

Unofficial Version

**OIL AND GAS CONSERVATION LAW**  
**Act 1961-359**  
**LAWS OF PENNSYLVANIA**  
**No. 1961-359**

An Act defining and prohibiting waste in the production of oil and gas; defining the powers and duties of the Oil and Gas Conservation Commission and the Oil and Gas Division of the Department of Mines and Mineral Industries with respect to the prevention of waste in the production of oil and gas from certain geological horizons; the protection of correlative rights; the spacing of well drilling operations; the unitization of lands and horizons for the purpose of regulating well spacing; providing for the enforcement of this act; and the issuance of rules, regulations and orders prescribing the rights, obligations and duties of owners and operators of interests in lands and leasehold interests therein with respect to the drilling of oil and gas wells thereon; providing for hearings and the procedures to be followed therein; imposing duties upon the courts; providing methods for the enforcement of the provisions of this act, limiting all the provisions hereof to certain geological horizons; imposing penalties and making an appropriation. 1961, July 25, P.L. 825.

**DECLARATION OF POLICY**

It is hereby declared as an expression of policy to be in the public interest to foster, encourage, and promote the development, production, and utilization of the natural oil and gas resources in this Commonwealth, and especially those which may exist in the Lower Devonian Series and the Silurian and Cambro-Ordovician Geological Systems or from any formation below the Onondaga horizon, in such manner as will encourage discovery, exploration, and development without waste; and to provide for the drilling, equipping, locating, spacing and operating of oil and gas wells so as to protect correlative rights and prevent waste of oil or gas or loss in the ultimate recovery thereof, and to regulate such operations so as to protect fully the rights of royalty owners and producers of oil and gas to the end that the people of the Commonwealth shall realize and enjoy the maximum benefit of these natural resources, it being recognized, however, that the uninterrupted exploration and development of Pennsylvania and Mississippian Systems and the Upper and Middle Devonian Geological Series, being sands and strata above the Onondaga Horizon, both of a primary and subsequent methods have been carried on exhaustively since the discovery of oil in the Drake Well in 1850 without regulatory restriction or control to such an extent that at the present stage of development it would be impractical and detrimental to the operation of such shallow horizons to impose regulations under this act, particularly in view of the facts that the production therefrom, whether of primary or secondary nature is carried on without appreciable waste and that the methods of exploration, discovery, development and production above the Onondaga Horizon and in shallow horizons at a depth of less than three thousand eight hundred feet differ from methods of exploration, discovery, development and production below the Onondaga Horizon or below three thousand eight hundred feet in cost, methods, operating problems, and other important characteristics.

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### **Section 1. Short title.**

This act shall be known and may be cited as the "Oil and Gas Conservation Law." 1961, July 25, P.L. 825, Act No. 359, § 1, et seq. (58 P.S. §401 et seq.)

### **Section 2. Definitions.**

As used in this act--

- (1) "Commission" means the Oil and Gas Conservation Commission. [Editors Comment: The powers and duties of the Oil and Gas Conservation Commission were transferred to the Department of Environmental Resources by the Act of Dec. 3, 1970, P.L. 834, No. 275, § 20, 71 P.S. § 510-1 (Adm. Code § 1901-A)]
- (2) "Correlative rights" means the rights of each owner of oil and gas interests in a common pool or source of supply of oil or gas, to have a fair and reasonable opportunity to obtain and produce his just and equitable share of the oil and gas in such pool or sources of supply, without being required to drill unnecessary wells or incur other unnecessary expense to recover or receive such oil or gas or its equivalent.
- (3) "Gas" means all natural gas and all other volatile hydrocarbons not herein defined as oil, including condensate because it originally was in a gaseous phase in the reservoir.
- (4) "Oil" means crude petroleum oil and all other hydrocarbons, regardless of gravity, produced at a well in liquid form by ordinary methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

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- (5) "Division" means the Oil and Gas Division of the Department of Mines and Mineral Industries of the Commonwealth of Pennsylvania. [Editors Comment: The powers and duties of the Department of Mines and Mineral Industries were transferred to the Department of Environmental Resources by Act 275 (cited in comment above). The Division of Oil and Gas has been reorganized and is now the Bureau of Oil and Gas Management.]
- (6) "Onondaga horizon" means the top of the Onondaga formation, except in those areas in which the Onondaga formation is not present, and in such areas the term shall be understood to mean either the top of the stratigraphic horizon first appearing in the interval of the missing Onondaga formation, or where strata older than the top of the Onondaga are exposed at the surface, then the term "Onondaga Horizon" shall mean the surface.
- (7) "Operator" shall mean any owner of the right to develop, operate, and produce oil and gas from the pool. In the event that there is no oil and gas lease in existence the owner of the oil and gas rights shall be considered as "operator" to the extent of seven-eighths of the oil and gas in that portion of the pool underlying the tract owned by such owner, and a royalty owner as to a one-eighth interest in such oil and gas. In the event that the oil is owned separately from the gas, the owner of the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool.
- (8) "Royalty owner" means any owner of oil or gas in place or oil or gas rights, subject to a lease covering such oil or gas in place or oil or gas rights. "Royalty owner" also means any owner of an interest in an oil or gas lease which entitles him to share in the production of the oil or gas under such lease. "Royalty owner" also means the owner of any interest in the oil or gas in place, or oil or gas rights, who has not executed an oil and gas lease, to the extent that such owner is not designated an "operator" under the preceding clause.
- (9) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any department, agency or instrumentality of the Commonwealth, or any governmental subdivision thereof.
- (10) "Pool" means an underground reservoir containing a common accumulation of oil and gas, or both, not in communication laterally or vertically with any other accumulation of oil or gas.
- (11) "Producer" means the owner of the well or wells capable of producing oil or gas, or both.
- (12) "Waste" means the following:
  - (i) Physical waste, as the term is generally understood in the oil and gas industry, which includes-
    - (A) Permitting the migration of oil, gas or water from the stratum in which it is found to other strata, if such migration would result in the loss of recoverable oil or gas, or both;
    - (B) The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;
    - (C) The unnecessary or excessive surface loss or destruction of oil or gas, and

- (D) The inefficient or improper use, or unnecessary dissipation of reservoir energy.
  - (ii) The drilling of more wells than are reasonable required to recover, efficiently and economically, the maximum amount of oil and gas from a pool.
- (13) "Well" means a bore hole or excavation for the purpose of producing oil or gas, or both.

