

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1625 Session of
2017

INTRODUCED BY SANTORA, BARRAR, MICCARELLI, CHARLTON AND
C. QUINN, JUNE 28, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JUNE 28, 2017

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 expiration; and providing for imposition of tax, for impact
4 fee credits, for registration, for meters, for assessments,
5 for time for assessment, for extension of assessment period,
6 for reassessments, for interest, for penalties, for
7 administration of tax, for criminal acts, for abatement of
8 additions or penalties, for bulk and auction sales, for
9 collection upon failure to request reassessment, review or
10 appeal, for tax liens, for tax suit reciprocity, for service,
11 for refunds, for refund petition, for rules and regulations,
12 for recordkeeping, for examinations, for unauthorized
13 disclosure, for cooperation with other governments, for
14 bonds, for prohibition, for future agreements, for stripper
15 wells and for deposit of proceeds.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 2318 of Title 58 of the Pennsylvania
19 Consolidated Statutes is repealed:

20 [§ 2318. Expiration.

21 (a) Notice.--The Secretary of the Commonwealth shall, upon
22 the imposition of a severance tax on unconventional gas wells in
23 this Commonwealth, submit for publication in the Pennsylvania
24 Bulletin notice of the imposition.

1 (b) Date.--This chapter shall expire on the date of the
2 publication of the notice under subsection (a).]

3 Section 2. Title 58 is amended by adding a part to read:

4 PART IV

5 TAXATION

6 Chapter

7 41. (Reserved)

8 43. Severance Tax

9 CHAPTER 41

10 (Reserved)

11 CHAPTER 43

12 SEVERANCE TAX

13 Sec.

14 4301. Scope of chapter.

15 4302. Definitions.

16 4303. Imposition of tax.

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18 4304. Registration.

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23 4309. Reassessments.

24 4310. Interest.

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27 4312. Criminal acts.

28 4313. Abatement of additions or penalties.

29 4314. Bulk and auction sales.

30 4315. Collection upon failure to request reassessment, review

1 or appeal.

2 4316. Tax liens.

3 4317. Tax suit reciprocity.

4 4318. Service.

5 4319. Refunds.

6 4320. Refund petition.

7 4321. Rules and regulations.

8 4322. Recordkeeping.

9 4323. Examinations.

10 4324. Unauthorized disclosure.

11 4325. Cooperation with other governments.

12 4326. Bonds.

13 4327. Prohibition.

14 4328. Future agreements.

15 4329. Stripper wells.

16 4330. Deposit of proceeds.

17 § 4301. Scope of chapter.

18 This chapter relates to taxation of the severance of natural
19 gas.

20 § 4302. Definitions.

21 The following words and phrases when used in this chapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Average Pennsylvania hub price." The average of the settled
25 prices at the five largest trading points in Pennsylvania,
26 weighted by volume, on the last trading day for the month, for
27 the previous 12-month period ending on March 31, as reported in
28 the sources of current market data, which shall be selected by
29 the department and published in the Pennsylvania Bulletin at
30 least 30 days prior to the determination and publication of the

1 gas base rate adjustment and gas tax in accordance with section
2 4303 (relating to imposition of tax).

3 "Department." The Department of Revenue of the Commonwealth.

4 "Gross value." The value, whether in money or other
5 property, actually proceeding from the sale of property prior to
6 the payment of any royalties or other payments to a lessor and
7 without any other deduction or credits of any kind, except as
8 follows:

9 (1) In a transaction involving related parties, the
10 gross value of the property transferred may not be less than
11 the fair market value of similar grade and quality property.

12 (2) In the absence of a sale, the gross value of the
13 property transferred may not be less than the fair market
14 value of similar grade and quality property.

15 (3) In a transaction where property is transferred for
16 the purpose of processing and resale, the gross value of the
17 property transferred may not be less than the fair market
18 value of similar grade and quality property.

19 "Natural gas." As defined in section 2301 (relating to
20 definitions).

21 "Natural gas liquids." Hydrocarbons, including ethane,
22 propane, butane, isobutane and pentane, that are separated from
23 natural gas severed from unconventional formations as liquids
24 through the process of absorption, condensation, adsorption and
25 cooling in gas separators, gas processing or cycling plants or
26 condensate at the well head.

27 "Person." Any natural person, a corporation, fiduciary,
28 association or other entity. The term includes the Commonwealth
29 and any political subdivision, instrumentality and authority of
30 the Commonwealth.

1 "Producer." As defined in section 2301 (relating to
2 definitions).

