

HOUSE BILL No. 4280

February 16, 1999, Introduced by Reps. DeVuyst, Julian, DeHart, Sanborn, Bovin, Howell, Jelinek, Raczkowski, Koetje, Rick Johnson, Tabor, Patterson, Mortimer, Caul, Bradstreet, Vear and Mead and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 61503c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61503C. (1) NOTWITHSTANDING SECTION 61522, A PERSON
2 WHO KNOWINGLY VIOLATES SECTION 61503A OR 61503B IS RESPONSIBLE
3 FOR THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$1,000.00. A
4 DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS ORDERED UNDER
5 THIS SECTION OR AN INSTALLMENT OF THE FINE OR COSTS MAY BE REME-
6 DIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICATURE ACT OF
7 1961, 1961 PA 236, MCL 600.101 TO 600.9948.

8 (2) THE ATTORNEY GENERAL OR THE LESSOR OF A GAS LEASE WITH
9 RESPECT TO HIS OR HER LEASE MAY BRING AN ACTION IN CIRCUIT COURT
10 FOR INJUNCTIVE RELIEF OR DAMAGES, OR BOTH, AGAINST A PERSON WHO
11 VIOLATES SECTION 61503A OR 61503B.

1 (3) IF A PERSON WHO HAS ENTERED INTO A GAS LEASE AS A LESSEE
2 VIOLATES SECTION 61503A OR 61503B, EACH DAY THE VIOLATION CONTIN-
3 UES CONSTITUTES A SEPARATE OFFENSE ONLY FOR 5 DAYS; THEREAFTER,
4 EACH DAY THE VIOLATION CONTINUES DOES NOT CONSTITUTE A SEPARATE
5 OFFENSE. IF A PERSON WHO HAS ENTERED INTO A GAS LEASE AS A
6 LESSEE VIOLATES SECTION 61503A OR 61503B AND SUCH A VIOLATION
7 AFFECTS MORE THAN 1 LESSOR HAVING AN INTEREST IN THE SAME WELL,
8 POOLED UNIT, OR UNITIZED AREA, THE VIOLATION AS TO ALL LESSORS
9 SHALL CONSTITUTE ONLY 1 OFFENSE.

10 (4) IF A COURT FINDS THAT A LESSEE DEDUCTED POSTPRODUCTION
11 COSTS FROM A LESSOR'S ROYALTY CONTRARY TO SECTION 61503B(1), THE
12 LESSOR MAY RECOVER AS DAMAGES THE AMOUNT OF POSTPRODUCTION COSTS
13 DEDUCTED CONTRARY TO SECTION 61503B(1). IN ADDITION, A PARTY WHO
14 PREVAILS IN LITIGATION UNDER THIS SUBSECTION MAY RECOVER REASON-
15 ABLE ATTORNEY FEES INCURRED IN BRINGING AN ACTION UNDER THIS SUB-
16 SECTION, IF THE COURT FINDS THAT THE POSITION TAKEN BY THE NON-
17 PREVAILING PARTY IN THE LITIGATION WAS FRIVOLOUS, SPURIOUS, OR
18 OTHERWISE LACKING A REASONABLE BASIS.

19 (5) A PERSON SHALL NOT BRING AN ACTION UNDER THIS SECTION
20 UNLESS THE PERSON HAS FIRST GIVEN THE LESSEE WRITTEN NOTICE OF
21 THE ALLEGED VIOLATION OF SECTION 61503A OR 61503B, WITH REASON-
22 ABLY COMPREHENSIVE DETAILS, AND ALLOWED A PERIOD OF AT LEAST 30
23 DAYS FOR THE LESSEE TO CURE THE ALLEGED VIOLATION.

24 Enacting section 1. This amendatory act takes effect upon
25 the expiration of 90 days after the date of its enactment.

26 Enacting section 2. This amendatory act does not take
27 effect unless Senate Bill No. _____ or House Bill No. _____

1 (request no. 01982'99) of the 90th Legislature is enacted into
2 law.