

**2019 HOUSE ENERGY AND NATURAL RESOURCES**

**HB 1312**

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau A Room, State Capitol

HB 1312  
1/25/2019  
31440

- Subcommittee  
 Conference Committee

|                 |                |
|-----------------|----------------|
| Committee Clerk | Kathleen Davis |
|-----------------|----------------|

### Explanation or reason for introduction of bill/resolution:

Relating to definitions pertaining to a well or pipeline construction lien

### Minutes:

|              |
|--------------|
| Attachment 1 |
|--------------|

**Chairman Porter** called the hearing to order on HB 1312.

**Rep. Terry Jones**, Dist 4: This bill was brought to me by a local business in New Town. They have a common problem where oil companies come in, build pads, getting set up, a lot of subcontractors. They get an account with the local fuel supplier who will sometimes get a lot of fuel on that account. We found in well and pipeline construction lien law, Sec.35.24.01 the definitions in there for materials did not include gasoline, diesel fuel, lubricants, propane. So in a bankruptcy, the judge treated those things as supplies and not recoverable in a bankruptcy. So I received the request to change line the definition for materials on Line 15 of this bill to include gasoline, diesel fuel, propane and lubricants. The other change we made was Line 19, under Subsection 7, listing for the production of oil and gas, should include development and reclamation of those pads also where there was a bankruptcy filed. Jake Hamlin, CHS, has sent in testimony in support. See Attachment 1.

**Chairman Porter:** Further support?

**Mike Rud**, in support. This is good language and needs to be in place.

**Chairman Porter:** Further support

**Brady Pelton**, ND Petroleum Council: We urge a due pass. This makes perfect sense.

**Chairman Porter:** support? Opposition? Closed the hearing.

# 2019 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau A Room, State Capitol

HB 1312  
1/25/2019  
31463

- Subcommittee  
 Conference Committee

|                 |                |
|-----------------|----------------|
| Committee Clerk | Kathleen Davis |
|-----------------|----------------|

### Explanation or reason for introduction of bill/resolution:

Relating to definitions pertaining to a well or pipeline construction lien

### Minutes:

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**Chairman Porter** called the hearing to order on HB 1312. Discussion?

**Rep. Roers Jones:** move a Do Pass.

**Rep. Mitskog:** second.

**Rep Bosch:** all the things listed in the definition of materials, are things are not consumable. The rest are consumable and want to point that out.

**Chairman Porter:** discussion? Seeing none, the clerk will take roll on a Do Pass on HB1312.  
13 yes    0 no    1 absent. Motion carried. Rep. Roers Jones is carrier.

Date: 1-25-19  
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1312**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep Roers Jones    Seconded By Rep Mitskog

| Representatives        | Yes | No | Representatives  | Yes | No |
|------------------------|-----|----|------------------|-----|----|
| Chairman Porter        | ✓   |    | Rep. Lefor       | ✓   |    |
| Vice Chairman Damschen | ✓   |    | Rep. Marschall   | ✓   |    |
| Rep. Anderson          |     | AB | Rep. Roers Jones | ✓   |    |
| Rep Bosch              | ✓   |    | Rep. Ruby        | ✓   |    |
| Rep. Devlin            | ✓   |    | Rep. Zubke       | ✓   |    |
| Rep. Heinert           | ✓   |    |                  |     |    |
| Rep. Keiser            | ✓   |    | Rep. Mitskog     | ✓   |    |
|                        |     |    | Rep. Eidson      | ✓   |    |
|                        |     |    |                  |     |    |
|                        |     |    |                  |     |    |
|                        |     |    |                  |     |    |
|                        |     |    |                  |     |    |

Total (Yes) 13    No 0

Absent 1

Floor Assignment Rep Roers Jones

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1312: Energy and Natural Resources Committee (Rep. Porter, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).  
HB 1312 was placed on the Eleventh order on the calendar.

**2019 SENATE ENERGY AND NATURAL RESOURCES**

**HB 1312**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1312  
2/28/2019  
Job Number 32984

- Subcommittee  
 Conference Committee

Committee Clerk: Marne Johnson

### Explanation or reason for introduction of bill/resolution:

A bill relating to definitions pertaining to a well or pipeline construction lien.

### Minutes:

1 attachment

**Chair Unruh:** Opened the hearing.

**Representative Terry Jones, District 4 (0:15-2:30) Introduced the bill.** You have a copy of the bill before you, **(Please see attachment #1)** it was brought to my attention during the interim by our local cooperative that provides fuel to the oil field, that in a bankruptcy situation, when you have a contractor or sub-contractor, developing a pad, for example, they can run up a large fuel bill. If that company files bankruptcy, in the proceedings, the courts were looking at materials as not including fuels. When the co-ops went to the bankruptcy court and says this guy owes us \$300,000 in fuel and lubricants, the courts would not allow that as a material. They were not able to get paid in the bankruptcy proceeding for that. This bill, on line 16, includes gasoline, diesel fuel, propane, and lubricants in the material definition. Line 19, it includes not just production of oil and gas, but the development and the reclamation, so that if they are in either of those activities, the people that were subcontractors, the fuel bill they had would be considered something that the courts could pay. That is the entirety of the bill. I've had several fuel producers contact me and thank me for this.

