

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 578

Representatives Holmes, O'Brien

Cosponsors: Representatives Patterson, Riedel

A BILL

To amend sections 1509.02 and 1509.22 and to enact 1
section 1509.023 of the Revised Code to 2
establish new setback requirements applicable to 3
new Class II injection wells and to require 4
thirty-seven and one-half per cent of the out- 5
of-district injection well fee to be paid 6
directly to the municipal corporation or 7
township in which the injection well is located. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.02 and 1509.22 be amended 9
and section 1509.023 of the Revised Code be enacted to read as 10
follows: 11

Sec. 1509.02. (A) (1) There is hereby created in the 12
department of natural resources the division of oil and gas 13
resources management, which shall be administered by the chief 14
of the division of oil and gas resources management. The 15
division has sole and exclusive authority to regulate the 16
permitting, location, and spacing of oil and gas wells and 17
production operations within the state, excepting only those 18

activities regulated under federal laws for which oversight has 19
been delegated to the environmental protection agency and 20
activities regulated under sections 6111.02 to 6111.028 of the 21
Revised Code. The regulation of oil and gas activities is a 22
matter of general statewide interest that requires uniform 23
statewide regulation, and this chapter and rules adopted under 24
it constitute a comprehensive plan with respect to all aspects 25
of the locating, drilling, well stimulation, completing, and 26
operating of oil and gas wells within this state, including site 27
construction and restoration, permitting related to those 28
activities, and the disposal of wastes from those wells. In 29
order to assist the division in the furtherance of its sole and 30
exclusive authority as established in this section, the chief 31
may enter into cooperative agreements with other state agencies 32
for advice and consultation, including visitations at the 33
surface location of a well on behalf of the division. Such 34
cooperative agreements do not confer on other state agencies any 35
authority to administer or enforce this chapter and rules 36
adopted under it. In addition, such cooperative agreements shall 37
not be construed to dilute or diminish the division's sole and 38
exclusive authority as established in this section. Nothing in 39
this section affects the authority granted to the director of 40
transportation and local authorities in section 723.01 or 41
4513.34 of the Revised Code, provided that the authority granted 42
under those sections shall not be exercised in a manner that 43
discriminates against, unfairly impedes, or obstructs oil and 44
gas activities and operations regulated under this chapter. 45

(2) The chief shall not hold any other public office, nor 46
shall the chief be engaged in any occupation or business that 47
might interfere with or be inconsistent with the duties as 48
chief. 49

~~Money~~ (B) Except as otherwise provided in division (H) (4) 50
of section 1509.22 of the Revised Code, money collected by the 51
chief pursuant to sections 1509.06, 1509.061, 1509.062, 52
1509.071, 1509.13, 1509.22, 1509.222, 1509.28, 1509.34, 1509.50, 53
and 5749.02 of the Revised Code, all civil penalties paid under 54
section 1509.33 of the Revised Code, and, notwithstanding any 55
section of the Revised Code relating to the distribution or 56
crediting of fines for violations of the Revised Code, all fines 57
imposed under divisions (A) and (B) of section 1509.99 of the 58
Revised Code and fines imposed under divisions (C) and (D) of 59
section 1509.99 of the Revised Code for all violations 60
prosecuted by the attorney general and for violations prosecuted 61
by prosecuting attorneys that do not involve the transportation 62
of brine by vehicle shall be deposited into the state treasury 63
to the credit of the oil and gas well fund, which is hereby 64
created. Fines imposed under divisions (C) and (D) of section 65
1509.99 of the Revised Code for violations prosecuted by 66
prosecuting attorneys that involve the transportation of brine 67
by vehicle and penalties associated with a compliance agreement 68
entered into pursuant to this chapter shall be paid to the 69
county treasury of the county where the violation occurred. 70

(C) The oil and gas well fund shall be used solely and 71
exclusively for the purposes enumerated in division (B) of 72
section 1509.071 of the Revised Code, for the expenses of the 73
division associated with the administration of this chapter and 74
Chapter 1571. of the Revised Code and rules adopted under them, 75
and for expenses that are critical and necessary for the 76
protection of human health and safety and the environment 77
related to oil and gas production in this state. The expenses of 78
the division in excess of the moneys available in the fund shall 79
be paid from general revenue fund appropriations to the 80

department.

