

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2058

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Mineral Resources)

1 A BILL for an Act to amend and reenact section 38-08-04 of the North Dakota Century Code,
2 relating to the jurisdiction of commission and adding wellhead and equipment located at or on
3 oil or gas well sites.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 38-08-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **38-08-04. Jurisdiction of commission.**

8 1. The commission has continuing jurisdiction and authority over all persons and
9 property, public and private, necessary to enforce effectively the provisions of this
10 chapter. The commission has authority, and it is its duty, to make such investigations
11 as it deems proper to determine whether waste exists or is imminent or whether other
12 facts exist which justify action by the commission. The commission has the authority:

13 a. To require:

14 (1) Identification of ownership of oil or gas wells, producing leases, tanks,
15 plants, structures, and facilities for the transportation or refining of oil and
16 gas.

17 (2) The making and filing with the industrial commission of all resistivity,
18 radioactivity, and mechanical well logs and the filing of directional surveys, if
19 taken, and the filing of reports on well location, drilling, and production.

20 (3) The drilling, casing, operation, and plugging of wells in such manner as to
21 prevent the escape of oil or gas out of one stratum into another, the
22 intrusion of water into oil or gas strata, the pollution of freshwater supplies
23 by oil, gas, or saltwater, and to prevent blowouts, cavings, seepages, and
24 fires.

- 1 (4) The furnishing of a reasonable bond with good and sufficient surety,
2 conditioned upon the full compliance with this chapter, and the rules and
3 orders of the industrial commission, including without limitation a bond
4 covering the operation of any underground gathering pipeline transferring oil
5 or produced water from a production facility for disposal, storage, or sale
6 purposes, except that if the commission requires a bond to be furnished, the
7 person required to furnish the bond may elect to deposit under such terms
8 and conditions as the industrial commission may prescribe a collateral bond,
9 self-bond, cash, or any alternative form of security approved by the
10 commission, or combination thereof, by which an operator assures faithful
11 performance of all requirements of this chapter and the rules and orders of
12 the industrial commission.
- 13 (5) That the production from wells be separated into gaseous and liquid
14 hydrocarbons, and that each be accurately measured by such means and
15 upon such standards as may be prescribed by the commission.
- 16 (6) The operation of wells with efficient gas-oil and water-oil ratios, and to fix
17 these ratios.
- 18 (7) Certificates of clearance in connection with the transportation or delivery of
19 oil, gas, or any product.
- 20 (8) Metering or other measuring of oil, gas, or product related to production in
21 pipelines, gathering systems, storage tanks, barge terminals, loading racks,
22 refineries, or other places, by meters or other measuring devices approved
23 by the commission.
- 24 (9) Every person who produces, sells, purchases, acquires, stores, transports,
25 refines, disposes of, or processes oil, gas, saltwater, or other related oilfield
26 fluids in this state to keep and maintain within this state complete and
27 accurate records of the quantities thereof, which records must be available
28 for examination by the commission or its agents at all reasonable times, and
29 to file with the commission reports as the commission may prescribe with
30 respect to oil or gas or the products thereof. An oil and gas production report

1 need not be notarized but must be signed by the person submitting the
2 report.

3 (10) The payment of fees for services performed. The amount of the fee shall be
4 set by the commission based on the anticipated actual cost of the service
5 rendered. Unless otherwise provided by statute, all fees collected by the
6 commission must be deposited in the general fund of this state, according to
7 procedures established by the state treasurer.

8 (11) The filing free of charge of samples and core chips and of complete cores
9 when requested in the office of the state geologist within six months after
10 the completion or abandonment of the well.

11 (12) The placing of wells in abandoned-well status which have not produced oil
12 or natural gas in paying quantities for one year. A well in abandoned-well
13 status must be promptly returned to production in paying quantities,
14 approved by the commission for temporarily abandoned status, or plugged
15 and reclaimed within six months. If none of the three preceding conditions
16 are met, the industrial commission may require the well to be placed
17 immediately on a single-well bond in an amount equal to the cost of
18 plugging the well and reclaiming the well site. In setting the bond amount,
19 the commission shall use information from recent plugging and reclamation
20 operations. After a well has been in abandoned-well status for one year, the
21 well's equipment, all well-related equipment at the well site, and salable oil
22 at the well site are subject to forfeiture by the commission. If the commission
23 exercises this authority, section 38-08-04.9 applies. After a well has been in
24 abandoned-well status for one year, the single-well bond referred to above,
25 or any other bond covering the well if the single-well bond has not been
26 obtained, is subject to forfeiture by the commission. A surface owner may
27 request a review of the temporarily abandoned status of a well that has
28 been on temporarily abandoned status for at least seven years. The
29 commission shall require notice and hearing to review the temporarily
30 abandoned status. After notice and hearing, the surface owner may request
31 a review of the temporarily abandoned status every two years.

