

Sixty-fifth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1151

Introduced by

Representatives Streyle, Dockter, Lefor

Senators O. Larsen, Schaible, Unruh

1 A BILL for an Act to amend and reenact section 38-08-04 of the North Dakota Century Code,  
2 relating to the reporting of well pad or oil and gas production facility fluid spills.

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

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

6 **38-08-04. Jurisdiction of commission.**

7 1. The commission has continuing jurisdiction and authority over all persons and  
8 property, public and private, necessary to enforce effectively the provisions of this  
9 chapter. The commission has authority, and it is its duty, to make such investigations  
10 as it deems proper to determine whether waste exists or is imminent or whether other  
11 facts exist which justify action by the commission. The commission has the authority:

12 4. a. To require:

13 a. (1) Identification of ownership of oil or gas wells, producing leases, tanks,  
14 plants, structures, and facilities for the transportation or refining of oil and  
15 gas.

16 b. (2) The making and filing with the industrial commission of all resistivity,  
17 radioactivity, and mechanical well logs and the filing of directional surveys, if  
18 taken, and the filing of reports on well location, drilling, and production.

19 e. (3) The drilling, casing, operation, and plugging of wells in such manner as to  
20 prevent the escape of oil or gas out of one stratum into another, the  
21 intrusion of water into oil or gas strata, the pollution of freshwater supplies  
22 by oil, gas, or saltwater, and to prevent blowouts, cavings, seepages, and  
23 fires.

- 1           d. (4) The furnishing of a reasonable bond with good and sufficient surety,  
2           conditioned upon the full compliance with this chapter, and the rules and  
3           orders of the industrial commission, including without limitation a bond  
4           covering the operation of any underground gathering pipeline transferring oil  
5           or produced water from a production facility for disposal, storage, or sale  
6           purposes, except that if the commission requires a bond to be furnished, the  
7           person required to furnish the bond may elect to deposit under such terms  
8           and conditions as the industrial commission may prescribe a collateral bond,  
9           self-bond, cash, or any alternative form of security approved by the  
10          commission, or combination thereof, by which an operator assures faithful  
11          performance of all requirements of this chapter and the rules and orders of  
12          the industrial commission.
- 13          e. (5) That the production from wells be separated into gaseous and liquid  
14          hydrocarbons, and that each be accurately measured by such means and  
15          upon such standards as may be prescribed by the commission.
- 16          f. (6) The operation of wells with efficient gas-oil and water-oil ratios, and to fix  
17          these ratios.
- 18          g. (7) Certificates of clearance in connection with the transportation or delivery of  
19          oil, gas, or any product.
- 20          h. (8) Metering or other measuring of oil, gas, or product related to production in  
21          pipelines, gathering systems, storage tanks, barge terminals, loading racks,  
22          refineries, or other places, by meters or other measuring devices approved  
23          by the commission.
- 24          i. (9) Every person who produces, sells, purchases, acquires, stores, transports,  
25          refines, disposes of, or processes oil, gas, saltwater, or other related oilfield  
26          fluids in this state to keep and maintain within this state complete and  
27          accurate records of the quantities thereof, which records must be available  
28          for examination by the commission or its agents at all reasonable times, and  
29          to file with the commission reports as the commission may prescribe with  
30          respect to oil or gas or the products thereof. An oil and gas production report

1                    need not be notarized but must be signed by the person submitting the  
2                    report.

3            j- (10)    The payment of fees for services performed. The amount of the fee shall be  
4                    set by the commission based on the anticipated actual cost of the service  
5                    rendered. Unless otherwise provided by statute, all fees collected by the  
6                    commission must be deposited in the general fund of this state, according to  
7                    procedures established by the state treasurer.

8            k- (11)    The filing free of charge of samples and core chips and of complete cores  
9                    when requested in the office of the state geologist within six months after  
10                   the completion or abandonment of the well.

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

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- 1        2. b. To regulate:
- 2            a. (1) The drilling, producing, and plugging of wells, the restoration of drilling and
- 3                            production sites, and all other operations for the production of oil or gas.
- 4            b. (2) The shooting and chemical treatment of wells.
- 5            e. (3) The spacing of wells.
- 6            d. (4) Operations to increase ultimate recovery such as cycling of gas, the
- 7                            maintenance of pressure, and the introduction of gas, water, or other
- 8                            substances into producing formations.
- 9            e. (5) Disposal of saltwater and oilfield wastes.
- 10            (4) (a) The commission shall give all affected counties written notice of
- 11                            hearings in such matters at least fifteen days before the hearing.
- 12            (2) (b) The commission may consider, in addition to other authority granted
- 13                            under this section, safety of the location and road access to saltwater
- 14                            disposal wells, treating plants, and all associated facilities.
- 15            f. (6) The underground storage of oil or gas.
- 16        3. 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        4. 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        5. 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       6.   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       a.   (1)   Volumes injected into a saltwater injection well.

12       b.   (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 and  
21       remains on the facility or site and the facility or site has impermeable base material  
22       and containment.

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.