

SENATE BILL NO. 285

BY SENATORS CATHEY, BARROW, BASS, BOUIE, FESI AND JENKINS

1 AN ACT

2 To amend and reenact R.S. 30:3(2), (10), (11), (12), (16)(a), 5(C)(2) and (6), 9(B) and (D),
3 10(A)(1)(a), 11, the introductory paragraph of 103.1(A), 103.1(A)(2)(a), and (C), and
4 103.2 and R.S. 31:4 and to enact R.S. 30:2.1, 3(18), (19), and (20) and 4(C)(18),
5 (19), and (20), relative to brine extraction; to provide for definitions; to provide for
6 exclusions; to provide for a multiple mineral development area; to provide for
7 adjudication of conflicts; to provide for unit operations; to provide for pooling of
8 production; to provide for production allocation; to provide for reporting; to provide
9 for penalties; to provide for applicability; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 30:3(2), (10), (11), (12), (16)(a), 5(C)(2) and (6), 9(B) and (D),
12 10(A)(1)(a), 11, the introductory paragraph of 103.1(A), 103.1(A)(2)(a), and (C), and 103.2
13 are hereby amended and reenacted and R.S. 30:2.1, 3(18), (19), and (20) and 4(C)(18), (19),
14 and (20) are hereby enacted to read as follows:

15 **§2.1. Ownership of brine produced incident to oil and gas operations**

16 **Unless expressly provided otherwise by contract, brine produced**
17 **incident to the production of oil and gas by the person, including operators and**
18 **producers acting on behalf of the person, who has the right to drill into and to**
19 **produce from a pool and to appropriate the production, either for himself or for**
20 **others, belongs to such person, regardless of whether such brine is saved,**
21 **retained, used, or sold for the purpose of extracting the constituent parts,**
22 **minerals, elements, compounds, or substances contained in or dissolved in the**
23 **brine.**

24 §3. Definitions

25 Unless the context otherwise requires, the words defined in this Section have
26 the following meaning when found in this Chapter:

27 * * *

1 that term is generally understood in the oil and gas industry. It includes:

2 (a) the inefficient, excessive, or improper use or dissipation of a reservoir
 3 energy; and the location, spacing, drilling, equipping, operating, or producing of ~~an~~
 4 oil or gas a well in a manner which results, or tends to result, in reducing the quantity
 5 of oil ~~or~~ gas, or brine ultimately recoverable from a pool; and

6 * * *

7 (18) "Brine" means subterranean saltwater, whether contained in or
 8 produced from a reservoir, and all of the saltwater's constituent parts, minerals,
 9 elements, compounds, or substances contained in or dissolved in the saltwater,
 10 including but not limited to lithium, bromine, barium, magnesium, potassium,
 11 sodium, iodine, or other constituent parts, minerals, elements, compounds, or
 12 substances produced with or separated from the saltwater. "Brine" does not
 13 include brine produced as an incident to the production of oil and gas, unless
 14 the brine is saved, retained, used, or sold for the purpose of extracting the
 15 constituent parts, minerals, elements, compounds, or substances contained or
 16 dissolved in the brine. "Brine" also does not include underground sources of
 17 drinking water or brine created through solution mining.

18 (19) "Brine production operations" means the exploration for,
 19 development of, or production of brine through the use of a well or wells.
 20 "Brine production operations" may include the reinjection of the brine,
 21 including after possible extraction of any constituent parts, minerals, elements,
 22 compounds, or substances contained in or dissolved in the brine.

23 (20) "Multiple mineral development area" means an area designated by
 24 the commissioner for the management and development of various concurrent
 25 surface and sub-surface mineral or resource production or extraction
 26 operations, including exploratory activities, for the purpose of efficient and
 27 effective development of minerals or resources in the area without unreasonable
 28 interference.