- 1 b. To regulate:
- 2 (1) The drilling, producing, and plugging of wells, the restoration of drilling and
- 3 production sites, and all other operations for the production of oil or gas.
- 4 (2) The shooting and chemical treatment of wells.
- 5 (3) The spacing of wells.
- 6 (4) Operations to increase ultimate recovery such as cycling of gas, the
- 7 maintenance of pressure, and the introduction of gas, water, or other
- 8 substances into producing formations.
- 9 (5) Disposal of saltwater and oilfield wastes.
- 10 (a) The commission shall give all affected counties written notice of
- 11 hearings in such matters at least fifteen days before the hearing.
- 12 (b) The commission may consider, in addition to other authority granted
- 13 under this section, safety of the location and road access to saltwater
- 14 disposal wells, treating plants, and all associated facilities.
- 15 (6) The underground storage of oil or gas.
- 16 (7) The location and operation of wellhead and lease equipment, oil and gas
- 17 separators, emulsion treaters, boilers, electric generators, flares, newly
- 18 constructed underground gathering pipelines, flare mitigation systems, and
- 19 all other equipment located at or on an oil or gas well site or underground
- 20 gathering pipeline facility.
- 21 c. To limit and to allocate the production of oil and gas from any field, pool, or area
- 22 and to establish and define as separate marketing districts those contiguous
- 23 areas within the state which supply oil and gas to different markets, and to limit
- 24 and allocate the production of oil and gas for each separate marketing district.
- 25 d. To classify wells as oil or gas wells for purposes material to the interpretation or
- 26 enforcement of this chapter, to classify and determine the status and depth of
- 27 wells that are stripper well property as defined in section 57-51.1-01, to certify to
- 28 the tax commissioner which wells are stripper wells as defined in section
- 29 57-51.1-01 and the depth of those wells, and to certify to the tax commissioner
- 30 which wells involve secondary or tertiary recovery operations as defined in

1 section 57-51.1-01, and the date of qualification for the oil extraction tax
2 exemption for secondary and tertiary recovery operations.

3 e. To adopt and to enforce rules and orders to effectuate the purposes and the
4 intent of this chapter and the commission's responsibilities under chapter
5 57-51.1. When adopting a rule, issuing an order, or creating a policy, the
6 commission shall give due consideration to the effect of including locations within
7 this state which may also be under the jurisdiction of the federal government or a
8 tribal government. When reporting information resulting from adopting a rule,
9 issuing an order, or creating a policy that affects locations within this state which
10 may also be under the jurisdiction of the federal government or a tribal
11 government, the commission shall provide sufficient information to indicate the
12 effect of including locations that may also be under the regulatory jurisdiction of
13 the federal government or a tribal government.

14 f. To provide for the confidentiality of well data reported to the commission if
15 requested in writing by those reporting the data for a period not to exceed six
16 months. However, the commission may release:

17 (1) Volumes injected into a saltwater injection well.

18 (2) Information from the spill report on a well on a site at which more than ten
19 barrels of fluid, not contained on the well site, was released for which an
20 oilfield environmental incident report is required by law.

21 2. A person controlling or operating a well, pipeline, receiving tank, storage tank, treating
22 plant, or other receptacle or production facility associated with oil and gas, or with
23 water production, injection, processing, or well servicing, shall report to the
24 commission any leak, spill, or release of fluid. A report to the commission is not
25 required if the leak, spill, or release is crude oil, produced water, or natural gas liquids
26 in a quantity of less than ten barrels cumulative over a fifteen-day time period, remains
27 on the site or facility, and is on a well site where the well was spud after September 1,
28 2000, or on a facility, other than a well site, constructed after September 1, 2000.

29 3. Any written violation notice issued by the commission regarding the notification of a
30 fire, leak, spill, blowout, or leak and spill cleanup must be placed in the well file or
31 facility file and the files must be available for review by the surface owner.

- 1 4. Nothing in this section may be interpreted to modify or supersede applicable
2 requirements related to oil and gas production under any of the following:
3 a. Chapter 23.1-06, the federal Clean Air Act [42 U.S.C. 7401 et seq.], as amended,
4 or rules adopted pursuant to either chapter 23.1-06 or the federal Clean Air Act.
5 b. Chapter 61-28, the federal Clean Water Act [33 U.S.C. 1251 et seq.], as
6 amended, or rules adopted pursuant to either chapter 61-28 or the federal Clean
7 Water Act.