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Sec. 1509.023. Notwithstanding section 1509.021 of the
Revised Code and on and after the effective date of this
section, the chief of the division of oil and gas resources
management shall not issue a permit for a new injection well
under section 1509.22 of the Revised Code and rules adopted
under it if any of the following apply:

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(A) The surface location of the new injection well is
proposed to be located within three hundred feet of an occupied
dwelling that is located in an urbanized area unless both of the
following apply:

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(1) The owner of the land on which the occupied dwelling
is located consents in writing to the surface location of the
injection well less than three hundred feet from the occupied
dwelling and submits a copy of the written consent to the chief.

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(2) The chief approves the written consent of the owner.
The chief shall not approve the written consent when the surface
location of a new injection well will be located within two
hundred twenty-five feet of the occupied dwelling.

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(B) For areas that are not urbanized areas, the surface
location of the new injection well is proposed to be located
within three hundred feet of an occupied private dwelling or of
a public building that may be used as a place of assembly,
education, entertainment, lodging, trade, manufacture, repair,
storage, or occupancy by the public. This division does not
apply to a building or other structure that is incidental to
agricultural use of the land on which the building or other
structure is located unless the building or other structure is
used as an occupied private dwelling or for retail trade.

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(C) The surface location of the new injection well is 110
proposed to be located within three hundred feet of a stream, 111
river, watercourse, water well, pond, lake, or other body of 112
water. However, the chief may authorize a new well to be located 113
at a distance that is less than three hundred feet from a 114
stream, river, watercourse, water well, pond, lake, or other 115
body of water if the chief determines that the reduction in the 116
distance is necessary to reduce impacts to the owner of the land 117
on which the well is to be located or to protect public safety 118
or the environment. 119

(D) The surface location of the new injection well is 120
proposed to be located within three hundred feet of a railroad 121
track or of the traveled portion of a public street, road, or 122
highway. 123

Sec. 1509.22. (A) Except when acting in accordance with 124
section 1509.226 of the Revised Code, no person shall place or 125
cause to be placed in ground water or in or on the land or 126
discharge or cause to be discharged in surface water brine, 127
crude oil, natural gas, or other fluids associated with the 128
exploration, development, well stimulation, production 129
operations, or plugging of oil and gas resources that causes or 130
could reasonably be anticipated to cause damage or injury to 131
public health or safety or the environment. 132

(B) (1) No person shall store or dispose of brine in 133
violation of a plan approved under division (A) of section 134
1509.222 or section 1509.226 of the Revised Code, in violation 135
of a resolution submitted under section 1509.226 of the Revised 136
Code, or in violation of rules or orders applicable to those 137
plans or resolutions. 138

(2) (a) On and after January 1, 2014, no person shall 139

store, recycle, treat, process, or dispose of in this state 140
brine or other waste substances associated with the exploration, 141
development, well stimulation, production operations, or 142
plugging of oil and gas resources without an order or a permit 143
issued under this section or section 1509.06 or 1509.21 of the 144
Revised Code or rules adopted under any of those sections. For 145
purposes of division (B) (2) (a) of this section, a permit or 146
other form of authorization issued by another agency of the 147
state or a political subdivision of the state shall not be 148
considered a permit or order issued by the chief of the division 149
of oil and gas resources management under this chapter. 150

(b) Division (B) (2) (a) of this section does not apply to a 151
person that disposes of such waste substances other than brine 152
in accordance with Chapter 3734. of the Revised Code and rules 153
adopted under it. 154

(C) The chief shall adopt rules regarding storage, 155
recycling, treatment, processing, and disposal of brine and 156
other waste substances. The rules shall establish procedures and 157
requirements in accordance with which a person shall apply for a 158
permit or order for the storage, recycling, treatment, 159
processing, or disposal of brine and other waste substances that 160
are not subject to a permit issued under section 1509.06 or 161
1509.21 of the Revised Code and in accordance with which the 162
chief may issue such a permit or order. An application for such 163
a permit shall be accompanied by a nonrefundable fee of two 164
thousand five hundred dollars. 165

The storage, recycling, treatment, processing, and 166
disposal of brine and other waste substances and the chief's 167
rules relating to storage, recycling, treatment, processing, and 168
disposal are subject to all of the following standards: 169

