of Standards or amendments to the report or
18 recommendations. The results of the tests shall be used in
19 computing the volume of gas delivered.

20 § 5102. Imposition and adjustment of tax.

21 (a) Establishment.--Beginning July 1, 2019, an Extraction
22 for Education and Environmental Protection Tax shall be levied
23 on every producer for the severance of natural gas.

24 (b) Rate.--The tax shall be imposed at the rate of 5% of the
25 gross value of the units severed measured at the wellhead during
26 a reporting period.

27 (c) Adjustment.--

28 (1) Each producer shall receive a credit equal to the
29 producer's total payment of the unconventional gas well fee
30 imposed under Chapter 23 (relating to unconventional gas well

1 fee) for the reporting period.

2 (2) Each producer may apply the credit received under
3 paragraph (1) to offset the tax liability levied under
4 subsection (b) for the reporting period.

5 § 5103. Return and payment.

6 (a) Requirement.--Every producer shall file a return with
7 the department on a form prescribed by the department. The
8 return shall include all of the following:

9 (1) The number of natural gas units severed by the
10 producer for the reporting period.

11 (2) The number of producing sites used by the producer
12 for the severance of natural gas in each county and
13 municipality.

14 (3) The amount of tax due under section 5102 (relating
15 to imposition and adjustment of tax).

16 (4) The amount of the producer's total payment of the
17 unconventional gas well fee imposed under Chapter 23
18 (relating to unconventional gas well fee).

19 (5) The amount of the producer's payment of the
20 unconventional gas well fee for each producing site for that
21 reporting period.

22 (b) Filing.--The producer shall file the return required by
23 subsection (a) within 15 days after the end of the reporting
24 period. The first return shall be due August 15, 2019.

25 (c) Deadline.--The tax imposed under section 5102 shall be
26 due on the day the return is required to be filed and shall
27 become delinquent if not remitted to the department by the due
28 date.

29 § 5104. Fund established, deposit and use.

30 (a) Fund established.--The Extraction for Education and

1 Environmental Protection Fund is established in the State
2 Treasury.

3 (b) Deposits.--The tax collected under section 5102
4 (relating to imposition and adjustment of tax) shall be
5 deposited into the Extraction for Education and Environmental
6 Protection Fund.

7 (c) Use of funds.--The money deposited under subsection (b)
8 shall be annually distributed as follows:

9 (1) Fifty percent shall be distributed as follows:

10 (i) Fifty percent shall be distributed to each
11 school district in accordance with the student-weighted
12 basic education funding formula under section 2502.53 of
13 the act of March 10, 1949 (P.L.30, No.14), known as the
14 Public School Code of 1949.

15 (ii) Fifty percent shall be deposited into the
16 School Safety and Security Fund for the purpose of
17 providing school safety and security grants under section
18 1306-B of the Public School Code of 1949. If the money
19 deposited into the School Safety and Security Fund for
20 the year exceeds the total amount of grants awarded under
21 section 1306-B of the Public School Code of 1949 for the
22 year when the funds are deposited, the excess money shall
23 be distributed to each school district in accordance with
24 the student-weighted basic education funding formula
25 under section 2502.53 of the Public School Code of 1949.

26 (2) Fifty percent shall be distributed as follows:

27 (i) Ten percent to the commission for the employment
28 or contracting of additional pipeline safety inspectors.

29 (ii) Ten percent to the DEP for the employment or
30 contracting of additional inspectors and other personnel

1 for the administration of Chapter 32 (relating to
2 development).

3 (iii) Eighty percent shall be distributed as
4 follows:

5 (A) Sixty-six and two-thirds percent to the
6 Commonwealth Financing Authority for grants to
7 eligible applicants for the following:

8 (I) Orphan or abandoned oil and gas well
9 plugging.

10 (II) Acid mine damage, abatement and cleanup
11 and mine reclamation.

12 (III) Complying with the act of January 24,
13 1966 (1965 P.L.1535, No.537), known as the
14 Pennsylvania Sewage Facilities Act.

15 (IV) Programs to establish baseline water
16 quality data on private water supplies.

17 (B) The balance of the amount in subparagraph
18 (iii) to the Environmental Stewardship Fund.

19 Section 3. This act shall take effect immediately.