

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2785 Session of  
2010

INTRODUCED BY DERMODY, MURPHY, DeLUCA, MUNDY, GEORGE, SAINATO,  
LEVDANSKY, HANNA, BELFANTI, DALEY, McGEEHAN, FREEMAN,  
READSHAW, K. SMITH, STABACK, WATERS, WAGNER, MELIO, MATZIE,  
MUSTIO, DePASQUALE, KORTZ, KOTIK, CRUZ, CALTAGIRONE AND  
MAHONEY, NOVEMBER 3, 2010

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
NOVEMBER 3, 2010

AN ACT

1 Amending the act of December 19, 1984 (P.L.1140, No.223),  
2 entitled "An act relating to the development of oil and gas  
3 and coal; imposing duties and powers on the Department of  
4 Environmental Resources; imposing notification requirements  
5 to protect landowners; and providing for definitions, for  
6 various requirements to regulate the drilling and operation  
7 of oil and gas wells, for gas storage reservoirs, for various  
8 reporting requirements, including certain requirements  
9 concerning the operation of coal mines, for well permits, for  
10 well registration, for distance requirements, for well casing  
11 requirements, for safety device requirements, for storage  
12 reservoir obligations, for well bonding requirements, for a  
13 Well Plugging Restricted Revenue Account to enforce oil and  
14 gas well plugging requirements, for the creation of an Oil  
15 and Gas Technical Advisory Board, for oil and gas well  
16 inspections, for enforcement and for penalties," further  
17 providing for well permits, for well location restrictions  
18 and for local ordinances.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. Sections 201(e) and (f) and 205(a) of the act of  
22 December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas  
23 Act, are amended to read:

24 Section 201. Well permits.

1       \* \* \*

2       (e) The department shall issue a permit within 45 days of  
3 the submission of a permit application unless the department  
4 denies the permit application for one or more of the five  
5 reasons set forth below: Provided, however, That the department  
6 shall have the right to extend such period for 15 days for cause  
7 shown upon notification to the applicant of the reasons for that  
8 extension. The department may impose such permit terms and  
9 conditions as are necessary to assure compliance with this act  
10 and other laws administered by the department. The issuance of a  
11 permit to a well operator is contingent upon the well operator  
12 giving notice to the local political subdivision as provided in  
13 subsection (f) and the occurrence of a public hearing,  
14 coordinated by the well operator and the department, in the  
15 local political subdivision no later than 14 days prior to  
16 drilling. The department shall have the authority to deny a  
17 permit to any person for the following reasons:

18           (1) the well site for which a permit is requested is in  
19 violation of any of the provisions of this act, or if  
20 issuance of such permit would result in a violation of this  
21 act or any other applicable environmental statute, rule or  
22 regulation;

23           (2) the permit application is incomplete;

24           (3) unresolved objections to the well location by coal  
25 mine owner or operator remain;

26           (4) the requirements of section 215 have not been met;

27       or

28           (5) the applicant, with respect to any other well or  
29 wells which the applicant operates, is in continuing  
30 violation of this act or any other applicable statute

1 administered by the department. The right of the department  
2 to deny a permit under this paragraph shall not be effective  
3 until a final administrative determination has been made of  
4 any of these violations and no appeal is pending in which a  
5 stay has been granted.

6 (f) Upon issuance of a permit, the well operator may proceed  
7 with the drilling of the well at the exact location shown on the  
8 plat after providing the department, the surface landowner and  
9 the local political subdivision in which the well is to be  
10 located 24 hours' notice of the date that drilling will  
11 commence. The well operator shall provide the local political  
12 subdivision 30 days' written notice that the well operator  
13 intends to begin drilling and hold a public hearing, in  
14 conjunction with the department, no later than 14 days prior to  
15 drilling. In noncoal areas where more than one well is to be  
16 drilled as part of the same development project, only the first  
17 well of the project need be located by survey. The remaining  
18 wells of the project shall be shown on the plat in a manner  
19 prescribed by regulation. Prior to drilling each of the  
20 additional project wells, the well operator shall notify the  
21 department of his intention and provide reasonable notice of the  
22 date drilling will commence. Whenever, before or during the  
23 drilling of any well which is not within the outside boundaries  
24 of an operating coal mine, the well operator shall encounter  
25 conditions of such a nature as to render drilling of the bore  
26 hole or portions thereof more hazardous than usual, or otherwise  
27 impossible, then the well operator shall have the right, upon  
28 verbal notice to the department, to immediately plug all or  
29 portions of the bore hole, if drilling has occurred, and to  
30 commence a new bore hole not more than 50 feet distant if the

1 location of the new bore hole does not violate section 205 and  
2 if, for wells subject to the act of July 25, 1961 (P.L.825,  
3 No.359), known as the Oil and Gas Conservation Law, the new  
4 location complies with any existing law, regulation or spacing  
5 order and if the new bore hole is a minimum of 330 feet distant  
6 from the nearest lease boundary. Within ten days of commencement  
7 of the new bore hole, the well operator shall file with the  
8 department a written notice of intention to plug, a well record,  
9 a completion report, a plugging certificate for the original  
10 bore hole and an amended plat for the new bore hole. The well  
11 operator shall forward a copy of the amended plat to the surface  
12 landowner identified on the well permit application within ten  
13 days of commencement of the new well bore.

14 \* \* \*

15 Section 205. Well location restrictions.

16 (a) Wells may not be drilled within [200] 1,000 feet  
17 measured horizontally from any existing building or existing  
18 water well without the written consent of the owner thereof.  
19 Where the distance restriction would deprive the owner of the  
20 oil and gas rights of the right to produce or share in the oil  
21 or gas underlying said surface tract, the well operator may be  
22 granted a variance from said distance restriction upon  
23 submission of a plan which shall identify the additional  
24 measures, facilities or practices to be employed during well  
25 site construction, drilling and operations. The variance, if  
26 granted, shall include such additional terms and conditions as  
27 the department shall require to insure the safety and protection  
28 of affected persons and property. The provisions may include  
29 insurance, bonding and indemnification, as well as technical  
30 requirements.

1       \* \* \*

2       Section 2. Section 602 of the act, amended July 2, 1992  
3       (P.L.365, No.78), is amended to read:

4       Section 602. Local ordinances.

5       Except with respect to ordinances adopted pursuant to the act  
6       of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania  
7       Municipalities Planning Code, [and] the act of October 4, 1978  
8       (P.L.851, No.166), known as the Flood Plain Management Act, and  
9       the act of March 31, 1927 (P.L.98, No.69), referred to as the  
10      Second Class City Zoning Law, all local ordinances and  
11      enactments purporting to regulate oil and gas well operations  
12      regulated by this act are hereby preempted and superseded to the  
13      extent the ordinances and enactments regulate the method of oil  
14      and gas well operations. No ordinances or enactments adopted  
15      pursuant to the aforementioned acts shall contain provisions  
16      which impose conditions, requirements or limitations on the  
17      [same features] method of oil and gas well operations regulated  
18      by this act or that accomplish the same purposes as set forth in  
19      this act. [The Commonwealth, by this enactment, hereby preempts  
20      and supersedes the regulation of oil and gas wells as herein  
21      defined.] Nothing in this act shall affect the traditional power  
22      of local government to regulate zoning and land development of  
23      oil and gas activities as well as other aspects, such as the  
24      time and the place of operations to protect the health, safety  
25      and welfare of the general public through local ordinances and  
26      enactments.

27      Section 3. This act shall take effect in 60 days.