(1) Brine from any well except an exempt Mississippian well shall be disposed of only as follows:	170 171
(a) By injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section;	172 173 174
(b) By surface application in accordance with section 1509.226 of the Revised Code;	175 176
(c) In association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code;	177 178
(d) In any other manner not specified in divisions (C) (1) (a) to (c) of this section that is approved by a permit or order issued by the chief.	179 180 181
(2) Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.	182 183
(3) Muds, cuttings, and other waste substances shall not be disposed of in violation of this chapter or any rule adopted under it.	184 185 186
(4) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.	187 188 189 190 191 192 193
(5) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably	194 195 196 197

free of brine, crude oil, and other waste substances.	198
(6) Impoundments constructed utilizing a synthetic liner pursuant to the division's specifications may be used for the temporary storage of waste substances used in the construction, stimulation, or plugging of a well.	199 200 201 202
(7) No pit or dike shall be used for the temporary storage of brine or other waste substances except in accordance with divisions (C) (4) and (5) of this section.	203 204 205
(8) No pit or dike shall be used for the ultimate disposal of brine or other liquid waste substances.	206 207
(D) (1) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules shall include provisions regarding all of the following:	208 209 210 211 212 213 214 215 216 217 218 219 220 221 222
(a) Applications for and issuance of the permits required by this division;	223 224
(b) Entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules,	225 226

orders, and terms and conditions of permits adopted or issued	227
under it;	228
(c) The provision and maintenance of information through	229
monitoring, recordkeeping, and reporting. In addition, the rules	230
shall require the owner of an injection well who has been issued	231
a permit under division (D) of this section to quarterly submit	232
electronically to the chief information concerning each shipment	233
of brine or other waste substances received by the owner for	234
injection into the well.	235
(d) The provision and electronic reporting quarterly of	236
information concerning brine and other waste substances from a	237
transporter that is registered under section 1509.222 of the	238
Revised Code prior to the injection of the transported brine or	239
other waste substances;	240
(e) Any other provisions in furtherance of the goals of	241
this section and the Safe Drinking Water Act.	242
(2) The chief may adopt rules in accordance with Chapter	243
119. of the Revised Code authorizing tests to evaluate whether	244
fluids or carbon dioxide may be injected in a reservoir and to	245
determine the maximum allowable injection pressure, which shall	246
be conducted in accordance with methods prescribed in the rules	247
or in accordance with conditions of the permit. In addition, the	248
chief may adopt rules that do both of the following:	249
(a) Establish the total depth of a well for which a permit	250
has been applied for or issued under this division;	251
(b) Establish requirements and procedures to protect	252
public health and safety.	253
(3) To implement the goals of the Safe Drinking Water Act,	254
the chief shall not issue a permit for the injection of brine or	255

other waste substances resulting from, obtained from, or 256
produced in connection with oil or gas drilling, exploration, or 257
production unless the chief concludes that the applicant has 258
demonstrated that the injection will not result in the presence 259
of any contaminant in ground water that supplies or can 260
reasonably be expected to supply any public water system, such 261
that the presence of the contaminant may result in the system's 262
not complying with any national primary drinking water 263
regulation or may otherwise adversely affect the health of 264
persons. 265

(4) The chief may issue an order to the owner of a well in 266
existence on September 10, 2012, to make changes in the 267
operation of the well in order to correct problems or to address 268
safety concerns. 269

(5) This division and rules, orders, and terms and 270
conditions of permits adopted or issued under it shall be 271
construed to be no more stringent than required for compliance 272
with the Safe Drinking Water Act unless essential to ensure that 273
underground sources of drinking water will not be endangered. 274

(E) The owner holding a permit, or an assignee or 275
transferee who has assumed the obligations and liabilities 276
imposed by this chapter and any rules adopted or orders issued 277
under it pursuant to section 1509.31 of the Revised Code, and 278
the operator of a well shall be liable for a violation of this 279
section or any rules adopted or orders or terms or conditions of 280
a permit issued under it. 281

(F) An owner shall replace the water supply of the holder 282
of an interest in real property who obtains all or part of the 283
holder's supply of water for domestic, agricultural, industrial, 284
or other legitimate use from an underground or surface source 285