3 "Related parties." Two or more people, organizations or
4 businesses owned or controlled directly or indirectly by the
5 same interests. Control exists if a contract or lease, either
6 written or oral, is entered into where one party severs or
7 processes natural gas owned or held by another party and the
8 owner or lessor participates in the severing, processing or
9 marketing of the natural gas or receives any value other than an
10 arm's-length passive royalty interest.

11 "Reporting period." A calendar month in which natural gas is
12 severed.

13 "Secretary." The Secretary of Revenue of the Commonwealth.

14 "Sever." Extract or otherwise remove natural gas from the
15 soil or water of this Commonwealth.

16 "Storage field." A natural formation or other site that is
17 used to store natural gas that did not originate from and has
18 been transplanted into the formation or site.

19 "Stripper well." A natural gas well incapable of producing
20 more than 90 units of natural gas each day of the calendar month
21 immediately preceding the reporting period, including production
22 from all zones and multilateral well bores at a single well,
23 without regard to whether the production is separately metered.

24 "Unconventional gas well." As defined in section 2301
25 (relating to definitions).

26 "Unit." One thousand cubic feet of natural gas measured at
27 the wellhead at a temperature of 60 degrees Fahrenheit and an
28 absolute pressure of 14.73 pounds per square inch in accordance
29 with American Gas Association standards and according to Boyle's
30 law for the measurement of gas under varying pressures with

1 deviations as follows:

2 (1) The average absolute atmospheric pressure shall be
3 assumed to be 14.4 pounds to the square inch, regardless of
4 elevation or location of point of delivery above sea level or
5 variations in atmospheric pressure.

6 (2) The temperature of the gas passing the meters shall
7 be determined by the continuous use of a recording
8 thermometer installed to properly record the temperature of
9 gas flowing through the meters. The arithmetic average of the
10 temperature recorded each 24-hour day shall be used in
11 computing gas volumes. If a recording thermometer is not
12 installed, or is installed and not operating properly, an
13 average flowing temperature of 60 degrees Fahrenheit shall be
14 used in computing gas volume.

15 (3) The specific gravity of the gas shall be determined
16 annually by tests made by the use of an Edwards or Acme
17 gravity balance, or at intervals as found necessary in
18 practice. Specific gravity determinations shall be used in
19 computing gas volumes.

20 (4) The deviation of the natural gas from Boyle's law
21 shall be determined by annual tests or at other shorter
22 intervals as found necessary in practice. The apparatus and
23 method used in making the test shall be in accordance with
24 recommendations of the National Bureau of Standards or Report
25 No. 3 of the Gas Measurement Committee of the American Gas
26 Association. The results of the tests shall be used in
27 computing the volume of gas delivered under this chapter.

28 "Wellhead meter." A meter that measures the volume of
29 natural gas severed from an unconventional gas well.

30 § 4303. Imposition of tax.

1 (a) Establishment.--Beginning July 1, 2017, a natural gas
2 severance tax is levied and payable by every producer.

3 (b) Rate.--

4 (1) Subject to the annual adjustment under paragraph
5 (2), the tax imposed in subsection (a) shall be 3.5% of the
6 gross value of natural gas and natural gas liquids severed by
7 the producer during each reporting period.

8 (2) The rate of the tax imposed in subsection (a) shall
9 be adjusted annually on July 1 for the ensuing 12 months as
10 follows:

11 (i) On or before April 1, 2018, and annually
12 thereafter, the secretary shall determine the average
13 Pennsylvania hub price for the prior calendar year.

14 (ii) When the average Pennsylvania hub price in the
15 prior calendar year was:

16 (A) between \$0 and \$2.50 per unit, the adjusted
17 tax shall equal 3% of the gross value of each unit
18 severed;

19 (B) between \$2.51 and \$3 per unit, the adjusted
20 tax rate shall equal 4% of the gross value of each
21 unit severed; or

22 (C) more than \$3 per unit, the adjusted tax rate
23 shall equal 5% of the gross value of each unit
24 severed.

25 (iii) The secretary shall publish the adjusted tax
26 rate, as determined under this paragraph, in the first
27 edition of the Pennsylvania Bulletin published after
28 April 1 of each year.

29 (c) Return and payment.--A producer subject to the
30 provisions of this chapter shall file a return with the

1 department, on a form prescribed by the department. The return
2 shall include the following:

3 (1) The total number of natural gas units severed by the
4 producer for the reporting period broken down into:

5 (i) the number of such units sold by the producer
6 during the reporting period in arm's-length transactions;

7 (ii) the number of such units sold by the producer
8 during the reporting period in non-arm's-length
9 transactions or exchanged for something other than cash;

10 and

11 (iii) the number of such units not yet sold or
12 exchanged as of the end of the reporting period.

13 (2) The gross value of the units identified in paragraph
14 (1).

15 (3) The amount of tax due under subsection (b).

16 (4) Other information reasonably required by the
17 department.

18 (d) Filing.--

19 (1) The return required by subsection (c) shall be filed
20 with the department within 15 days following the end of a
21 reporting period. The tax is due on the day the return is
22 required to be filed under this subsection and shall become
23 delinquent if not remitted to the department by the required
24 date.

25 (2) A producer shall commence filing the returns
26 required under subsection (c) within 75 days following the
27 effective date of this section. The initial return shall
28 include the information required by subsection (c) for the
29 reporting periods that occurred between July 1, 2017, and the
30 75th day following the effective date of this section.

1 (e) Exemptions.--The tax shall not be imposed on a producer
2 for the following:

3 (1) A unit severed from a stripper well.

4 (2) A unit severed, sold and delivered by an operator at
5 or within five miles of the producing well for the processing
6 or manufacture of tangible personal property, as defined
7 under section 201 of the act of March 4, 1971 (P.L.6, No.2),
8 known as the Tax Reform Code of 1971, within this
9 Commonwealth.

10 (3) A unit provided free of charge to the owner of the
11 surface under which the gas is severed if the surface owner
12 is the end user of the gas.

13 (4) Natural gas, dry natural gas or natural gas liquids
14 severed from a storage field.

15 § 4303.1. Impact fee credits.

16 (a) Credits.--Unconventional gas well fees timely paid by a
17 producer for the prior calendar year under Chapter 23 (relating
18 to unconventional gas well fee) shall be allowed as credit
19 against the tax imposed under this chapter.

20 (b) Initial credit.--The initial credit under paragraph (1)
21 shall be prorated based on the number of months in which this
22 chapter was effective during the calendar year for which the
23 unconventional gas well fee was paid. Thereafter, the credit
24 shall be based on the entire unconventional gas well fee paid by
25 a producer on or before April 1 for the preceding calendar year.

26 (c) Carry back and forward.--A credit under this section may
27 not be carried back or carried forward beyond 12 months after
28 payment of the unconventional gas well fee that is sold,
29 assigned or refunded.

30 § 4304. Registration.

1 (a) Application.--

2 (1) Before a producer severs natural gas or continues to
3 sever natural gas in this Commonwealth after the date
4 occurring 60 days following the effective date of this
5 section, the producer shall apply to the department for a
6 registration certificate.

7 (2) The department may charge an application fee to
8 cover the administrative costs associated with the
9 application and registration process.

10 (b) Issuance.--

11 (1) Except as provided in subsection (c), after the
12 receipt of an application and the required application fee,
13 the department shall issue a registration certificate to the
14 producer. The registration certificate is nonassignable.

15 (2) A registrant shall renew the registration
16 certificate on a staggered renewal system established by the
17 department. After the initial staggered renewal period, a
18 registration certificate is valid for a period of five years.

19 (c) Refusal, suspension or revocation.--

20 (1) The department may refuse to issue, suspend or
21 revoke a registration certificate if the applicant or
22 registrant has not filed required State tax reports and paid
23 State taxes not subject to a timely perfected administrative
24 or judicial appeal or an authorized deferred payment plan.

25 (2) The department shall notify the applicant or
26 registrant of a refusal, suspension or revocation. The notice
27 shall contain a statement that the refusal, suspension or
28 revocation may be made public. The notice shall be made by
29 first class mail.

30 (3) An applicant or registrant aggrieved by the

1 determination of the department may file an appeal under the
2 provisions for administrative appeals in the act of March 4,
3 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In
4 the case of a suspension or revocation which is appealed, the
5 registration certificate shall remain valid pending a final
6 outcome of the appeals process. Notwithstanding any other
7 provision of law, if no appeal is taken or if an appeal is
8 taken and denied at the conclusion of the appeal process, the
9 department may disclose, by publication or otherwise, the
10 identity of a producer and the fact that the producer's
11 registration certificate has been refused, suspended or
12 revoked under this subsection. Disclosure may include the
13 basis for refusal, suspension or revocation.

14 (d) Violation.--

15 (1) A person that severs natural gas in this
16 Commonwealth in violation of subsection (a) commits a summary
17 offense and shall, upon conviction, be sentenced to pay a
18 fine not less than \$300 nor more than \$1,500 or, in default
19 of the payment, to imprisonment for not less than five days
20 nor more than 30 days.

21 (2) For purposes of this subsection, each day in which
22 natural gas is severed shall constitute a separate violation.

23 (3) The penalties imposed by this subsection shall be in
24 addition to any other penalties imposed by this chapter.

25 (4) The Secretary of Revenue may designate employees of
26 the department to enforce the provisions of this subsection.
27 The employees shall exhibit proof of and be within the scope
28 of the designation when instituting proceedings as provided
29 by the Pennsylvania Rules of Criminal Procedure.

