

2024 Regular Session

SENATE BILL NO. 285

BY SENATOR CATHEY

MINERALS. Provides relative to brine. (8/1/24)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§3. Definitions

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

* * *

(2) "Field" means the general area which is underlaid or appears to be underlaid by at least one pool. It includes the underground reservoir or reservoirs containing crude petroleum oil ~~or~~, natural gas ~~or both~~, **brine, or any combination thereof**. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field" unlike "pool", may relate to two or more pools.

* * *

(10) "Pool" means an underground reservoir containing a common accumulation of crude petroleum oil ~~or~~, natural gas ~~or both~~, **brine, or any combination thereof**. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term "pool" as used in this Chapter. However, to promote the development and production of marginally commercial sands, a zone may contain one or more common accumulations and the overall stratigraphic interval of the zone may be considered and treated as a pool for all purposes of this Chapter.

(11) "Producer" means the owner of a well capable of producing oil ~~or~~, gas ~~or both~~, **brine, or any combination thereof**.

(12) "Product" means any commodity made from oil ~~or~~, gas **or brine**. It includes **but not limited to** refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, **lithium carbonate, lithium hydroxide**, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.

* * *

(16) "Waste", in addition to its ordinary meaning, means "physical waste" as

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 salt water, whether contained in or
8 extracted from a reservoir, and all of the salt water's constituent parts and
9 minerals contained in or dissolved in the salt water, including lithium, bromine,
10 barium, magnesium, potassium, sodium, iodine, or another chemical substance
11 extracted with or separated from the saltwater. "Brine" does not include brine
12 produced as an incident to the production of oil and gas, unless the brine is
13 saved or sold for the purpose of extracting the constituent parts and dissolved
14 minerals contained in the brine.

15 (19) "Brine extraction operation" means the exploration for,
16 development of, or extraction of brine through the use of a well or wells.

17 (20) "Multiple mineral development area" means an area designated by
18 the commissioner for the management and development of various concurrent
19 surface and sub-surface mineral or resource extraction operations, including
20 exploratory activities, for the purpose of efficient and effective development of
21 minerals or resources in the area without unreasonable interference.

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

23 * * *

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

28 * * *

29 (18) To designate an area within the state as a multiple mineral

1 **development area for purposes of brine extraction operations.**

2 **(19) To adjudicate and determine multiple mineral development conflicts**
3 **among brine extraction operations if any of the following circumstances exist:**

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

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

8 * * *

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

10 * * *

11 C.(1) * * *

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

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

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

21 (c) The order will provide for the allocation to each separate tract within the
22 unit of a proportionate share of the unit production which shall insure the recovery
23 by the owners of that tract of their just and equitable share of the recoverable oil ~~or~~,
24 **gas, or brine** in the unitized pool or combination of two pools, ~~and~~.

25 * * *

26 (6) No order of the commissioner entered pursuant hereto shall have the
27 effect of enlarging, displacing, varying, altering, or in anywise whatsoever modifying
28 or changing contracts in existence on the effective date of this Act concerning the
29 unitization of any pool (reservoir) or pools (reservoirs) or field (as defined in the

1 contract) for the production of oil ~~or~~, gas, ~~or both~~ **brine, or any combination**
2 **thereof**.

3 * * *

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

5 A. * * *

6 B. For the prevention of waste and to avoid the drilling of unnecessary wells,
7 the commissioner shall establish a drilling unit or units for each pool, except for
8 those pools which, prior to July 31, 1940, had been developed to an extent and where
9 conditions exist making it impracticable or unreasonable to use a drilling unit at the
10 present stage of development. A drilling unit, as contemplated herein, means the
11 maximum area which may be efficiently and economically drained by the well or
12 wells designated to serve the drilling unit as the unit well, substitute unit well, or
13 alternate unit well. This unit shall constitute a developed area as long as a well is
14 located thereon which is capable of producing oil ~~or~~, gas, **or brine** in paying
15 quantities.

16 * * *

17 D. Subject to the reasonable necessities for the prevention of waste, and to
18 reasonable adjustment because of structural position, a producer's just and equitable
19 share of the oil ~~and~~, gas, **or brine** in the pool, also referred to as a tract's just and
20 equitable share, is that part of the authorized production of the pool, whether it be the
21 total which could be produced without any restriction on the amount of production,
22 or whether it be an amount less than that which the pool could produce if no
23 restriction on amount were imposed, which is substantially in the proportion that the
24 quantity of recoverable oil ~~and~~, gas, **or brine** in the developed area of his tract or
25 tracts in the pool bears to the recoverable oil ~~and~~, gas, **or brine** in the total developed
26 area of the pool, in so far as these amounts can be practically ascertained. To that
27 end, the rules, regulations, and orders of the commissioner shall be such as will
28 prevent or minimize reasonably avoidable net drainage from each developed area,
29 that is, drainage not equalized by counter drainage, and will give to each producer

1 the opportunity to use his just and equitable share of the ~~reservoir energy~~
 2 production. In determining each producer's just and equitable share of the
 3 production authorized for the pool, the commissioner is authorized to give due
 4 consideration to the productivity of the well or wells located thereon, as determined
 5 by flow tests, bottom hole pressure tests, or any other practical method of testing
 6 wells and producing structures, and to consider other factors and geological and
 7 engineering tests and data as may be determined by the commissioner to be pertinent
 8 or relevant to ascertaining each producer's just and equitable share of the production
 9 ~~and reservoir energy~~ of the field or pool.

