

First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 07-0749.03 Thomas Morris

HOUSE BILL 07-1341

HOUSE SPONSORSHIP

Curry, and Gibbs

SENATE SPONSORSHIP

Isgar,

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE COLORADO OIL AND GAS COMMISSION, AND, IN**
102 **CONNECTION THEREWITH, DIRECTING THE COMMISSION TO**
103 **FOSTER OIL AND GAS DEVELOPMENT CONSISTENT WITH THE**
104 **PROTECTION OF THE ENVIRONMENT, WILDLIFE RESOURCES, AND**
105 **PUBLIC HEALTH, SAFETY, AND WELFARE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Declares it to be public policy that oil and gas development occur consistent with the protection of the environment, wildlife resources, and public health, safety, and welfare. To achieve such public policy,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 23, 2007

HOUSE
Amended 2nd Reading
March 22, 2007

redefines "waste" to exclude actions taken to protect the environment, wildlife resources, and public health, safety, and welfare. Specifies that nothing in the act establishes, alters, impairs, or negates the authority of local governments to regulate land use related to oil and gas operations.

Modifies membership requirements for the Colorado oil and gas commission by:

Adding the executive directors of the departments of public health and environment and natural resources as ex officio members; and

Specifying geographic and experiential prerequisites for the remaining members.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby declares that nothing in this act shall establish, alter, impair, or
4 negate the authority of local governments to regulate land use related to
5 oil and gas operations.

6 **SECTION 2.** 34-60-102 (1), Colorado Revised Statutes, is
7 amended to read:

8 **34-60-102. Legislative declaration.** (1) It is declared to be in the
9 public interest to foster ~~encourage, and promote~~ the RESPONSIBLE,
10 BALANCED development, production, and utilization of the natural
11 resources of oil and gas in the state of Colorado in a manner consistent
12 with protection of public health, safety, and welfare, INCLUDING
13 PROTECTION OF THE ENVIRONMENT AND WILDLIFE RESOURCES; to protect
14 the public and private interests against ~~the evils of~~ waste in the production
15 and utilization of oil and gas; ~~by prohibiting waste;~~ AND to safeguard,
16 protect, and enforce the coequal and correlative rights of owners and
17 producers in a common source or pool of oil and gas to the end that each
18 such owner and producer in a common pool or source of supply of oil and
19 gas may obtain a just and equitable share of production therefrom. It is

1 not the intent nor the purpose of this article to require or permit the
2 proration or distribution of the production of oil and gas among the fields
3 and pools of Colorado on the basis of market demand. It is the intent and
4 purpose of this article to permit each oil and gas pool in Colorado to
5 produce up to its maximum efficient rate of production, subject to the
6 ~~prohibition~~ PREVENTION of waste, CONSISTENT WITH THE PROTECTION OF
7 PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE
8 ENVIRONMENT AND WILDLIFE RESOURCES, and subject further to the
9 enforcement and protection of the coequal and correlative rights of the
10 owners and producers of a common source of oil and gas, so that each
11 common owner and producer may obtain a just and equitable share of
12 production therefrom.

13 **SECTION 3.** 34-60-103 (13), Colorado Revised Statutes, is
14 amended to read:

15 **34-60-103. Definitions.** As used in this article, unless the context
16 otherwise requires:

17 (13) (a) "Waste", in addition to the meanings ~~as~~ set forth in
18 subsections (11) and (12) of this section, means:

19 (a) (I) Physical waste, as that term is generally understood in the
20 oil and gas industry;

21 (b) (II) The locating, spacing, drilling, equipping, operating, or
22 producing of any oil or gas well or wells in a manner ~~which~~ THAT causes
23 or tends to cause reduction in quantity of oil or gas ultimately recoverable
24 from a pool under prudent and proper operations or ~~which~~ THAT causes
25 or tends to cause unnecessary or excessive surface loss or destruction of
26 oil or gas; AND

27 (c) (III) Abuse of the correlative rights of any owner in a pool due

1 to nonuniform, disproportionate, unratable, or excessive withdrawals of
2 oil or gas therefrom, causing reasonably avoidable drainage between
3 tracts of land or resulting in one or more producers or owners in such pool
4 producing more than his OR HER equitable share of the oil or gas from
5 such pool.

6 (b) NOTWITHSTANDING THE MEANINGS SET FORTH IN SUBSECTIONS
7 (11) AND (12) OF THIS SECTION AND PARAGRAPH (a) OF THIS SUBSECTION
8 (13), "WASTE" DOES NOT INCLUDE ANY ACTION TAKEN BY THE
9 COMMISSION OR ANY ACTION TAKEN BY AN OPERATOR TO FULFILL THE
10 PROVISIONS OF THIS ARTICLE TO PROTECT THE PUBLIC HEALTH, SAFETY,
11 AND WELFARE, INCLUDING PROTECTION OF THE ENVIRONMENT AND
12 WILDLIFE RESOURCES.