30 (e) Failure to obtain registration certificate.--Failure to

1 obtain or hold a valid registration certificate does not relieve
2 a person from liability for the tax imposed by this chapter.

3 § 4305. Meters.

4 A producer shall provide for and maintain a discrete wellhead
5 meter where natural gas is severed. A producer shall ensure that
6 the meters are maintained according to industry standards. Any
7 wellhead meter installed after the effective date of this
8 section shall be a digital meter.

9 § 4306. Assessments.

10 (a) Authorization and requirement.--The department shall
11 make inquiries, determinations and assessments of the tax
12 imposed under this chapter, including interest, additions and
13 penalties imposed under this chapter.

14 (b) Notice.--The notice of assessment and demand for payment
15 shall be mailed to the producer. The notice shall state the
16 basis of the assessment. The department shall send the notice of
17 assessment to the producer at the producer's registered address
18 via mail if the assessment increases the producer's tax
19 liability by \$300 or more.

20 § 4307. Time for assessment.

21 (a) Requirement.--

22 (1) An assessment as provided under section 4306
23 (relating to assessments) shall be made within three years
24 after the date when the return provided for under section
25 4303(c) (relating to imposition of tax) is filed or the end
26 of the year in which the tax liability arises, whichever
27 shall occur last.

28 (2) For purposes of this subsection and subsection (b),
29 a return filed before the last day prescribed for the filing
30 period shall be considered as filed on the last day.

1 (b) Exception.--If the producer underpays the correct amount
2 of the tax due by 25% or more, the tax may be assessed within
3 six years after the date the return was filed.

4 (c) Intent to evade.--Where no return is filed or where the
5 producer files a false or fraudulent return with intent to evade
6 the tax imposed by this chapter, the assessment may be made at
7 any time.

8 (d) Erroneous credit or refund.--Within three years of the
9 granting of a refund or credit or within the period in which an
10 assessment or reassessment may have been issued by the
11 department for the taxable period for which the refund was
12 granted, whichever period shall occur last, the department may
13 issue an assessment to recover a refund or credit made or
14 allowed erroneously.

15 § 4308. Extension of assessment period.

16 Notwithstanding the provisions of this chapter, the
17 assessment period may be extended in the event a producer has
18 provided written consent before the expiration of the period
19 provided in section 4307 (relating to time for assessment) for a
20 tax assessment. The amount of tax due may be assessed at any
21 time within the extended period. The period may be extended
22 further by subsequent written consents made before the
23 expiration of the extended period.

24 § 4309. Reassessments.

25 A producer against whom an assessment is made may petition
26 the department for a reassessment under Article XXVII of the act
27 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971.

29 § 4310. Interest.

30 The department shall assess interest on any delinquent tax at

1 the rate prescribed under section 806 of the act of April 9,
2 1929 (P.L.343, No.176), known as The Fiscal Code.

3 § 4311. Penalties.

4 The department shall enforce the following penalties:

5 (1) A penalty against a producer without a registration
6 certificate required under section 4304 (relating to
7 registration). The penalty shall be \$1 for every unit severed
8 without a valid registration certificate. The department may
9 assess this penalty separately from or in conjunction with
10 any assessment of the natural gas severance tax.

11 (2) A penalty against a producer for failure to timely
12 file a return as required under section 4303(c) (relating to
13 imposition of tax). The penalty shall be 5% of the tax
14 liability to be reported on the return for each day beyond
15 the due date that the return is not filed.

16 (3) In addition to the penalty under paragraph (2), a
17 penalty against the producer for a willful failure to timely
18 file a return. The penalty shall be 200% of the tax liability
19 required to be reported on the return.

20 (4) A penalty against a producer for failure to timely
21 pay the tax as required by section 4303(d). The penalty shall
22 be 5% of the amount of tax due for each day beyond the
23 payment date that the tax is not paid.

24 § 4311.1. Administration of tax.

25 Unless otherwise specified, Chapters IV, V, VI, VII and VIII
26 of Part VI of Article II of the act of March 4, 1971 (P.L.6,
27 No.2), known as the Tax Reform Code of 1971, shall apply to this
28 chapter.

29 § 4312. Criminal acts.

30 (a) Fraudulent return.--Any person with intent to defraud

1 the Commonwealth, who willfully makes or causes to be made a
2 return required by this chapter which is false, is guilty of a
3 misdemeanor and shall, upon conviction, be sentenced to pay a
4 fine of not more than \$2,000 or to imprisonment for not more
5 than three years, or both.

