

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5399**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 61501, 61524, and 61525 (MCL 324.61501,
324.61524, and 324.61525), section 61501 as amended by 1998 PA
115 and sections 61524 and 61525 as added by 1995 PA 57, and by
adding sections 61506a, 61525a, and 61525b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 61501. Unless the context requires a different mean-
2 ing, the words defined in this section have the following mean-
3 ings when used in this part:

4 (a) "Department" means the department of environmental
5 quality.

6 (b) "Field" means an underground reservoir or reservoirs
7 containing oil or gas, or both. Field also includes the same
8 general surface area that is underlaid or appears to be underlaid

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1 by at least 1 pool. Field and pool have the same meaning if only
2 1 underground reservoir is involved. However, field, unlike
3 pool, may relate to 2 or more pools.

4 (C) "FUND" MEANS THE OIL AND GAS REGULATORY FUND CREATED IN
5 SECTION 61525B.

6 (D) ~~-(c)-~~ "Gas" means a mixture of hydrocarbons and varying
7 quantities of nonhydrocarbons in a gaseous state which may or may
8 not be associated with oil, and includes those liquids resulting
9 from condensation.

10 (E) ~~-(d)-~~ "Illegal container" means a receptacle that con-
11 tains illegal oil or gas or illegal products.

12 (F) ~~-(e)-~~ "Illegal conveyance" means a conveyance by or
13 through which illegal oil or gas or illegal products are being
14 transported.

15 (G) ~~-(f)-~~ "Illegal oil or gas" means oil or gas that has
16 been produced by an owner or producer in violation of this part,
17 a rule promulgated under this part, or an order of the supervisor
18 issued under this part.

19 (H) ~~-(g)-~~ "Illegal product" means a product of oil or gas or
20 any part of a product of oil or gas that was knowingly processed
21 or derived in whole or in part from illegal oil or gas.

22 (I) ~~-(h)-~~ "Market demand" means the actual demand for oil or
23 gas from any particular pool or field for current requirements
24 for current consumption and use within or outside the state,
25 together with the demand for such amounts as are necessary for
26 building up or maintaining reasonable storage reserves of oil or
27 gas or the products of oil or gas.

1 (J) ~~-(i)-~~ "Oil" means natural crude oil or petroleum and
2 other hydrocarbons, regardless of gravity, that are produced at
3 the well in liquid form by ordinary production methods and that
4 are not the result of condensation of gas after it leaves the
5 underground reservoir.

6 (K) ~~-(j)-~~ "Owner" means the person who has the right to
7 drill a well into a pool, to produce from a pool, and to receive
8 and distribute the value of the production from the pool for him-
9 self or herself either individually or in combination with
10 others.

11 (l) ~~-(k)-~~ "Person" means any natural person, corporation,
12 association, partnership, receiver, trustee, so-called common law
13 or statutory trust, guardian, executor, administrator, and a
14 fiduciary of any kind.

15 (M) ~~-(i)-~~ "Pool" means an underground reservoir containing a
16 common accumulation of oil or gas, or both. Pool includes a pro-
17 ductive zone of a general structure that is completely separated
18 from any other zone in the structure, or is declared to be a pool
19 by the supervisor of wells.

20 (N) ~~-(m)-~~ "Producer" means the operator, whether owner or
21 not, of a well or wells capable of producing oil or gas or both
22 in paying quantities.

23 (O) ~~-(n)-~~ "Product" means any commodity or thing made or
24 manufactured from oil or gas, and all derivatives of oil or gas,
25 including refined crude oil, crude tops, topped crude, processed
26 crude petroleum, residue from crude petroleum, cracking stock,
27 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas

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1 oil, naphtha, distillate, gasoline, casing-head gasoline, natural
2 gas gasoline, kerosene, benzine, wash oil, waste oil, lubricating
3 oil, and blends or mixtures of oil or gas or any derivatives of
4 oil or gas whether enumerated or not.

5 (P) ~~(o)~~ "Supervisor" or "supervisor of wells" means the
6 department.