13 **SECTION 4.** 34-60-104 (2) (a), Colorado Revised Statutes, is
14 amended to read:

15 **34-60-104. Oil and gas conservation commission - report -**
16 **publication - repeal.** (2) (a) (I) Effective ~~July 1, 1994~~ JULY 1, 2007, the
17 commission shall consist of NINE MEMBERS, seven ~~members~~ OF WHOM
18 SHALL BE appointed by the governor with the consent of the senate, AND
19 TWO OF WHOM, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
20 NATURAL RESOURCES AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT
21 OF PUBLIC HEALTH AND ENVIRONMENT, OR THEIR DESIGNEES, SHALL BE EX
22 OFFICIO VOTING MEMBERS. AT LEAST two members shall be appointed
23 from west of the continental divide, and, to the extent possible, consistent
24 with this paragraph (a), the other members shall be appointed taking into
25 account the need for geographical representation of other areas of the
26 state with high levels of oil and gas activity or employment. ~~Two~~
27 ~~members shall not be employed by the oil and gas industry and shall be~~

1 individuals with formal training or substantial experience in agriculture,
2 land reclamation, environmental protection, or soil conservation. Five
3 THREE members shall be individuals with substantial experience in the oil
4 and gas industry, and at least two of said ~~five~~ THREE members shall have
5 a college degree in petroleum geology or petroleum engineering; ONE
6 MEMBER SHALL BE A LOCAL GOVERNMENT OFFICIAL; ONE MEMBER SHALL
7 HAVE A BACKGROUND AND EXPERTISE IN ENVIRONMENTAL OR WILDLIFE
8 PROTECTION; ONE MEMBER SHALL HAVE A BACKGROUND AND EXPERTISE
9 IN SOIL CONSERVATION OR RECLAMATION; AND ONE MEMBER SHALL BE
10 ACTIVELY ENGAGED IN AGRICULTURAL PRODUCTION AND ALSO BE A
11 ROYALTY OWNER. EXCLUDING THE EXECUTIVE DIRECTORS FROM
12 CONSIDERATION, no more than four members of the commission shall be
13 members of the same political party.

14 (II) SUBJECT TO PARAGRAPH (b) OF THIS SUBSECTION (2), NOTHING
15 IN THIS PARAGRAPH (a) SHALL BE CONSTRUED TO REQUIRE A HOLDOVER
16 MEMBER OF THE COMMISSION HOLDING OFFICE ON JULY 1, 2007, TO
17 COMPLY WITH THE PROVISIONS OF THIS PARAGRAPH (a), AS AMENDED,
18 UNLESS SUCH PERSON IS REAPPOINTED TO THE COMMISSION FOR ANOTHER
19 TERM OF OFFICE. NOTHING IN THIS SUBPARAGRAPH (II) SHALL ALTER,
20 IMPAIR, OR NEGATE THE AUTHORITY OF THE GOVERNOR TO REMOVE OR
21 APPOINT MEMBERS OF THE COMMISSION PURSUANT TO PARAGRAPH (b) OF
22 THIS SUBSECTION (2).

23 (III) (A) THE COMMISSION SHALL SUBMIT A QUARTERLY REPORT
24 TO THE GENERAL ASSEMBLY CONCERNING THE NUMBER OF COMPLAINTS
25 RECEIVED BY THE COMMISSION AND ITS STAFF, A BREAKDOWN OF THE
26 TYPES OF COMPLAINTS, THE NAMES AND ADDRESSES OF THE PERSONS
27 SUBMITTING THE COMPLAINTS, AND HOW THE COMMISSION AND ITS STAFF

1 ADDRESSED THE COMPLAINTS.

2 (B) THIS SUBPARAGRAPH (III) IS REPEALED, EFFECTIVE JULY 1,
3 2010.

4 **SECTION 5.** 34-60-106 (11), Colorado Revised Statutes, is
5 amended to read:

6 **34-60-106. Additional powers of the commission.** (11) ON OR
7 BEFORE JULY 1, 2008, the commission shall, ~~promulgate~~ IN
8 CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND
9 ENVIRONMENT, REVIEW ITS ~~rules and regulations~~ RELATED to ~~protect~~ THE
10 PROTECTION OF the health, safety, and welfare of the general public in the
11 conduct of oil and gas operations.

12 **SECTION 6.** 34-60-119, Colorado Revised Statutes, is amended
13 to read:

14 **34-60-119. Production - limitation.** This article shall never be
15 construed to require, permit, or authorize the commission or any court to
16 make, enter, or enforce any order, rule, ~~regulation~~; or judgment requiring
17 restriction of production of any pool or of any well, except a ~~well or wells~~
18 ~~drilled in violation of section 34-60-116, to an amount less than the well~~
19 ~~or pool can produce without waste~~ WHERE NECESSARY TO PROTECT THE
20 PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING PROTECTION OF THE
21 ENVIRONMENT AND WILDLIFE RESOURCES.

22 **SECTION 7. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.