6 (b) Other crimes.--

7 (1) Except as otherwise provided under subsection (a), a
8 person is guilty of a misdemeanor and shall, upon conviction,
9 be sentenced to pay a fine of not more than \$1,000 and costs
10 of prosecution or to imprisonment for not more than one year,
11 or both, for any of the following:

12 (i) Willfully failing to timely remit the tax to the
13 department.

14 (ii) Willfully failing or neglecting to timely file
15 a return or report required by this chapter.

16 (iii) Refusing to timely pay a tax, penalty or
17 interest imposed or provided for by this chapter.

18 (iv) Willfully failing to preserve the person's
19 books, papers and records as directed by the department.

20 (v) Refusing to permit the department or the
21 person's authorized agents to examine the person's books,
22 records or papers.

23 (vi) Knowingly making any incomplete, false or
24 fraudulent return or report.

25 (vii) Preventing or attempting to prevent the full
26 disclosure of the amount of natural gas severance tax
27 due.

28 (viii) Providing any person with a false statement
29 as to the payment of the tax imposed under this chapter
30 with respect to any pertinent facts.

1 (ix) Making, uttering or issuing a false or
2 fraudulent statement.

3 (2) The penalties imposed by this section shall be in
4 addition to other penalties imposed by this chapter.

5 § 4313. Abatement of additions or penalties.

6 Upon the filing of a petition for reassessment or a petition
7 for refund by a producer as provided under this chapter,
8 additions or penalties imposed upon the producer by this chapter
9 may be waived or abated, in whole or in part, where the
10 petitioner establishes that he acted in good faith, without
11 negligence and with no intent to defraud.

12 § 4314. Bulk and auction sales.

13 A person that sells or causes to be sold at auction, or that
14 sells or transfers in bulk, 51% or more of a stock of goods,
15 wares or merchandise of any kind, fixtures, machinery,
16 equipment, buildings or real estate involved in a business for
17 which the person holds a registration certificate or is required
18 to obtain a registration certificate under the provisions of
19 this chapter shall be subject to the provisions of section 1403
20 of the act of April 9, 1929 (P.L.343, No.176), known as The
21 Fiscal Code.

22 § 4315. Collection upon failure to request reassessment, review
23 or appeal.

24 (a) Power of department.--The department may collect the tax
25 imposed under this chapter:

26 (1) If an assessment of the tax is not paid within 30
27 days after notice to the producer when no petition for
28 reassessment has been filed.

29 (2) Within 60 days of the reassessment, if no petition
30 for review has been filed.

1 (3) If no appeal has been made, within 30 days of:

2 (i) the Board of Finance and Revenue's decision of a
3 petition for review; or

4 (ii) the expiration of the Board of Finance and
5 Revenue's time for acting upon the petition.

6 (4) In all cases of judicial sales, receiverships,
7 assignments or bankruptcies.

8 (b) Prohibition.--In a case for the collection of taxes
9 under subsection (a), the producer against whom the taxes were
10 assessed may not set up a ground of defense that might have been
11 determined by the department, the Board of Finance and Revenue
12 or the courts, provided that the defense of failure of the
13 department to mail notice of assessment or reassessment to the
14 producer and the defense of payment of assessment or
15 reassessment may be raised in proceedings for collection by a
16 motion to stay the proceedings.

17 § 4316. Tax liens.

18 (a) Lien imposed.--

19 (1) If a producer neglects or refuses to pay the tax
20 imposed under this chapter for which the producer is liable
21 under this chapter after demand, the amount, including
22 interest, addition or penalty, together with additional costs
23 that may accrue, shall be a lien in favor of the Commonwealth
24 upon the real and personal property of the producer, but only
25 after the same has been entered and docketed of record by the
26 prothonotary of the county where the property is situated.

27 (2) The department may, at any time, transmit to the
28 prothonotaries of the respective counties certified copies of
29 all liens imposed by this section.

30 (3) The prothonotary receiving the lien shall enter and

1 docket the lien of record to the office of the prothonotary.
2 The lien shall be indexed as judgments are now indexed. No
3 prothonotary shall require as a condition precedent to the
4 entry of the lien the payment of costs incidental to its
5 entry.

6 (b) Priority of lien and effect on judicial sale.--Except
7 for the costs of the sale and the writ upon which the sale was
8 made and real estate taxes and municipal claims against the
9 property, a lien imposed under this section shall have priority
10 from the date of its recording and shall be fully paid and
11 satisfied out of the proceeds of any judicial sale of property
12 subject to the lien, before any other obligation, judgment,
13 claim, lien or estate to which the property may subsequently
14 become subject, but shall be subordinate to mortgages and other
15 liens existing and duly recorded or entered of record prior to
16 the recording of the lien.

