

SB712

WEST VIRGINIA LEGISLATURE

Regular Session 2002



ENROLLED

SENATE BILL NO. 712

(By Senator Anderson, et al)



PASSED March 9, 2002

In Effect 90 days from **Passage**

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 712

(BY SENATORS ANDERSON, DEEM, HELMICK,
MCKENZIE, OLIVERIO AND ROSS)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-three, article six, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section three, article nine, chapter twenty two-c of said code, all relating to the plugging of oil and gas wells; designating the plats required to be filed prior to commencing plugging operations; providing that lessees are not required to offer to sell or otherwise transfer interest in well prior to commencement of plugging operations to lessors or others with interests in wells; authorizing the use of global positioning system for identification of well locations; and authorizing legislative rules relating thereto.

Be it enacted by the Legislature of West Virginia:

That section twenty-three, article six, chapter twenty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section three, article nine, chapter twenty two-c of said code be amended and reenacted, all to read as follows:

§22-6-23. Plugging, abandonment and reclamation of well; notice of intention; bonds; affidavit showing time and manner.

1 All dry or abandoned wells or wells presumed to be
2 abandoned under the provisions of section nineteen of this
3 article shall be plugged and reclaimed in accordance with
4 this section and the other provisions of this article and in
5 accordance with the rules promulgated by the secretary.

6 Prior to the commencement of plugging operations and
7 the abandonment of any well, the well operator shall
8 either (a) notify, by registered or certified mail, the
9 secretary and the coal operator operating coal seams, the
10 coal seam owner of record or lessee of record, if any, to
11 whom notices are required to be given by section twelve of
12 this article, and the coal operators to whom notices are
13 required to be given by section thirteen of this article, of
14 its intention to plug and abandon any such well (using
15 such form of notice as the secretary may provide), giving
16 the number of the well and its location and fixing the time
17 at which the work of plugging and filling will be com-
18 menced, which time shall be not less than five days after
19 the day on which such notice so mailed is received or in
20 due course should be received by the secretary, in order
21 that a representative or representatives of the secretary
22 and such coal operator, owner or lessee, if any, may be
23 present at the plugging and filling of the well: *Provided,*
24 That whether such representatives appear or do not
25 appear, the well operator may proceed at the time fixed to
26 plug and fill the well in the manner hereinafter described,
27 or (b) first obtain the written approval of the secretary and
28 such coal operator, owner or lessee, if any, or (c) in the
29 event the well to be plugged and abandoned is one on
30 which drilling or reworking operations have been continu-
31 ously progressing pursuant to authorization granted by the
32 secretary, first obtain the verbal permission of the secre-
33 tary or the secretary's designated representative to plug
34 and abandon the well, except that the well operator shall,

35 within a reasonable period not to exceed five days after
36 the commencement of the plugging operations, give the
37 written notices required by subdivision (a) above.

38 The well operator shall not be required to prepare or
39 submit to the director a plat prior to the commencement of
40 plugging operations as long as a plat pertaining to the
41 particular well is on file with the director and accurately
42 identifies the location of the well, or so long as there is on
43 file with the director the coordinates of the well estab-
44 lished by a global positioning system. The coordinates
45 established by a global positioning system must be filed
46 with the secretary in either a written or electronic form
47 prescribed by the secretary. The global positioning system
48 used to establish the coordinates shall be accurate within
49 the variance allowed by law for the distance between the
50 actual location of the well and location shown on the plat
51 that is required to be filed with a well permit application,
52 or the secretary may establish the accuracy of the global
53 positioning system by legislative rule promulgated pursu-
54 ant to section two of this article.

55 No well may be plugged or abandoned unless prior to the
56 commencement of plugging operations and the abandon-
57 ment of any well the secretary is furnished a bond as
58 provided in section twenty-six of this article. In no event
59 prior to the commencement of plugging operations shall a
60 lessee under a lease covering a well be required to give or
61 sell the well to any person owning an interest in the well,
62 including, but not limited to, the respective lessor, or agent
63 of the lessor, nor may the lessee be required to grant a
64 person with an interest in the well, including, but not
65 limited to, the respective lessor, or agent of the lessor, an
66 opportunity to qualify under section twenty-six of this
67 article to continue operation of the well.

68 When the plugging, filling and reclamation of a well
69 have been completed, an affidavit, in triplicate, shall be
70 made (on a form to be furnished by the secretary) by two
71 experienced persons who participated in the work, the

72 secretary or the secretary's designated representative, in
73 which affidavit shall be set forth the time and manner in
74 which the well was plugged and filled and the land
75 reclaimed. One copy of this affidavit shall be retained by
76 the well operator, another (or true copies of same) shall be
77 mailed to the coal operator or operators, if any, and the
78 third to the secretary.

§22C-9-3. Application of article; exclusions.

1 (a) Except as provided in subsection (b) of this section,
2 the provisions of this article shall apply to all lands
3 located in this state, however owned, including any lands
4 owned or administered by any government or any agency
5 or subdivision thereof, over which the state has jurisdic-
6 tion under its police power. The provisions of this article
7 are in addition to and not in derogation of or substitution
8 for the provisions of article six, chapter twenty-two of this
9 code.

10 (b) This article shall not apply to or affect:

11 (1) Shallow wells other than those utilized in secondary
12 recovery programs as set forth in section eight of this
13 article;

14 (2) Any well commenced or completed prior to the ninth
15 day of March, one thousand nine hundred seventy-two,
16 unless such well is, after completion (whether such com-
17 pletion is prior or subsequent to that date):

18 (A) Deepened subsequent to that date to a formation at
19 or below the top of the uppermost member of the "Onon-
20 daga Group"; or

21 (B) Involved in secondary recovery operations for oil
22 under an order of the commission entered pursuant to
23 section eight of this article;

24 (3) Gas storage operations or any well employed to inject
25 gas into or withdraw gas from a gas storage reservoir or
26 any well employed for storage observation; or

27 (4) Free gas rights.

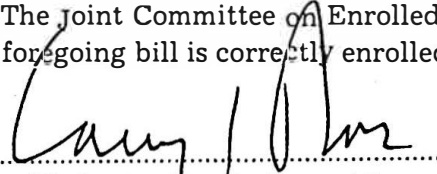
28 (c) The provisions of this article shall not be construed to
29 grant to the commissioner or the commission authority or
30 power to:

31 (1) Limit production or output, or prorate production of
32 any oil or gas well, except as provided in subdivision (6),
33 subsection (a), section seven of this article; or

34 (2) Fix prices of oil or gas.

35 (d) Nothing contained in either this chapter or chapter
36 twenty-two of this code may be construed so as to require,
37 prior to commencement of plugging operations, a lessee
38 under a lease covering a well to give or sell the well to any
39 person owning an interest in the well, including, but not
40 limited to, a respective lessor, or agent of the lessor, nor
41 shall the lessee be required to grant to a person owning an
42 interest in the well, including but not limited to a respec-
43 tive lessor, or agent of a lessor, an opportunity to qualify
44 under section twenty-six, article six, chapter twenty-two
45 of this code to continue operation of the well.

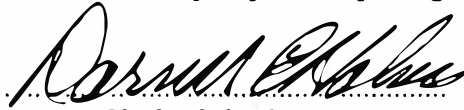
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


.....
Clerk of the House of Delegates


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President of the Senate


.....
Speaker House of Delegates

The within is approved..... this the 3rd
Day of April....., 2002.


.....
Governor

PROPERTY OF THE

MAIL ROOM

Date 3/25/02

Time 11:35 am