

AN ACT

relating to the duty of a lessee or other agent in control of certain state land to drill an offset well, pay compensatory royalty, or otherwise protect the land from drainage of oil or gas by a horizontal drainhole well located on certain land.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 52.034, Natural Resources Code, is amended by amending Subsections (a) and (d) and adding Subsections (a-1) and (a-2) to read as follows:

(a) In this section:

(1) "Horizontal drainhole well" means a well with a horizontal drainhole that may produce oil or gas along at least 100 feet of the drainhole.

(2) "Take point" means any point in a horizontal drainhole well where oil and gas can be produced from the reservoir or field interval recognized by the Railroad Commission of Texas.

(3) "Unconventional fracture treated field" means an oil or gas field in which horizontal well development and hydraulic fracture treatment must be used to recover resources from all or part of the field.

(a-1) Except as provided by Subsection (a-2), if ~~if~~ oil or gas is produced in commercial quantities from a well located on a privately owned area or areas of state land leased at a lesser royalty and the well is located within 1,000 feet of an area leased

1 under this subchapter~~[7]~~ or ~~[in any case where such an area]~~ is
2 draining an area leased under this subchapter ~~[being drained by~~
3 ~~such a well or wells]~~, the lessee of the state area shall begin in
4 good faith and prosecute diligently the drilling of an offset well
5 or wells on the area leased from the state within 60 days after the
6 initial production from the draining well or the well located
7 within 1,000 feet of the leased state area.

8 (a-2) If the well producing oil or gas in commercial
9 quantities under Subsection (a-1) is a horizontal drainhole well
10 located in an unconventional fracture treated field, a lessee of a
11 state area is not required to drill an offset well as provided by
12 Subsection (a-1) unless any take point in the horizontal drainhole
13 well is located closer to the leased state area than the greater of:

14 (1) the minimum distance established by the applicable
15 lease-line spacing requirement of the Railroad Commission of Texas;
16 or

17 (2) a perpendicular distance of 330 feet.

18 (d) At the determination of the commissioner and with the
19 commissioner's ~~[his]~~ written approval, the payment of a
20 compensatory royalty shall satisfy the obligation to drill an
21 offset well or wells required by Subsection (a-1) ~~[Subsection (a)~~
22 ~~of this section]~~. Such compensatory royalty shall be paid at the
23 royalty rate provided by the state lease issued under this
24 subchapter and shall be paid on the market value at the well of
25 production from the ~~[draining]~~ well producing oil or gas in
26 commercial quantities described by Subsection (a-1) ~~[or the well~~
27 ~~located within 1,000 feet of the leased state area]~~.

1 SECTION 2. Section 52.173, Natural Resources Code, is
2 amended by amending Subsections (a) and (d) and adding Subsections
3 (a-1) and (a-2) to read as follows:

4 (a) In this section:

5 (1) "Horizontal drainhole well" means a well with a
6 horizontal drainhole that may produce oil or gas along at least 100
7 feet of the drainhole.

8 (2) "Take point" means any point in a horizontal
9 drainhole well where oil or gas can be produced from the reservoir
10 or field interval recognized by the Railroad Commission of Texas.

11 (3) "Unconventional fracture treated field" means an
12 oil or gas field in which horizontal well development and hydraulic
13 fracture treatment must be used to recover resources from all or
14 part of the field.

15 (a-1) Except as provided by Subsection (a-2), if [~~If~~] oil or
16 [~~and/or~~] gas is [~~should be~~] produced in commercial quantities
17 within 1,000 feet of land subject to this subchapter[~~7~~] or if
18 production of oil or gas is draining [~~in any case where~~] land
19 subject to this subchapter, [~~is being drained by production of oil~~
20 ~~or gas~~] the owner, lessee, sublessee, receiver, or other agent in
21 control of land subject to this subchapter shall in good faith begin
22 the drilling of a well or wells upon such state land within 100 days
23 after the draining well or wells or the well or wells completed
24 within 1,000 feet of the state land commence to produce in
25 commercial quantities[~~7~~] and shall prosecute such drilling with
26 diligence to reasonably develop the state land and to protect such
27 state land against drainage.

1 (a-2) If the well producing oil or gas in commercial
2 quantities under Subsection (a-1) is a horizontal drainhole well
3 located in an unconventional fracture treated field, the owner,
4 lessee, sublessee, receiver, or other agent in control of land
5 subject to this subchapter is not required to drill an offset well
6 as provided by Subsection (a-1) unless any take point in the
7 horizontal drainhole well is located closer to the state land than
8 the greater of:

9 (1) the minimum distance established by the applicable
10 lease-line spacing requirement of the Railroad Commission of Texas;
11 or

12 (2) a perpendicular distance of 330 feet.

13 (d) At the determination of the commissioner and with the
14 commissioner's [~~his~~] written approval, the payment of a
15 compensatory royalty shall satisfy the obligation to drill an
16 offset well or wells required by Subsection (a-1). Such
17 compensatory royalty shall be paid at a royalty rate established by
18 the commissioner if the land is unleased, or at the royalty rate
19 provided by the state lease, if the land is leased. Such
20 compensatory royalty shall be paid on the market value at the well
21 of production from the [~~draining~~] well producing oil or gas in
22 commercial quantities described by Subsection (a-1) [~~or the well~~
23 ~~located within 1,000 feet of the state land~~].

24 SECTION 3. Notwithstanding Section 4 of this Act, the
25 changes in law made by this Act apply only to a lease or other
26 agreement or an amendment to a lease or other agreement entered into
27 on or after the effective date of this Act. A lease or other

1 agreement or an amendment to a lease or other agreement entered into
2 before the effective date of this Act is governed by the law in
3 effect on the date the lease or other agreement or amendment to the
4 lease or other agreement is entered into, and that law is continued
5 in effect for that purpose.

6 SECTION 4. The parties to a lease or other agreement entered
7 into before the effective date of this Act pertaining to land
8 subject to Subchapter B or F, Chapter 52, Natural Resources Code,
9 may:

10 (1) contractually agree to amend the lease or other
11 agreement to bring the lease or other agreement into conformity
12 with the changes in law made by this Act; or

13 (2) after reviewing pertinent data, contractually
14 agree that a horizontal drainhole well in an unconventional
15 fracture treated field is incapable of draining the land subject to
16 the lease or other agreement.

17 SECTION 5. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1258 passed the Senate on May 3, 2021, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1258 passed the House on May 24, 2021, by the following vote: Yeas 140, Nays 5, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor