

SENATE BILL NO. 2058

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Mineral Resources)

1 A BILL ~~for an Act to amend and reenact subdivision b of subsection 1 of section 38-08-04 of the~~
2 ~~North Dakota Century Code, relating to the jurisdiction of commission and adding wellhead and~~
3 ~~equipment located at or on oil or gas well sites.~~ for an Act to amend and reenact section
4 38-08-04 of the North Dakota Century Code, relating to the jurisdiction of commission and
5 adding wellhead and equipment located at or on oil or gas well sites.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 ~~— **SECTION 1. AMENDMENT.** Subdivision b of subsection 1 of section 38-08-04 of the North~~
8 ~~Dakota Century Code is amended and reenacted as follows:~~

9 ~~— b. To regulate:~~

10 ~~— (1) The drilling, producing, and plugging of wells, the restoration of drilling and~~
11 ~~production sites, and all other operations for the production of oil or gas.~~

12 ~~— (2) The shooting and chemical treatment of wells.~~

13 ~~— (3) The spacing of wells.~~

14 ~~— (4) Operations to increase ultimate recovery such as cycling of gas, the~~
15 ~~maintenance of pressure, and the introduction of gas, water, or other~~
16 ~~substances into producing formations.~~

17 ~~— (5) Disposal of saltwater and oilfield wastes.~~

18 ~~— (a) The commission shall give all affected counties written notice of~~
19 ~~hearings in such matters at least fifteen days before the hearing.~~

20 ~~— (b) The commission may consider, in addition to other authority granted~~
21 ~~under this section, safety of the location and road access to saltwater~~
22 ~~disposal wells, treating plants, and all associated facilities.~~

23 ~~— (6) The underground storage of oil or gas.~~

~~(7) Wellhead and lease equipment, oil and gas separators, emulsion treaters, boilers, electric generators, flares, newly constructed underground gathering pipelines, flare mitigation systems, and all other equipment located at or on an oil or gas well site.~~

SECTION 1. AMENDMENT. Section 38-08-04 of the North Dakota Century Code is amended and reenacted as follows:

38-08-04. Jurisdiction of commission.

1. The commission has continuing jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The commission has authority, and it is its duty, to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the commission. The commission has the authority:
 - a. To require:
 - (1) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil and gas.
 - (2) The making and filing with the industrial commission of all resistivity, radioactivity, and mechanical well logs and the filing of directional surveys, if taken, and the filing of reports on well location, drilling, and production.
 - (3) The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another, the intrusion of water into oil or gas strata, the pollution of freshwater supplies by oil, gas, or saltwater, and to prevent blowouts, cavings, seepages, and fires.
 - (4) The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with this chapter, and the rules and orders of the industrial commission, including without limitation a bond covering the operation of any underground gathering pipeline transferring oil or produced water from a production facility for disposal, storage, or sale purposes, except that if the commission requires a bond to be furnished, the person required to furnish the bond may elect to deposit under such terms

1 and conditions as the industrial commission may prescribe a collateral bond,
2 self-bond, cash, or any alternative form of security approved by the
3 commission, or combination thereof, by which an operator assures faithful
4 performance of all requirements of this chapter and the rules and orders of
5 the industrial commission.

6 (5) That the production from wells be separated into gaseous and liquid
7 hydrocarbons, and that each be accurately measured by such means and
8 upon such standards as may be prescribed by the commission.

9 (6) The operation of wells with efficient gas-oil and water-oil ratios, and to fix
10 these ratios.

11 (7) Certificates of clearance in connection with the transportation or delivery of
12 oil, gas, or any product.

13 (8) Metering or other measuring of oil, gas, or product related to production in
14 pipelines, gathering systems, storage tanks, barge terminals, loading racks,
15 refineries, or other places, by meters or other measuring devices approved
16 by the commission.

17 (9) Every person who produces, sells, purchases, acquires, stores, transports,
18 refines, disposes of, or processes oil, gas, saltwater, or other related oilfield
19 fluids in this state to keep and maintain within this state complete and
20 accurate records of the quantities thereof, which records must be available
21 for examination by the commission or its agents at all reasonable times, and
22 to file with the commission reports as the commission may prescribe with
23 respect to oil or gas or the products thereof. An oil and gas production report
24 need not be notarized but must be signed by the person submitting the
25 report.

26 (10) The payment of fees for services performed. The amount of the fee shall be
27 set by the commission based on the anticipated actual cost of the service
28 rendered. Unless otherwise provided by statute, all fees collected by the
29 commission must be deposited in the general fund of this state, according to
30 procedures established by the state treasurer.

1 (11) The filing free of charge of samples and core chips and of complete cores
2 when requested in the office of the state geologist within six months after
3 the completion or abandonment of the well.