17 (c) No discharge by sale on junior lien.--

18 (1) In the case of a judicial sale of property subject
19 to a lien imposed under this section, upon a lien or claim
20 over which the lien imposed under this section has priority,
21 the sale shall discharge the lien imposed under this section
22 to the extent only that the proceeds are applied to its
23 payment, and the lien shall continue in full force and effect
24 as to the balance remaining unpaid.

25 (2) There shall be no inquisition or condemnation upon
26 any judicial sale of real estate made by the Commonwealth
27 under the provisions of this chapter.

28 (3) The lien shall continue as provided in the act of
29 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
30 and a writ of execution may directly issue upon the lien

1 without the issuance and prosecution to judgment of a writ of
2 scire facias, provided that not less than 10 days before
3 issuance of any execution on the lien, notice of the filing
4 and the effect of the lien shall be sent by registered mail
5 to the producer's last known post office address, provided
6 further that the lien shall have no effect upon any stock of
7 goods, wares or merchandise regularly sold or leased in the
8 ordinary course of business by the producer against whom the
9 lien has been entered, unless and until a writ of execution
10 has been issued and a levy made upon the stock of goods,
11 wares and merchandise.

12 (d) Penalty.--A prothonotary who intentionally violates this
13 section commits a misdemeanor of the third degree and shall,
14 upon conviction, be sentenced to pay a fine of not more than
15 \$1,000 and costs of prosecution or to imprisonment for not more
16 than one year, or both.

17 (e) Priority.--

18 (1) Except as provided in this chapter, the
19 distribution, voluntary or compulsory, in receivership,
20 bankruptcy or otherwise of the property or estate of any
21 person, all taxes imposed by this chapter which are due and
22 unpaid and are not collectible under the provisions of
23 section 225 of the act of March 4, 1971 (P.L.6, No.2), known
24 as the Tax Reform Code of 1971, shall be paid from the first
25 money available for distribution in priority to all other
26 claims and liens, except as the laws of the United States may
27 give priority to a claim to the Federal Government.

28 (2) A person charged with the administration or
29 distribution of the property or estate who violates the
30 provisions of this section shall be personally liable for the

1 taxes imposed by this chapter which are accrued and unpaid
2 and chargeable against the person whose property or estate is
3 being administered or distributed.

4 (f) Other remedies.--Subject to the limitations contained in
5 this chapter as to the assessment of taxes, nothing contained in
6 this section shall be construed to restrict, prohibit or limit
7 the use by the department in collecting taxes due and payable of
8 another remedy or procedure available at law or equity for the
9 collection of debts.

10 § 4317. Tax suit reciprocity.

11 The courts of the Commonwealth shall recognize and enforce
12 liabilities for natural gas severance or extraction taxes
13 lawfully imposed by any other state, if the other state
14 recognizes and enforces the tax imposed under this chapter.

15 § 4318. Service.

16 A producer is deemed to have appointed the Secretary of the
17 Commonwealth as the producer's agent for the acceptance of
18 service of process or notice in a proceeding for the enforcement
19 of the civil provisions of this chapter, and service made upon
20 the Secretary of the Commonwealth as agent shall be of the same
21 legal force and validity as if the service had been personally
22 made on the producer. Where service cannot be made upon the
23 producer in the manner provided by other laws of this
24 Commonwealth relating to service of process, service may be made
25 upon the Secretary of the Commonwealth. In that case, a copy of
26 the process or notice shall be personally served upon any agent
27 or representative of the producer who may be found within this
28 Commonwealth or, where no agent or representative may be found,
29 a copy of the process or notice shall be sent via registered
30 mail to the producer at the last known address of the producer's

1 principal place of business, home office or residence.

2 § 4319. Refunds.

3 (a) General rule.--Under Article XXVII of the act of March
4 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the
5 department shall refund all taxes, interest and penalties paid
6 to the Commonwealth under the provisions of this chapter to
7 which the Commonwealth is not rightfully entitled. The refunds
8 shall be made to the person or the person's heirs, successors,
9 assigns or other personal representatives who paid the tax,
10 provided that no refund shall be made under this section
11 regarding a payment made by reason of an assessment where a
12 producer has filed a petition for reassessment under section
13 2702 of the Tax Reform Code of 1971 to the extent the petition
14 is adverse to the producer by a decision which is no longer
15 subject to further review or appeal.

16 (b) Construction.--Nothing in this chapter shall be
17 construed to prohibit a producer that has filed a timely
18 petition for reassessment from amending it to a petition for
19 refund where the petitioner paid the tax assessed.

20 § 4320. Refund petition.