29 §4. Jurisdiction, duties, and powers of the assistant secretary; rules and regulations

30 * * *

1 C. The commissioner has authority to make, after notice and hearings as
2 provided in this Chapter, any reasonable rules, regulations, and orders that are
3 necessary from time to time in the proper administration and enforcement of this
4 Chapter, including rules, regulations, or orders for the following purposes:

5 * * *

6 **(18) To regulate brine production operations.**

7 **(19) To designate an area within the state as a multiple mineral**
8 **development area for purposes of brine production operations.**

9 **(20) To adjudicate and determine multiple mineral development conflicts**
10 **among brine production operations if any of the following circumstances exist:**

11 **(a) There is potential injury to other mineral deposits or mineral**
12 **development in or beneath the property affected.**

13 **(b) There are simultaneous or concurrent operations conducted by other**
14 **mineral owners or lessees affecting the property.**

15 * * *

16 §5. Permission to convert gas into carbon black; recycling gas; unit operations

17 * * *

18 C.(1)

* * *

19 (2) In connection with such an order of unit operation, the assistant secretary
20 of the office of conservation shall have the right to unitize, pool, and consolidate all
21 separately owned tracts and other property ownerships. Any order for such a unit
22 operation shall be issued only after notice and hearing and shall be based on **all the**
23 **following** findings ~~that~~:

24 (a) The order is reasonably necessary for the prevention of waste and the
25 drilling of unnecessary wells, and will appreciably increase the ultimate recovery of
26 oil ~~or~~, **gas, or brine** from the affected pool or combination of two pools;

27 (b) The proposed unit operation is economically feasible;

28 (c) The order will provide for the allocation to each separate tract within the
29 unit of a proportionate share of the unit production which shall insure the recovery
30 by the owners of that tract of their just and equitable share of the recoverable oil ~~or~~,

1 gas, or brine in the unitized pool or combination of two pools, ~~and,~~

2 (d) At least three-fourths of the owners and three-fourths of the royalty
 3 owners, as to a particular interest, as hereinafter defined, such three-fourths to be in
 4 interest as determined under Subparagraph (c) hereof of this Paragraph, shall have
 5 approved the plan and terms of unit operation, such approval to be evidenced by a
 6 written contract or contracts covering the terms and operation of the unitization
 7 signed and executed by the three-fourths in interest of the owners and three-fourths
 8 in interest of the ~~said~~ royalty owners and filed with the assistant secretary of the
 9 office of conservation on or before the day set for the hearing. Notwithstanding any
 10 other provision of this Subparagraph to the contrary, with respect to an order
 11 for unit operation for the production of brine, such approval shall only be
 12 required from at least three-fourths of the owners as to the particular interest,
 13 such approval to be evidenced by a written contract or contracts covering the
 14 terms and operation of the unitization signed and executed by the three-fourths
 15 in interest of the owners and filed with the assistant secretary of the office of
 16 conservation on or before the day set for the hearing.

17 * * *

18 (6) No order of the commissioner entered pursuant hereto shall have the
 19 effect of enlarging, displacing, varying, altering, or in anywise whatsoever modifying
 20 or changing contracts in existence on the effective date of this Act concerning the
 21 unitization of any pool (reservoir) or pools (reservoirs) or field (as defined in the
 22 contract) for the production of oil ~~or~~, gas, ~~or both~~ brine, or any combination
 23 thereof.

24 * * *

25 §9. Production from pool; drilling units; equitable share; rules and regulations

26 A. * * *

27 B. For the prevention of waste and to avoid the drilling of unnecessary wells,
 28 the commissioner shall establish a drilling unit or units for each pool, except for
 29 those pools which, prior to July 31, 1940, had been developed to an extent and where
 30 conditions exist making it impracticable or unreasonable to use a drilling unit at the

1 present stage of development. A drilling unit, as contemplated herein, means the
 2 maximum area which may be efficiently and economically drained by the well or
 3 wells designated to serve the drilling unit as the unit well, substitute unit well, or
 4 alternate unit well. This unit shall constitute a developed area as long as a well is
 5 located thereon which is capable of producing oil ~~or~~ gas, **or brine** in paying
 6 quantities.