**Senator Piepkorn:** Is \$300,000 typical?

**Representative Jones:** Absolutely, doesn't take long, especially if you are moving dirt, to run a huge bill up. It's common to have sub-contractors getting a large bill. We had a lot of discussions about how do you identify. If you have a sub-contractor, usually they are doing multiple jobs, they are using a fuel supplier to supply not just one location. There is going to be some complication when courts are sorting this out. They will have to identify what part of that fuel bill goes where. This gets them at the table. I thought this would be considered a supply, you see in line 16, that supplies is listed ahead of this new wording. I thought it would be covered either as a material or a supply, but the judges have been saying no. They didn't allow it to be paid in proceedings.

**Mike Rude, President Petroleum Marketers Association (5:10-5:50) Testified in support.** This does happen quite often out in the oil patch and on any big construction site. In order to get business, sometimes you have to extend that line of credit farther than you'd like to. If we do see a bankruptcy issue, at least now we're in the picture for our guys to be able to collect some money back. We ask for do pass.

**Brady Pelton, North Dakota Petroleum Council, Standing in support.**

No opposing testimony.

No neutral testimony.

**Senator Piepkorn:** I move a do pass

**Senator Roers:** I second.

A roll call vote was taken.

Motion passes 6-0-0.

**Senator Piepkorn will carry.**

**Chair Unruh:** Closed the meeting.



Date: 2.28.19  
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1312**

Senate Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Piepkorn Seconded By Sen. Roers

| Senators                | Yes | No | Senators                 | Yes | No |
|-------------------------|-----|----|--------------------------|-----|----|
| Senator Jessica Unruh   | X   |    | Senator Merrill Piepkorn | X   |    |
| Senator Curt Kreun      | X   |    |                          |     |    |
| Senator Donald Schaible | X   |    |                          |     |    |
| Senator Dwight Cook     | X   |    |                          |     |    |
| Senator Jim Roers       | X   |    |                          |     |    |
|                         |     |    |                          |     |    |
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|                         |     |    |                          |     |    |
|                         |     |    |                          |     |    |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Piepkorn

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1312: Energy and Natural Resources Committee (Sen. Unruh, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1312 was placed on the Fourteenth order on the calendar.

**2019 TESTIMONY**

**HB 1312**

Chairman Porter and Members of the House Energy and Natural Resource Committee,

My name is Jake Hamlin, Director of State Govt Affairs for CHS. CHS is an agriculture and energy cooperative owned by 75,000 members and connected with over 500,000 farmers nationwide. Three of the 17 CHS board members live in ND, there are over 150 cooperative association members and over 10,000 individual CHS members in North Dakota.

CHS supports HB1312.

Thank you.

**Jake Hamlin**

State Government Affairs Director



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2.28.19  
#1  
Pg.1

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Sixty-sixth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1312**

Introduced by

Representatives Jones, Damschen, Fegley, Hatlestad, Kasper, Laning, Longmuir, Steiner  
Senators Kannianen, Klein, J. Roers, Unruh

1 A BILL for an Act to amend and reenact section 35-24-01 of the North Dakota Century Code,  
2 relating to definitions pertaining to a well or pipeline construction lien.

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

4 **SECTION 1. AMENDMENT.** Section 35-24-01 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **35-24-01. Definitions.**

7 In this chapter unless the context or subject matter otherwise requires:

- 8 1. "Construction" means construction, maintenance, operation, or repair.
- 9 2. "Contract" means a contract, written or oral, express or implied, or partly express and  
10 partly implied, or executory or executed, or partly executory and partly executed.
- 11 3. "Drilling" means drilling, digging, torpedoing, acidizing, cementing, completing, or  
12 repairing.
- 13 4. "Furnish" means sell or rent.
- 14 5. "Labor" means work performed in return for wages.
- 15 6. "Material" means material, machinery, equipment, appliances, buildings, structures,  
16 tools, bits, or supplies but, including gasoline, diesel fuel, propane, and lubricants.  
17 "Material" does not include rigs or hoists or their integral component parts except wire  
18 lines.
- 19 7. "Operating" means all operations in connection with or necessary to the development,  
20 production, or reclamation of oil or gas.
- 21 8. "Original contractor" means any person for whose benefit a lien is prescribed under  
22 section 35-24-02.

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PJ.2

Sixty-sixth  
Legislative Assembly

- 1        9. "Owner" means a person holding any interest in the legal or equitable title or both to
- 2                    any leasehold for oil or gas purposes, or any pipeline, or that person's agent, and
- 3                    includes purchasers under executory contract, receivers, and trustees.
- 4        10. "Person" means an individual, corporation, limited liability company, firm, partnership,
- 5                    or association.
- 6        11. "Pipeline" means any pipeline laid and designed as a means of transporting natural
- 7                    gas, oil, or gasoline, or their components or derivatives, and the right of way therefor.
- 8        12. "Services" means work performed exclusive of labor, including the hauling of material,
- 9                    whether or not involving the furnishing of material.
- 10       13. "Working interest" means interest in oil and gas that may be produced from a well but
- 11                    does not include royalty or overriding royalty interests.