21 (a) General rule.--Except as provided for in subsection (b),
22 the refund or credit of tax, interest or penalty provided for by
23 section 4319 (relating to refunds) shall be made only where the
24 person who has paid the tax files a petition for refund with the
25 department under Article XXVII of the act of March 4, 1971
26 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
27 time limits of section 3003.1 of the Tax Reform Code of 1971.

28 (b) Natural gas severance tax.--

29 (1) A refund or credit of tax, interest or penalty paid
30 as a result of an assessment made by the department under

1 section 4306 (relating to assessments) shall be made only
2 where the person who has paid the tax files a petition for a
3 refund with the department under Article XXVII of the Tax
4 Reform Code of 1971 within the time limits of section 3003.1
5 of the Tax Reform Code of 1971.

6 (2) The filing of a petition for refund under the
7 provisions of this subsection shall not affect the abatement
8 of interest, additions or penalties to which the person may
9 be entitled by reason of payment of the assessment.

10 § 4321. Rules and regulations.

11 The department is charged with the enforcement of the
12 provisions of this chapter and is authorized and empowered to
13 prescribe, adopt, promulgate and enforce rules and regulations
14 not inconsistent with the provisions of this chapter relating to
15 any matter or thing pertaining to the administration and
16 enforcement of the provisions of this chapter and the collection
17 of taxes, penalties and interest imposed by this chapter. The
18 department may prescribe the extent, if any, to which any of the
19 rules and regulations shall be applied without retroactive
20 effect.

21 § 4322. Recordkeeping.

22 (a) General rule.--Every person liable for any tax imposed
23 by this chapter, or for the collection of the tax, shall keep
24 records, including those enumerated in subsection (b), render
25 statements, make returns and comply with the rules and
26 regulations as the department may prescribe regarding matters
27 pertinent to the person's business. Whenever it is necessary,
28 the department may require a person, by notice served upon the
29 person or by regulations, to make returns, render statements or
30 keep records as the department deems sufficient to show whether

1 or not a person is liable to pay tax under this chapter.

2 (b) Records.--Records to be maintained are:

3 (1) Wellhead meter charts for each reporting period and
4 the meter calibration and maintenance records. If turbine
5 meters are in use, the maintenance records will be made
6 available to the department upon request.

7 (2) Records, statements and other instruments furnished
8 to a producer by a person to whom the producer delivers for
9 sale, transport or delivery of natural gas.

10 (3) Records, statements and other instruments as the
11 department may prescribe by regulation.

12 (c) Records of nonresidents.--

13 (1) A nonresident who does business in this Commonwealth
14 as a producer shall keep adequate records of the business and
15 of the tax due as a result. The records shall be retained
16 within this Commonwealth unless retention outside this
17 Commonwealth is authorized by the department.

18 (2) The department may require a producer that desires
19 to retain records outside this Commonwealth to assume
20 reasonable out-of-State audit expenses.

21 (d) Keeping of separate records.--

22 (1) A producer that is engaged in another business or
23 businesses which do not involve the severing of natural gas
24 taxable under this chapter shall keep separate books and
25 records of the businesses so as to show the taxable severing
26 of natural gas under this chapter separately from other
27 business activities not taxable hereunder.

28 (2) If any person fails to keep separate books and
29 records, the person shall be liable for a penalty equaling
30 100% of tax due under this chapter for the period where

1 separate records were not maintained.

2 § 4323. Examinations.

3 (a) Right to examine.--

4 (1) The department or any of its authorized agents may
5 examine the books, papers, records and locations of any
6 producer in order to verify the accuracy and completeness of
7 any return made or, if no return were made, to ascertain and
8 assess the tax imposed by this chapter. The department may
9 require the preservation of all books, papers and records for
10 any period deemed proper by the department but not to exceed
11 three years from the end of the calendar year to which the
12 records relate.

13 (2) Every producer shall give to the department or its
14 agent the means, facilities and opportunity for examinations
15 and investigations under this section.

16 (3) The department may examine any person, under oath,
17 concerning the taxable severing of natural gas by any
18 producer or concerning any other matter relating to the
19 enforcement or administration of this chapter, and to this
20 end may compel the production of books, papers and records
21 and the attendance of all persons whether as parties or
22 witnesses believed to have knowledge of relevant matters.

23 (b) Procedure.--The procedure for the hearings or
24 examinations shall be the same as that provided under the act of
25 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

26 § 4324. Unauthorized disclosure.

27 (a) General rule.--Any information gained by the department
28 as a result of any return, examination, investigation, hearing
29 or verification required or authorized by this chapter shall be
30 confidential except for official purposes and except in

1 accordance with proper judicial order or as otherwise provided
2 by law.

