

SENATE BILL NO. 285

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

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AN ACT

To amend and reenact R.S. 30:3(2), (10), (11), (12), (16)(a), 5(C)(2) and (6), 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. 30:2.1, 3(18), (19), and (20) and 4(C)(18), (19), and (20), 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) and (6), 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 are hereby amended and reenacted and R.S. 30:2.1, 3(18), (19), and (20) and 4(C)(18), (19), and (20) are hereby enacted to read as follows:

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

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

§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 is 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, 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, **lithium carbonate, lithium hydroxide, and any other commodity or product made from the brine or any constituent parts, minerals, elements, compounds, or substances contained in or dissolved in the brine**, whether hereinabove enumerated or not.

\* \* \*

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

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

7 \* \* \*

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

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

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

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

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

\* \* \*

(18) To regulate brine production operations.

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

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

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

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

\* \* \*

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

\* \* \*

C.(1)

\* \* \*

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

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

(b) The proposed unit operation is economically feasible;

(c) The order will provide for the allocation to each separate tract within the unit of a proportionate share of the unit production which shall insure the recovery

1 by the owners of that tract of their just and equitable share of the recoverable oil or,  
 2 gas, **or brine** in the unitized pool or combination of two pools, ~~and.~~

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

18 \* \* \*

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

25 \* \* \*

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

- 27 A. \* \* \*
- 28 B. For the prevention of waste and to avoid the drilling of unnecessary wells,  
 29 the commissioner shall establish a drilling unit or units for each pool, except for  
 30 those pools which, prior to July 31, 1940, had been developed to an extent and where

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

8 \* \* \*

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

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

2 A. \* \* \*

3 (1) \* \* \*

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

10 \* \* \*

11 §11. Allocation of allowable production

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

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

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

1 \* \* \*

2 §103.1. Operators and producers to report to owners of unleased oil ~~and~~, gas or  
3 brine interests

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

9 \* \* \*

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

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

14 \* \* \*

15 C. Reports shall be sent by certified mail to each owner of an unleased oil ~~or~~,  
16 gas, or brine interest who has requested such reports in writing, by certified mail  
17 addressed to the operator or producer. The written request shall contain the unleased  
18 interest owner's name and address. Initial reports shall be sent no later than ninety  
19 calendar days after the completion of the well. The operator or producer shall begin  
20 sending quarterly reports within ninety calendar days after receiving the written  
21 request, whichever is later, and shall continue sending quarterly reports until  
22 cessation of production.

23 \* \* \*

24 §103.2. Failure to report; penalty

25 Whenever the operator or producer permits ninety calendar days to elapse  
26 from completion of the well and thirty additional calendar days to elapse from date  
27 of receipt of written notice by certified mail from the owner or owners of unleased  
28 oil ~~and~~, gas, or brine interests calling attention to failure to comply with the  
29 provisions of R.S. 30:103.1, such operator or producer shall forfeit his right to  
30 demand contribution from the owner or owners of the unleased oil ~~and~~, gas, or brine

1 interests for the costs of the drilling operations of the well.

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

3 §4. Substances to which Code applicable

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

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_