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

- 11 A. * * *
- 12 (1) * * *

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

- 19 * * *

20 §11. Allocation of allowable production

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

26 B. The commissioner may limit the production of a pool to an amount less
 27 than that which the pool could produce if no restriction were imposed. This
 28 limitation may be imposed either as an incident to or without a limitation of the total
 29 amount of oil ~~or~~ gas, or brine which may be produced in this state. The

1 commissioner shall prorate the allowable production among the producers in the pool
 2 on a reasonable basis so as to prevent or minimize avoidable drainage from each
 3 developed area which is not equalized by counter drainage, and so that each producer
 4 will have the opportunity to produce or receive his just and equitable share, subject
 5 to the reasonable necessities for the prevention of waste.

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

11 * * *

12 §103.1. Operators and producers to report to owners of unleased oil ~~and~~, gas or
 13 **brine** interests

14 A. Whenever there is included within a drilling unit, as authorized by the
 15 commissioner of conservation, lands producing oil ~~or~~, gas, ~~or both~~ **brine, or any**
 16 **combination thereof**, upon which the operator or producer has no valid oil, gas, or
 17 mineral lease, said operator or producer shall issue the following reports to the
 18 owners of said interests by a sworn, detailed, itemized statement:

19 * * *

20 (2) After establishment of production from the unit well, quarterly reports
 21 which shall contain the following:

22 (a) The total amount of oil, gas, **brine**, or other hydrocarbons produced from
 23 the lands during the previous quarter.

24 * * *

25 C. Reports shall be sent by certified mail to each owner of an unleased oil ~~or~~,
 26 gas, **or brine** interest who has requested such reports in writing, by certified mail
 27 addressed to the operator or producer. The written request shall contain the unleased
 28 interest owner's name and address. Initial reports shall be sent no later than ninety
 29 calendar days after the completion of the well. The operator or producer shall begin

1 sending quarterly reports within ninety calendar days after receiving the written
2 request, whichever is later, and shall continue sending quarterly reports until
3 cessation of production.

4 * * *

5 §103.2. Failure to report; penalty

6 Whenever the operator or producer permits ninety calendar days to elapse
7 from completion of the well and thirty additional calendar days to elapse from date
8 of receipt of written notice by certified mail from the owner or owners of unleased
9 oil ~~and~~, gas, **or brine** interests calling attention to failure to comply with the
10 provisions of R.S. 30:103.1, such operator or producer shall forfeit his right to
11 demand contribution from the owner or owners of the unleased oil ~~and~~, gas, **or brine**
12 interests for the costs of the drilling operations of the well.

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

14 §4. Substances to which Code applicable

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Jacob K. Wilson.

DIGEST

SB 285 Original

2024 Regular Session

Cathey

Present law provides for jurisdiction over the natural resources of the state and provides for definitions.

Proposed law retains present law and provides that a field or pool may contain brine. Provides that a producer may be the owner of a brine well. Provides that a product may be any commodity made from brine and may include lithium carbonate and lithium hydroxide. Provides that waste is an action that may result in reducing the quantity of brine recoverable from a pool.

Proposed law provides that brine is subterranean salt water and its parts, including dissolved minerals and other chemicals. Provides that brine does not include salt water produced in oil or gas production and not saved or sold for extraction of minerals.

Proposed law provides that brine extraction operation includes exploration and extraction through wells.

Proposed law provides that a multiple mineral development area is designated for efficient development of various concurrent mineral operations. Provides that the commissioner has authority to designate such an area and to adjudicate conflicts where there is potential injury to deposits or development, or there are concurrent operations by multiple owners affecting the same property.

Present law provides that the office of conservation may establish drilling or pooling units upon certain findings, including that the order will increase or insure recovery of oil or gas. Provides that no order can enlarge or change existing contracts for production of oil or gas.

Proposed law retains present law and adds brine to pooling and unitization orders.

Present law excludes certain existing oil and gas wells from unitization for waste reduction.

Proposed law retains present law and adds brine wells to potential exclusions.

Present law defines just and equitable share of recoverable oil or gas and provides that each producer gets an opportunity to use that share of production.

Proposed law retains present law and adds production of brine to the just and equitable share.

Present law provides that pooling orders account for the just and equitable share of oil or gas production for each owner and that the commissioner may limit production of oil and gas among fields or pools.

Proposed law retains present law and production of brine.

Present law provides that where a unit includes lands to which an operator or producer has no mineral interest, the operator or producer must provide production reports for oil and gas. Provides for penalties for failure to report.

Proposed law retains present law and adds production of brine to reporting requirements.

Present law provides substances to which the Mineral Code applies.

Proposed law retains present law and adds brine to applicability.

Effective August 1, 2024.

(Amends R.S. 30:3(2), (10), (11), (12), (16)(a), 5(C)(2)(a), (b), and (c), 9(B) and (D), 10(A)(1)(a), 11, 103.1(A)(intro para), 103.1(A)(2)(a), and (C), and 103.2 and R.S. 31:4 and to enact R.S. 30:3(18), (19), and (20) and 4(C)(18) and (19))