3 (b) Penalty.--Any person unlawfully divulging the
4 information shall be guilty of a misdemeanor and shall, upon
5 conviction, be sentenced to pay a fine of not more than \$1,000
6 and costs of prosecution or to imprisonment for not more than
7 one year, or both.

8 § 4325. Cooperation with other governments.

9 Notwithstanding the provisions of section 4317 (relating to
10 tax suit reciprocity), the department may permit the
11 Commissioner of the Internal Revenue Service, the proper officer
12 of any state or the authorized representative of either of them
13 to inspect the tax returns of any producer, or may furnish to
14 the commissioner or officer or to either of their authorized
15 representatives an abstract of the return of any producer, or
16 supply him with information concerning any item contained in any
17 return or disclosed by the report of any examination or
18 investigation of the return of any producer. This permission
19 shall be granted only if the laws of the United States or
20 another state grant substantially similar privileges to the
21 proper officer of the Commonwealth charged with the
22 administration of this chapter.

23 § 4326. Bonds.

24 (a) Producer to file bond.--

25 (1) The department may require a nonresident natural
26 person or any foreign corporation, association, fiduciary or
27 other entity, not authorized to do business within this
28 Commonwealth or not having an established place of business
29 in this Commonwealth and subject to the tax imposed by
30 section 4303 (relating to imposition of tax), to file a bond

1 issued by a surety company authorized to do business in this
2 Commonwealth and approved by the Insurance Commissioner as to
3 solvency and responsibility, in amounts as the department may
4 fix, to secure the payment of any tax or penalties due or
5 which may become due from a nonresident natural person,
6 corporation, association, fiduciary or other entity whenever
7 the department deems it necessary to protect the revenues
8 obtained under this chapter.

9 (2) The department may also require a bond of a person
10 petitioning the department for reassessment in the case of
11 any assessment over \$500 or where, in the department's
12 opinion, the ultimate collection is in jeopardy.

13 (3) For a period of three years, the department may
14 require a bond of any person that has, on three or more
15 occasions within a 12-month period, either filed a return or
16 made payment to the department more than 30 days late.

17 (4) In the event the department determines a producer is
18 required to file a bond, the department shall give notice to
19 the producer specifying the amount of the bond required.

20 (5) The producer shall file the bond within five days
21 after notice is given by the department unless, within five
22 days, the producer requests in writing a hearing before the
23 Secretary of Revenue or his representative.

24 (6) At the hearing, the necessity, propriety and amount
25 of the bond shall be determined by the Secretary of Revenue
26 or his representative.

27 (7) The determination shall be final and the producer
28 shall comply within 15 days after notice is mailed to the
29 producer.

30 (b) Securities in lieu of bond.--

1 (1) In lieu of the bond required by this section,
2 securities approved by the department or cash in a prescribed
3 amount may be deposited. The securities or cash shall be kept
4 in the custody of the department.

5 (2) The department may:

6 (i) Apply the securities or cash to the tax imposed
7 by this chapter and interest or penalties due without
8 notice to the depositor.

9 (ii) Sell the securities to pay the tax and interest
10 or penalties due at public or private sale upon five
11 days' written notice to the depositor.

12 (c) Failure to file bond.--

13 (1) The department may file a lien under section 4316
14 (relating to tax liens) against any producer who fails to
15 file a bond when required to do so under this section.

16 (2) All funds received upon execution of the judgment on
17 the lien shall be refunded to the producer with 3% interest
18 should a final determination be made that the producer does
19 not owe any payment to the department.

20 § 4327. Prohibition.

21 A producer may not make the tax imposed under section 4303
22 (relating to imposition of tax) on natural gas severed under a
23 natural gas lease, an obligation, indebtedness or liability of a
24 landowner, leaseholder or other person in possession of real
25 property upon which the removal or extraction occurs and shall
26 not otherwise require the landowner to pay or reimburse the
27 producer for the amount of the tax.

28 § 4328. Future agreements.

29 On or after the effective date of this section, a provision
30 of an agreement in violation of section 4327 (relating to

1 prohibition) is declared to be illegal, contrary to public
2 policy and null and void.

3 § 4329. Stripper wells.

4 Notwithstanding the definition of "stripper well" in section
5 2301 (relating to definitions) or any other provision of Chapter
6 23 (relating to unconventional gas well fee) to the contrary, a
7 stripper well shall only be exempt from the payment of the
8 unconventional gas well fee due under Chapter 23 if the well was
9 incapable of producing more than 90 units of natural gas each
10 day of every calendar month in a calendar year.

11 § 4330. Deposit of proceeds.

12 The proceeds of the tax imposed under section 4303 (relating
13 to imposition of tax) and penalties and interest imposed under
14 this chapter shall be deposited into the General Fund.

15 Section 3. This act shall take effect immediately.