7 * * *

8 D. Subject to the reasonable necessities for the prevention of waste, and to
 9 reasonable adjustment because of structural position, a producer's just and equitable
 10 share of the oil ~~and~~ gas, **or brine** in the pool, also referred to as a tract's just and
 11 equitable share, is that part of the authorized production of the pool, whether it be the
 12 total which could be produced without any restriction on the amount of production,
 13 or whether it be an amount less than that which the pool could produce if no
 14 restriction on amount were imposed, which is substantially in the proportion that the
 15 quantity of recoverable oil ~~and~~ gas, **or brine** in the developed area of his tract or
 16 tracts in the pool bears to the recoverable oil ~~and~~ gas, **or brine** in the total developed
 17 area of the pool, in so far as these amounts can be practically ascertained. To that
 18 end, the rules, regulations, and orders of the commissioner shall be such as will
 19 prevent or minimize reasonably avoidable net drainage from each developed area,
 20 that is, drainage not equalized by counter drainage, and will give to each producer
 21 the opportunity to use his just and equitable share of the ~~reservoir energy~~
 22 **production**. In determining each producer's just and equitable share of the
 23 production authorized for the pool, the commissioner is authorized to give due
 24 consideration to the productivity of the well or wells located thereon, as determined
 25 by flow tests, bottom hole pressure tests, or any other practical method of testing
 26 wells and producing structures, and to consider other factors and geological and
 27 engineering tests and data as may be determined by the commissioner to be pertinent
 28 or relevant to ascertaining each producer's just and equitable share of the production
 29 ~~and reservoir energy~~ of the field or pool.

30 §10. Agreements for drilling units; pooling interests; terms and conditions; expenses

1 A. * * *

2 (1) * * *

3 (a) All orders requiring pooling shall be made after notice and hearing. They
 4 shall be upon terms and conditions that are just and reasonable and that will afford
 5 the owner of each tract the opportunity to recover or receive his just and equitable
 6 share of the oil ~~and~~, gas, **or brine** in the pool without unnecessary expense. They
 7 shall prevent or minimize reasonable avoidable drainage from each developed tract
 8 which is not equalized by counter drainage.

9 * * *

10 §11. Allocation of allowable production

11 A. Whenever the commissioner limits the total amount of oil ~~or~~, gas, **or brine**
 12 which may be produced, he shall allocate the allowable production among the fields.
 13 This allocation shall be made on a reasonable basis, giving, to each field with small
 14 wells of settled production, an amount which will prevent a general premature
 15 abandonment of the wells in the field.

16 B. The commissioner may limit the production of a pool to an amount less
 17 than that which the pool could produce if no restriction were imposed. This
 18 limitation may be imposed either as an incident to or without a limitation of the total
 19 amount of oil ~~or~~, gas, **or brine** which may be produced in this state. The
 20 commissioner shall prorate the allowable production among the producers in the pool
 21 on a reasonable basis so as to prevent or minimize avoidable drainage from each
 22 developed area which is not equalized by counter drainage, and so that each producer
 23 will have the opportunity to produce or receive his just and equitable share, subject
 24 to the reasonable necessities for the prevention of waste.

25 C. After the effective date of a rule, regulation, or order of the commissioner
 26 fixing the allowable production of oil ~~or~~, gas, or ~~both~~ **brine**, for a pool, no person
 27 shall produce from a well, lease, or property more than the allowable production
 28 which is applicable, nor shall the amount be produced in a different manner than that
 29 authorized.

30 * * *

1 Section 2. R.S. 31:4 is hereby amended and reenacted to read as follows:

2 §4. Substances to which Code applicable

3 The provisions of this Code are applicable to all forms of minerals, including
4 oil and gas. They are also applicable to rights to explore for or mine or remove from
5 land the soil itself, gravel, shells, subterranean water **including brine**, or other
6 substances occurring naturally in or as a part of the soil or geological formations on
7 or underlying the land.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____