7 (Q) ~~(p)~~ "Tender" means a permit or certificate of clear-
8 ance, approved and issued or registered under the authority of
9 the supervisor, for the transportation of oil or gas or
10 products.

11 (R) ~~(q)~~ "Waste" in addition to its ordinary meaning
12 includes all of the following:

13 (i) "Underground waste", as those words are generally under-
14 stood in the oil business, and including all of the following:

15 (A) The inefficient, excessive, or improper use or dissipa-
16 tion of the reservoir energy, including gas energy and water
17 drive, of any pool, and the locating, spacing, drilling, equip-
18 ping, operating, or producing of a well or wells in a manner to
19 reduce or tend to reduce the total quantity of oil or gas ulti-
20 mately recoverable from any pool.

21 (B) Unreasonable damage to underground fresh or mineral
22 waters, natural brines, or other mineral deposits from operations
23 for the discovery, development, and production and handling of
24 oil or gas.

25 (ii) "Surface waste", as those words are generally under-
26 stood in the oil business, and including all of the following:

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1 (A) The unnecessary or excessive surface loss or destruction
2 without beneficial use, however caused, of gas, oil, or other
3 product, but including the loss or destruction, without benefi-
4 cial use, resulting from evaporation, seepage, leakage, or fire,
5 especially a loss or destruction incident to or resulting from
6 the manner of spacing, equipping, operating, or producing a well
7 or wells, or incident to or resulting from inefficient storage or
8 handling of oil.

9 (B) The unnecessary damage to or destruction of the surface;
10 soils; animal, fish, or aquatic life; property; or other environ-
11 mental values from or by oil and gas operations.

12 (C) The drilling of unnecessary wells.

13 (iii) "Market waste", which includes the production of oil
14 or gas in any field or pool in excess of the market demand as
15 defined in this part.

16 SEC. 61506A. UPON COMPLETION OF AN INSPECTION UNDER THIS
17 PART, THE SUPERVISOR SHALL NOTIFY THE OWNER OR OPERATOR OF THE
18 WELL OF ANY VIOLATION OF THIS OR ANY OTHER PART OF THIS ACT THAT
19 IS IDENTIFIED DURING THE INSPECTION.

20 Sec. 61524. (1) For the purposes of monitoring, surveil-
21 lance, enforcement, and administration of this part, a fee not in
22 excess of 1%, based upon the gross cash market value, is levied
23 upon oil and gas produced in this state. The fee shall be col-
24 lected by the revenue division of the department of treasury in
25 the same manner, at the same time, and subject to the provisions
26 of the tax levied by ~~Act No. 48 of the Public Acts of 1929,~~

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1 ~~being sections 205.301 to 205.317 of the Michigan Compiled Laws~~
2 1929 PA 48, MCL 205.301 TO 205.317.

3 (2) The fee shall be computed as follows:

4 (a) The director of the department of management and budget,
5 on or before November 1, shall certify to the department of trea-
6 sury the amount appropriated for the fiscal year for the purposes
7 of monitoring, surveillance, enforcement, and administration of
8 this part.

9 (b) The department shall estimate the total production and
10 gross cash market value of all oil and gas that will be produced
11 in this state during the fiscal year ending September 30, and
12 shall certify its estimate to the department of treasury on or
13 before November 1.

14 (c) ~~The department of treasury shall determine,~~ WITHIN 30
15 DAYS AFTER THE EFFECTIVE DATE OF THE 1998 AMENDMENTS TO THIS SEC-
16 TION AND on or before December 1 of ~~the~~ EACH SUCCEEDING year,
17 the ~~percentage, to the nearest 1/100 of 1%, the ratio that the~~
18 ~~appropriation bears to the total gross cash market value of the~~
19 ~~oil and gas that will be produced in this state as estimated by~~
20 ~~the department as provided in subdivision (b).~~ DEPARTMENT OF
21 TREASURY SHALL DETERMINE THE FEE AS FOLLOWS:

22 (i) IF THE FUND BALANCE IS LESS THAN \$7,000,000.00 AS OF THE
23 END OF THE FISCAL YEAR IMMEDIATELY PRIOR TO NOVEMBER 1, THE FEE
24 SHALL BE 1% OF THE GROSS CASH MARKET VALUE OF OIL AND GAS
25 PRODUCED, OR AN AMOUNT CALCULATED TO CAUSE THE FUND TO ACCUMULATE
26 TO \$7,000,000.00 AT THE END OF THE CURRENT FISCAL YEAR, WHICHEVER
27 IS LESS.

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1 (ii) IF THE FUND BALANCE IS EQUAL TO OR EXCEEDS
2 \$7,000,000.00 AS OF THE END OF THE FISCAL YEAR IMMEDIATELY PRIOR
3 TO NOVEMBER 1, THE FEE SHALL BE THE RATIO, TO THE NEAREST 1/100
4 OF 1%, THAT THE APPROPRIATION BEARS TO THE TOTAL GROSS CASH
5 MARKET VALUE OF THE OIL AND GAS THAT WILL BE PRODUCED IN THIS
6 STATE AS ESTIMATED BY THE DEPARTMENT AS PROVIDED IN SUBDIVISION
7 (B).

8 (iii) ANY MONEY ACCUMULATED IN THE FUND IN EXCESS OF
9 \$7,000,000.00 AS OF THE END OF THE FISCAL YEAR SHALL BE DEDUCTED
10 FROM THE FOLLOWING YEAR'S APPROPRIATION IN DETERMINING AN AMOUNT
11 TO BE CERTIFIED BY THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT
12 AND BUDGET TO THE DEPARTMENT OF TREASURY FOR COMPUTING THE ANNUAL
13 FEE PROVIDED FOR IN THIS SECTION.

14 (d) The percentage determined pursuant to subdivision (c)
15 shall not exceed 1% and shall be the fee beginning the first of
16 the following month and will continue to be the fee for the next
17 12 months and until a different fee is determined. HOWEVER, THE
18 FEE SHALL BE 1% BEGINNING THE FIRST DAY OF THE SECOND MONTH AFTER
19 THE EFFECTIVE DATE OF THE 1998 AMENDMENTS TO THIS SECTION AND
20 WILL CONTINUE TO BE THE FEE FOR THE REMAINDER OF THAT CALENDAR
21 YEAR.

22 (3) The proceeds of the fee provided for in this section
23 shall be ~~credited to the general fund and appropriated by the~~
24 ~~legislature toward the cost of monitoring, surveillance, enforce-~~
25 ~~ment, and administration of this part~~ FORWARDED TO THE STATE
26 TREASURER FOR DEPOSIT INTO THE FUND.

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1 ~~(4) An unexpended fee collected during the current or any~~
2 ~~previous fiscal year, or an unexpended appropriation, shall be~~
3 ~~carried over and deducted from the following year's appropriation~~
4 ~~in determining an amount to be certified by the director of the~~
5 ~~department of management and budget to the department of treasury~~
6 ~~for computing the annual fee provided for in this part.~~

7 Sec. 61525. (1) A person shall not drill or begin the
8 drilling of any well for oil or gas, for secondary recovery, or a
9 well for the disposal of salt water, or brine produced in associ-
10 ation with oil or gas operations or other oil field wastes, or
11 wells for the development of reservoirs for the storage of liquid
12 or gaseous hydrocarbons, until the owner directly or through his
13 or her authorized representatives applies to drill any such well,
14 files with the supervisor a bond as provided in section 61506,
15 and receives and posts in a conspicuous place at the location of
16 the well a permit as provided in the rules and requirements or
17 orders issued or promulgated by the supervisor. A fee of
18 ~~-\$100.00-~~ \$300.00 shall be charged for a permit to drill a well
19 subject to this part. Upon receiving and accepting a written
20 application and payment of the fee required, the supervisor shall
21 within 10 days after that date issue to an owner or his or her
22 authorized representative a permit to drill. A permit to drill
23 shall not be issued to an owner or his or her authorized repre-
24 sentative who does not comply with the rules and requirements or
25 orders issued or promulgated by the supervisor. A permit shall
26 not be issued to an owner or his or her authorized representative
27 who has not complied with or is in violation of this part or any

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1 of the rules, requirements, or orders issued or promulgated by
2 the supervisor or the department.

