WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1997

--- • ---

ENROLLED

HOUSE BILL No. 2681

Davis, Fantasia, Kuhn, Flanigan, Heck, Willison and Azinger

(By Delegate _________________________)

--- • ---

Passed _________________________ April 12, 1997

In Effect ___________________________ July 1, 1997

Passage
AN ACT to amend and reenact sections two, four and thirteen, article nine, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to terminating the oil and gas conservation commission; continuing certain functions relating to oil and gas resource conservation under the oil and gas conservation commissioner; and providing that the chief of the office of oil and gas serve as commissioner.

Be it enacted by the Legislature of West Virginia:

That sections two, four and thirteen, article nine, chapter twenty-two-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9. OIL AND GAS CONSERVATION.

§22C-9-2. Definitions.

1 (a) Unless the context in which used clearly requires a different meaning, as used in this article:

3 (1) "Commissioner" means the oil and gas conservation commissioner as provided for in section four of this article;

6 (2) "Director" means the director of the division of
environmental protection or such other person to whom
the director has delegated authority or duties pursuant to
sections six or eight, article one, chapter twenty-two of this
code;

(3) “Person” means any natural person, corporation,
partnership, receiver, trustee, executor, administrator,
guardian, fiduciary or other representative of any kind,
and includes any government or any political subdivision
or any agency thereof;

(4) “Operator” means any owner of the right to
develop, operate and produce oil and gas from a pool and
to appropriate the oil and gas produced therefrom, either
for such person or for such person and others; in the event
that there is no oil and gas lease in existence with respect
to the tract in question, the owner of the oil and gas rights
therein shall be considered as “operator” to the extent of
seven eighths of the oil and gas in that portion of the pool
underlying the tract owned by such owner, and as
“royalty owner” as to one-eighth interest in such oil and
gas; and in the event the oil is owned separately from the
gas, the owner of the substance being produced or sought
to be produced from the pool shall be considered as
“operator” as to such pool;

(5) “Royalty owner” means any owner of oil and
gas in place, or oil and gas rights, to the extent that such
owner is not an operator as defined in subdivision (4) of
this section;

(6) “Independent producer” means a person who is
actively engaged in the production of oil and gas in West
Virginia, but whose gross revenue from such production
in West Virginia does not exceed five hundred thousand
dollars per year;

(7) “Oil” means natural crude oil or petroleum and
other hydrocarbons, regardless of gravity, which are
produced at the well in liquid form by ordinary
production methods and which are not the result of
condensation of gas after it leaves the underground
reservoir;
(8) "Gas" means all natural gas and all other fluid hydrocarbons not defined as oil in subdivision (7) of this section;

(9) "Pool" means an underground accumulation of petroleum in a single and separate natural reservoir (ordinarily a porous sandstone or limestone). It is characterized by a single natural-pressure system so that production of petroleum from one part of the pool affects the reservoir pressure throughout its extent. A pool is bounded by geologic barriers in all directions, such as geologic structural conditions, impermeable strata, and water in the formations, so that it is effectively separated from any other pools that may be presented in the same district or on the same geologic structure;

(10) "Well" means any shaft or hole sunk, drilled, bored or dug into the earth or underground strata for the extraction of oil or gas;

(11) "Shallow well" means any well drilled and completed in a formation above the top of the uppermost member of the "Onondaga Group": Provided, That in drilling a shallow well the operator may penetrate into the "Onondaga Group" to a reasonable depth, not in excess of twenty feet, in order to allow for logging and completion operations, but in no event may the "Onondaga Group" formation be otherwise produced, perforated or stimulated in any manner;

(12) "Deep well" means any well, other than a shallow well, drilled and completed in a formation at or below the top of the uppermost member of the "Onondaga Group";

(13) "Drilling unit" means the acreage on which one well may be drilled;

(14) "Waste" means and includes: (A) Physical waste, as that term is generally understood in the oil and gas industry; (B) the locating, drilling, equipping, operating or producing of any oil or gas well in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under
prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss of oil or gas; or (C) the drilling of more deep wells than are reasonably required to recover efficiently and economically the maximum amount of oil and gas from a pool. Waste does not include gas vented or released from any mine areas as defined in section two, article one, chapter twenty-two-a of this code or from adjacent coal seams which are the subject of a current permit issued under article two of chapter twenty-two-a of this code: Provided, That nothing in this exclusion is intended to address ownership of the gas;

(15) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive without waste the oil and gas in and under his tract or tracts, or the equivalent thereof; and

(16) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying such person’s tract or tracts.

(b) Unless the context clearly indicates otherwise, the use of the word “and” and the word “or” shall be interchangeable, as, for example, “oil and gas” shall mean oil or gas or both.

§22C-9-4. Oil and gas conservation commissioner; appointment and qualifications; general powers and duties.

(a) The office of oil and gas conservation commissioner within the division of environmental protection is hereby continued. The chief of the office of oil and gas, who shall possess a degree from an accredited college or university in engineering or geology and must be a registered professional engineer with particular knowledge and experience in the oil and gas industry, shall serve in the capacity of oil and gas conservation commissioner without extra compensation.

(b) The oil and gas conservation commissioner is
hereby empowered and it is the commissioner’s duty to
execute and carry out, administer and enforce the
provisions of this article in the manner provided herein.
Subject to the provisions of section three of this article, the
commissioner has jurisdiction and authority over all
persons and property necessary therefor. The com-
missioner is authorized to make such investigation of
records and facilities as the commissioner deems proper.
In the event of a conflict between the duty to prevent waste
and the duty to protect correlative rights, the com-
missioner’s duty to prevent waste shall be paramount.

(c) Without limiting the commissioner’s general
authority, the commissioner shall have specific authority

(1) Regulate the spacing of deep wells;

(2) Make and enforce reasonable rules and orders
reasonably necessary to prevent waste, protect correlative
rights, govern the practice and procedure before the
commissioner and otherwise administer the provisions of
this article;

(3) Issue subpoenas for the attendance of witnesses
and subpoenas duces tecum for the production of any
books, records, maps, charts, diagrams and other pertinent
documents, and administer oaths and affirmations to such
witnesses, whenever, in the judgment of the commissioner,
it is necessary to do so for the effective discharge of the
commissioner’s duties under the provisions of this article;

and

(4) Serve as technical advisor regarding oil and gas
to the Legislature, its members and committees, to the
division of environmental protection and to any other
agency of state government having responsibility related
to the oil and gas industry.

§22C-9-13. Special oil and gas conservation tax.

Owners of leases on oil and gas for the exploration,
development or production of oil or natural gas shall pay
to the commissioner a special oil and gas conservation tax
of three cents for each acre under lease, excluding from
the tax the first twenty-five thousand acres. The commissioner shall deposit with the treasurer of the state of West Virginia, to the credit of the special oil and gas conservation fund, all taxes collected hereunder. The special oil and gas conservation fund shall be a special fund and shall be administered by the commissioner for the sole purpose of carrying out all costs necessary to carry out the provisions of this article. This tax shall be paid as provided herein annually on or before the first day of July, one thousand nine hundred seventy-two, and on or before the first day of July in each succeeding year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1997.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within _________ approved this the _______ day of ________, 1997.

Governor