

2024 Regular Session

SENATE BILL NO. 285

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

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

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**

1 producers acting on behalf of the person, who has the right to drill into and to
 2 produce from a pool and to appropriate the production, either for himself or for
 3 others, belongs to such person, regardless of whether such brine is saved,
 4 retained, used, or sold for the purpose of extracting the constituent parts,
 5 minerals, elements, compounds, or substances contained in or dissolved in the
 6 brine.

7 §3. Definitions

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

10 * * *

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

17 * * *

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

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

28 (12) "Product" means any commodity made from oil ~~or~~, gas **or brine**. It
 29 includes **but is not limited to** refined crude oil, crude tops, topped crude, processed

1 crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil,
 2 fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas
 3 gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended
 4 gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products
 5 or by-products derived from oil or gas, ~~and~~ blends or mixtures of two or more liquid
 6 products or by-products derived from oil or gas, lithium carbonate, lithium
 7 hydroxide, and any other commodity or product made from the brine or any
 8 constituent parts, minerals, elements, compounds, or substances contained in
 9 or dissolved in the brine, whether hereinabove enumerated or not.

10 * * *

11 (16) "Waste", in addition to its ordinary meaning, means "physical waste" as
 12 that term is generally understood in the oil and gas industry. It includes:

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

17 * * *

18 (18) "Brine" means subterranean saltwater, whether contained in or
 19 produced from a reservoir, and all of the saltwater's constituent parts, minerals,
 20 elements, compounds, or substances contained in or dissolved in the saltwater,
 21 including but not limited to lithium, bromine, barium, magnesium, potassium,
 22 sodium, iodine, or other constituent parts, minerals, elements, compounds, or
 23 substances produced with or separated from the saltwater. "Brine" does not
 24 include brine produced as an incident to the production of oil and gas, unless
 25 the brine is saved, retained, used, or sold for the purpose of extracting the
 26 constituent parts, minerals, elements, compounds, or substances contained or
 27 dissolved in the brine. "Brine" also does not include underground sources of
 28 drinking water or brine created through solution mining.

29 (19) "Brine production operations" means the exploration for,

1 development of, or production of brine through the use of a well or wells.

2 "Brine production operations" may include the reinjection of the brine,

3 including after possible extraction of any constituent parts, minerals, elements,

4 compounds, or substances contained in or dissolved in the brine.

5 (20) "Multiple mineral development area" means an area designated by

6 the commissioner for the management and development of various concurrent

7 surface and sub-surface mineral or resource production or extraction

8 operations, including exploratory activities, for the purpose of efficient and

9 effective development of minerals or resources in the area without unreasonable

10 interference.

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

12 * * *

13 C. The commissioner has authority to make, after notice and hearings as

14 provided in this Chapter, any reasonable rules, regulations, and orders that are

15 necessary from time to time in the proper administration and enforcement of this

16 Chapter, including rules, regulations, or orders for the following purposes:

17 * * *

18 (18) To regulate brine production operations.

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

20 development area for purposes of brine production operations.

21 (20) To adjudicate and determine multiple mineral development conflicts

22 among brine production operations if any of the following circumstances exist:

23 (a) There is potential injury to other mineral deposits or mineral

24 development in or beneath the property affected.

25 (b) There are simultaneous or concurrent operations conducted by other

26 mineral owners or lessees affecting the property.

27 * * *

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

29 * * *

1 C.(1) * * *

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

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

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

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

15 (d) At least three-fourths of the owners and three-fourths of the royalty
16 owners, as to a particular interest, as hereinafter defined, such three-fourths to be in
17 interest as determined under Subparagraph (c) hereof of this Paragraph, shall have
18 approved the plan and terms of unit operation, such approval to be evidenced by a
19 written contract or contracts covering the terms and operation of the unitization
20 signed and executed by the three-fourths in interest of the owners and three-fourths
21 in interest of the ~~said~~ royalty owners and filed with the assistant secretary of the
22 office of conservation on or before the day set for the hearing. Notwithstanding any
23 other provision of this Subparagraph to the contrary, with respect to an order
24 for unit operation for the production of brine, such approval shall only be
25 required from at least three-fourths of the owners as to the particular interest,
26 such approval to be evidenced by a written contract or contracts covering the
27 terms and operation of the unitization signed and executed by the three-fourths
28 in interest of the owners and filed with the assistant secretary of the office of
29 conservation on or before the day set for the hearing.