4 (12) The placing of wells in abandoned-well status which have not produced oil
5 or natural gas in paying quantities for one year. A well in abandoned-well
6 status must be promptly returned to production in paying quantities,
7 approved by the commission for temporarily abandoned status, or plugged
8 and reclaimed within six months. If none of the three preceding conditions
9 are met, the industrial commission may require the well to be placed
10 immediately on a single-well bond in an amount equal to the cost of
11 plugging the well and reclaiming the well site. In setting the bond amount,
12 the commission shall use information from recent plugging and reclamation
13 operations. After a well has been in abandoned-well status for one year, the
14 well's equipment, all well-related equipment at the well site, and salable oil
15 at the well site are subject to forfeiture by the commission. If the commission
16 exercises this authority, section 38-08-04.9 applies. After a well has been in
17 abandoned-well status for one year, the single-well bond referred to above,
18 or any other bond covering the well if the single-well bond has not been
19 obtained, is subject to forfeiture by the commission. A surface owner may
20 request a review of the temporarily abandoned status of a well that has
21 been on temporarily abandoned status for at least seven years. The
22 commission shall require notice and hearing to review the temporarily
23 abandoned status. After notice and hearing, the surface owner may request
24 a review of the temporarily abandoned status every two years.

25 b. To regulate:

26 (1) The drilling, producing, and plugging of wells, the restoration of drilling and
27 production sites, and all other operations for the production of oil or gas.

28 (2) The shooting and chemical treatment of wells.

29 (3) The spacing of wells.

1 (4) Operations to increase ultimate recovery such as cycling of gas, the
2 maintenance of pressure, and the introduction of gas, water, or other
3 substances into producing formations.

4 (5) Disposal of saltwater and oilfield wastes.

5 (a) The commission shall give all affected counties written notice of
6 hearings in such matters at least fifteen days before the hearing.

7 (b) The commission may consider, in addition to other authority granted
8 under this section, safety of the location and road access to saltwater
9 disposal wells, treating plants, and all associated facilities.

10 (6) The underground storage of oil or gas.

11 (7) The location and operation of wellhead and lease equipment, oil and gas
12 separators, emulsion treaters, boilers, electric generators, flares, newly
13 constructed underground gathering pipelines, flare mitigation systems, and
14 all other equipment located at or on an oil or gas well site or underground
15 gathering pipeline facility.

16 c. To limit and to allocate the production of oil and gas from any field, pool, or area
17 and to establish and define as separate marketing districts those contiguous
18 areas within the state which supply oil and gas to different markets, and to limit
19 and allocate the production of oil and gas for each separate marketing district.

20 d. To classify wells as oil or gas wells for purposes material to the interpretation or
21 enforcement of this chapter, to classify and determine the status and depth of
22 wells that are stripper well property as defined in section 57-51.1-01, to certify to
23 the tax commissioner which wells are stripper wells as defined in section
24 57-51.1-01 and the depth of those wells, and to certify to the tax commissioner
25 which wells involve secondary or tertiary recovery operations as defined in
26 section 57-51.1-01, and the date of qualification for the oil extraction tax
27 exemption for secondary and tertiary recovery operations.

28 e. To adopt and to enforce rules and orders to effectuate the purposes and the
29 intent of this chapter and the commission's responsibilities under chapter
30 57-51.1. When adopting a rule, issuing an order, or creating a policy, the
31 commission shall give due consideration to the effect of including locations within

1 this state which may also be under the jurisdiction of the federal government or a
2 tribal government. When reporting information resulting from adopting a rule,
3 issuing an order, or creating a policy that affects locations within this state which
4 may also be under the jurisdiction of the federal government or a tribal
5 government, the commission shall provide sufficient information to indicate the
6 effect of including locations that may also be under the regulatory jurisdiction of
7 the federal government or a tribal government.

8 f. To provide for the confidentiality of well data reported to the commission if
9 requested in writing by those reporting the data for a period not to exceed six
10 months. However, the commission may release:

11 (1) Volumes injected into a saltwater injection well.

12 (2) Information from the spill report on a well on a site at which more than ten
13 barrels of fluid, not contained on the well site, was released for which an
14 oilfield environmental incident report is required by law.

15 2. A person controlling or operating a well, pipeline, receiving tank, storage tank, treating
16 plant, or other receptacle or production facility associated with oil and gas, or with
17 water production, injection, processing, or well servicing, shall report to the
18 commission any leak, spill, or release of fluid. A report to the commission is not
19 required if the leak, spill, or release is crude oil, produced water, or natural gas liquids
20 in a quantity of less than ten barrels cumulative over a fifteen-day time period, remains
21 on the site or facility, and is on a well site where the well was spud after September 1,
22 2000, or on a facility, other than a well site, constructed after September 1, 2000.

23 3. Any written violation notice issued by the commission regarding the notification of a
24 fire, leak, spill, blowout, or leak and spill cleanup must be placed in the well file or
25 facility file and the files must be available for review by the surface owner.

26 4. Nothing in this section may be interpreted to modify or supersede applicable
27 requirements related to oil and gas production under any of the following:

28 a. Chapter 23.1-06, the federal Clean Air Act [42 U.S.C. 7401 et seq.], as amended,
29 or rules adopted pursuant to either chapter 23.1-06 or the federal Clean Air Act.

1 b. Chapter 61-28, the federal Clean Water Act [33 U.S.C. 1251 et seq.], as
2 amended, or rules adopted pursuant to either chapter 61-28 or the federal Clean
3 Water Act.