where the supply has been substantially disrupted by 286
contamination, diminution, or interruption proximately resulting 287
from the owner's oil or gas operation, or the owner may elect to 288
compensate the holder of the interest in real property for the 289
difference between the fair market value of the interest before 290
the damage occurred to the water supply and the fair market 291
value after the damage occurred if the cost of replacing the 292
water supply exceeds this difference in fair market values. 293
However, during the pendency of any order issued under this 294
division, the owner shall obtain for the holder or shall 295
reimburse the holder for the reasonable cost of obtaining a 296
water supply from the time of the contamination, diminution, or 297
interruption by the operation until the owner has complied with 298
an order of the chief for compliance with this division or such 299
an order has been revoked or otherwise becomes not effective. If 300
the owner elects to pay the difference in fair market values, 301
but the owner and the holder have not agreed on the difference 302
within thirty days after the chief issues an order for 303
compliance with this division, within ten days after the 304
expiration of that thirty-day period, the owner and the chief 305
each shall appoint an appraiser to determine the difference in 306
fair market values, except that the holder of the interest in 307
real property may elect to appoint and compensate the holder's 308
own appraiser, in which case the chief shall not appoint an 309
appraiser. The two appraisers appointed shall appoint a third 310
appraiser, and within thirty days after the appointment of the 311
third appraiser, the three appraisers shall hold a hearing to 312
determine the difference in fair market values. Within ten days 313
after the hearing, the appraisers shall make their determination 314
by majority vote and issue their final determination of the 315
difference in fair market values. The chief shall accept a 316
determination of the difference in fair market values made by 317

agreement of the owner and holder or by appraisers under this 318
division and shall make and dissolve orders accordingly. This 319
division does not affect in any way the right of any person to 320
enforce or protect, under applicable law, the person's interest 321
in water resources affected by an oil or gas operation. 322

(G) In any action brought by the state for a violation of 323
division (A) of this section involving any well at which annular 324
disposal is used, there ~~shall be~~ is a rebuttable presumption 325
available to the state that the annular disposal caused the 326
violation if the well is located within a one-quarter-mile 327
radius of the site of the violation. 328

(H) (1) There is levied on the owner of an injection well 329
who has been issued a permit under division (D) of this section 330
the following fees: 331

(a) Five cents per barrel of each substance that is 332
delivered to a well to be injected in the well when the 333
substance is produced within the division of oil and gas 334
resources management regulatory district in which the well is 335
located or within an adjoining oil and gas resources management 336
regulatory district; 337

(b) Twenty cents per barrel of each substance that is 338
delivered to a well to be injected in the well when the 339
substance is not produced within the division of oil and gas 340
resources management regulatory district in which the well is 341
located or within an adjoining oil and gas resources management 342
regulatory district. 343

(2) The maximum number of barrels of substance per 344
injection well in a calendar year on which a fee may be levied 345
under division (H) of this section is five hundred thousand. If 346

in a calendar year the owner of an injection well receives more 347
than five hundred thousand barrels of substance to be injected 348
in the owner's well and if the owner receives at least one 349
substance that is produced within the division's regulatory 350
district in which the well is located or within an adjoining 351
regulatory district and at least one substance that is not 352
produced within the division's regulatory district in which the 353
well is located or within an adjoining regulatory district, the 354
fee shall be calculated first on all of the barrels of substance 355
that are not produced within the division's regulatory district 356
in which the well is located or within an adjoining district at 357
the rate established in division (H) (2) of this section. The fee 358
then shall be calculated on the barrels of substance that are 359
produced within the division's regulatory district in which the 360
well is located or within an adjoining district at the rate 361
established in division (H) (1) of this section until the maximum 362
number of barrels established in division (H) (2) of this section 363
has been attained. 364

(3) ~~The~~ Except as provided in division (H) (4) of this 365
section, the owner of an injection well who is issued a permit 366
under division (D) of this section shall collect the ~~fee~~ fees 367
levied by division (H) of this section on behalf of the division 368
of oil and gas resources management and forward ~~the fee~~ them to 369
the division. ~~The~~ 370

(4) The owner of an injection well shall forward thirty- 371
seven and one-half per cent of the total amount of each fee 372
levied under division (H) (1) (b) of this section directly to the 373
treasurer of the municipal corporation or township in which the 374
applicable injection well is located. The owner shall forward 375
the remaining sixty-two and one-half per cent of the fee to the 376
division of oil and gas resources management. 377

(5) The chief shall transmit ~~all~~ money received under 378
division (H) of this section to the treasurer of state who shall 379
deposit the money in the state treasury to the credit of the oil 380
and gas well fund created in section 1509.02 of the Revised 381
Code. The owner of an injection well who collects the ~~fee~~ fees 382
levied by this division may retain up to three per cent of the 383
amount that is collected. 384

~~(4)~~ (6) The chief shall adopt rules in accordance with 385
Chapter 119. of the Revised Code establishing requirements and 386
procedures for collection of the ~~fee~~ fees levied by division (H) 387
of this section. 388

Section 2. That existing sections 1509.02 and 1509.22 of 389
the Revised Code are hereby repealed. 390