* * *

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

* * *

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

A. * * *

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

* * *

D. Subject to the reasonable necessities for the prevention of waste, and to reasonable adjustment because of structural position, a producer's just and equitable share of the oil ~~and~~ gas, **or brine** in the pool, also referred to as a tract's just and equitable share, is that part of the authorized production of the pool, whether it be the total which could be produced without any restriction on the amount of production, or whether it be an amount less than that which the pool could produce if no restriction on amount were imposed, which is substantially in the proportion that the quantity of recoverable oil ~~and~~ gas, **or brine** in the developed area of his tract or

1 tracts in the pool bears to the recoverable oil ~~and~~, gas, **or brine** in the total developed
2 area of the pool, in so far as these amounts can be practically ascertained. To that
3 end, the rules, regulations, and orders of the commissioner shall be such as will
4 prevent or minimize reasonably avoidable net drainage from each developed area,
5 that is, drainage not equalized by counter drainage, and will give to each producer
6 the opportunity to use his just and equitable share of the ~~reservoir energy~~
7 **production**. In determining each producer's just and equitable share of the
8 production authorized for the pool, the commissioner is authorized to give due
9 consideration to the productivity of the well or wells located thereon, as determined
10 by flow tests, bottom hole pressure tests, or any other practical method of testing
11 wells and producing structures, and to consider other factors and geological and
12 engineering tests and data as may be determined by the commissioner to be pertinent
13 or relevant to ascertaining each producer's just and equitable share of the production
14 ~~and reservoir energy~~ of the field or pool.

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

- 16 A. * * *
- 17 (1) * * *

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

- 24 * * *

25 §11. Allocation of allowable production

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

1 abandonment of the wells in the field.

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

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

16 * * *

17 §103.1. Operators and producers to report to owners of unleased oil ~~and~~, gas or
18 brine interests

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

24 * * *

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

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

29 * * *

1 C. Reports shall be sent by certified mail to each owner of an unleased oil ~~or~~,
 2 gas, **or brine** interest who has requested such reports in writing, by certified mail
 3 addressed to the operator or producer. The written request shall contain the unleased
 4 interest owner's name and address. Initial reports shall be sent no later than ninety
 5 calendar days after the completion of the well. The operator or producer shall begin
 6 sending quarterly reports within ninety calendar days after receiving the written
 7 request, whichever is later, and shall continue sending quarterly reports until
 8 cessation of production.

9 * * *

10 §103.2. Failure to report; penalty

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

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

19 §4. Substances to which Code applicable

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

The original instrument was prepared by Jacob K. Wilson. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

Proposed law retains present law and provides that ownership of brine produced during oil and gas operations lies with the person who has the right to drill and produce from a pool.

Proposed law 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 and any commodity or product made from brine or its component parts. 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 constituent parts, minerals, elements, compounds, or substances. Provides that brine does not include salt water produced in oil or gas production and not saved or sold for extraction of minerals. Further provides that drinking water and solution mining sources are excluded.

Proposed law provides that brine production operations include exploration, extraction, and reinjection 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 has authority to regulate brine production operations and 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. Provides for owner approval of unit operation orders.

Proposed law retains present law and adds brine to pooling and unitization orders. Further provides that three quarters of ownership as to a particular interest is required for approval of a unit operation order, and approval is evidenced by written contract filed with the office of conservation on or before the hearing date.

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) and (6), 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; adds R.S. 30:2.1, 3(18), (19), and (20) and 4(C)(18), (19), and (20))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

1. Makes technical changes.
2. Provides for ownership of brine produced in oil and gas operations.
3. Provides that "product" includes any commodity or product made from brine or any of its component parts.
4. Provides that "brine" includes all its constituent parts, minerals, elements, compounds, or substances produced with the brine.
5. Provides that drinking water and solution mining sources are not "brine".
6. Changes the term "extraction" to "production".
7. Provides that "brine production operations" includes reinjection of brine.
8. Provides that the commissioner of conservation has authority to regulate brine production operations.
9. Provides that approval of unit operations orders for brine production only requires three quarters of the owners of a particular interest and that such approval is evidenced by written contract, filed with the office of conservation on or before the hearing date.

Senate Floor Amendments to engrossed bill

1. Technical amendments.