3 (2) The supervisor shall forward all fees received under
4 this section to the state treasurer for deposit in the ~~general~~
5 ~~fund of the state~~ FUND.

6 SEC. 61525A. THE OWNER OR OPERATOR OF A WELL USED FOR
7 INJECTION, WITHDRAWAL, OR OBSERVATION RELATED TO THE STORAGE OF
8 NATURAL GAS OR LIQUEFIED PETROLEUM GAS THAT HAS BEEN USED FOR ITS
9 PERMITTED PURPOSE AT ANY TIME DURING THE CALENDAR YEAR IMMEDI-
10 ATELY PRIOR TO THE TIME THE FEE IS DUE IS SUBJECT TO A \$20.00
11 ANNUAL WELL REGULATORY FEE. THE OWNER OR OPERATOR OF A WELL
12 DESCRIBED IN THIS SECTION SHALL FILE AN ANNUAL REPORT BY JANUARY
13 31 OF EACH YEAR STATING THE NUMBER OF WELLS USED FOR INJECTION,
14 WITHDRAWAL, OR OBSERVATION RELATED TO THE STORAGE OF NATURAL GAS
15 OR LIQUEFIED PETROLEUM GAS THAT HAS BEEN UTILIZED FOR ITS PERMIT-
16 TED PURPOSE DURING THE PREVIOUS CALENDAR YEAR. THE REPORT SHALL
17 INCLUDE A LIST OF WELLS IDENTIFIED BY PERMIT NUMBER, PERMIT NAME,
18 AND GAS STORAGE FIELD NAME ON A FORM PROVIDED BY THE SUPERVISOR,
19 OR SUCH OTHER FORM WHICH MAY BE ACCEPTABLE TO THE SUPERVISOR.
20 THE ANNUAL WELL REGULATORY FEE DESCRIBED IN THIS SECTION IS DUE
21 NOT MORE THAN 30 DAYS AFTER THE SUPERVISOR SENDS NOTICE TO THE
22 OWNER OR OPERATOR OF THE AMOUNT DUE. THE SUPERVISOR SHALL FOR-
23 WARD ALL FEES COLLECTED UNDER THIS SECTION TO THE STATE TREASURER
24 FOR DEPOSIT INTO THE FUND.

25 SEC. 61525B. (1) THE OIL AND GAS REGULATORY FUND IS CREATED
26 WITHIN THE STATE TREASURY.

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1 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
2 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
3 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
4 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
5 INVESTMENTS.

6 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
7 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

8 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
9 APPROPRIATION, ONLY FOR MONITORING, SURVEILLANCE, ENFORCEMENT,
10 AND ADMINISTRATION OF THIS PART.

11 (5) THE DEPARTMENT SHALL ANNUALLY SUBMIT A REPORT TO THE
12 LEGISLATURE THAT ITEMIZES THE EXPENDITURE OF MONEY IN THE FUND.
13 THE REPORT SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

14 (A) THE AMOUNT OF MONEY RECEIVED AND THE AMOUNT OF MONEY
15 EXPENDED.

16 (B) THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS FUNDED WITH
17 MONEY IN THE FUND.

18 (C) THE NUMBER OF ON-SITE INSPECTIONS CONDUCTED BY THE
19 DEPARTMENT IN IMPLEMENTING THIS PART.

20 (D) THE NUMBER OF VIOLATIONS IDENTIFIED IN ENFORCING THIS
21 PART, THEIR LOCATIONS, AND A DESCRIPTION OF THE NATURE OF THE
22 VIOLATIONS.