**Section 3. Applicability; exclusions; construction.**

- (a) Except as provided in subsection (b) of this section, this act shall apply to all lands in the Commonwealth, including any lands owned or administered by the Commonwealth, or any political subdivision thereof, except the excluded horizons. The commission shall have jurisdiction over all persons and property necessary to enforce effectively the provision of the act.
- (b) This act shall not apply to or effect-
  - (1) Any well or wells which do not penetrate the Onondaga horizon, or in those areas in which the Onondaga horizon is nearer to the surface than thirty-eight hundred feet, any well or wells which do not exceed a depth of thirty-eight hundred feet beneath the surface. For the purposes of this act, the question whether a pool is covered by the act shall be determined by the depth of the producing interval in the discovery well in such pool, and if such producing interval is covered by this act, even though some of the wells in the pool, if considered alone, would not be covered by the act.
  - (2) Any well or wells of whatever depth commenced prior to the effective date of this act, except such wells previously completed in strata above the Onondaga horizon, but subsequent to the effective date of this act drilled deeper than the Onondaga horizon, or three thousand eight hundred feet, whichever is deeper, provided that such wells may be considered in spacing and pooling orders entered by the commission.
  - (3) Any well or wells drilled to inject gas into or withdraw gas from gas storage reservoir.
- (c) This act shall not be construed to grant to the commission authority or power to--
  - (1) Limit production or output, or prorate production of any oil or gas well, except as provided in clause (6) of section 7; or
  - (2) Fix prices of oil or gas.

**Section 4. Waste prohibited.**

Waste of oil and gas is prohibited.

**Section 5. Powers and duties of the commission.**

- (a) The commission shall have the power and duty to execute and carry out the provisions of this act in the manner provided herein.
- (b) The commission is authorized to make such investigations and inspections of records and facilities as it deems necessary and proper to discharge its duties and perform its functions under this act.
- (c) Without limiting its general authority, the commission is hereby granted specific authority--
  - (1) To require:
    - (i) identification on the premises of ownership of oil or gas wells;
    - (ii) the making and filing of drillers' logs and filing of such other well logs as are actually made, and the furnishing of duplicate copies to the Department of Internal Affairs: Provided, however, That no logs of an exploratory or wildcat well other than driller's logs now required under the "Gas Operations Well-Drilling Petroleum and Coal Mining Act", need be filed under this act before twelve months after completion of the well; [Editors Comment: the act of November 30, 1955 (P.L. 756, No. 225), known as the "Gas Operations Well-Drilling Petroleum and Coal Mining Act," (52 P.S. § 2101 et seq.) was repealed by the act of December 19, 1984 (P.L. 1140, No. 223), known as the "Oil and Gas Act" (58 P.S. § 601 et seq.)]
    - (iii) the drilling, casing, operation, and plugging of wells in such manner as to prevent (a) the escape of oil or gas, (b) the detrimental intrusion of water into any oil or gas pool that is avoidable by efficient operations, and (c) blowouts, cavings, seepages, and fires; and
    - (iv) upon proper application to enter spacing and pooling orders and provide for the integration or communitization of interests within a drilling unit.
  - (2) To classify pools as oil or gas pools, or wells as oil or gas wells, for the purposes material to the interpretation or administration of this act under the definitions set out above.
  - (3) To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this act, and to fix appropriate fees for services rendered, which fees are hereby appropriated to the commission for its operations. [Editors Comment: The powers and duties of the commission were transferred to the Department of Environmental Resources by the Act of Dec. 3, 1970, P.L. 834, No. 275 § 20, 71 P.S. § 510-1 (adm. Code § 1901-A). Act 275 also vested the Environmental Quality Board (EQB) with the power to adopt rules and regulations for the Department and transferred the rulemaking authority of the commission to the EQB 71 P.S. § 510-20 (Adm. Code § 1920-A).]
- (d) The commission shall have the power and the duty to protect correlative rights.

## **Section 6. Drilling permits.**

- (a) Before drilling any well which is to penetrate the Onondaga or deeper horizons or a depth of three thousand eight hundred feet, whichever is deeper, the well operator shall obtain a permit. The well operator shall have a plat prepared on the same form required by the division under the "Gas Operations Well-Drilling Petroleum and Coal Mining Act" and shall file said plat with the division, together with an application on a form to be furnished by the division for a permit to drill a well at said location. The division shall, consistent with the "Gas Operations Well-Drilling Petroleum and Coal Mining Act," within ten days of the receipt of such application, issue a drilling permit to the well operator unless the requested location of the well will conflict with a spacing or pooling order previously entered or unless an application for such an order has been filed and is then pending. In areas in which no spacing order has been entered and no application is pending, no permit shall be issued for the drilling of a well unless the location of the well is at least three hundred thirty feet from the nearest outside boundary line of the lease on which it is located: Provided, however, That if the lease is included in a voluntary unit, a well may be located without regard to lease lines if it is not within three hundred thirty feet of the nearest unit line: And provided further, That the commission after notice and hearing may waive this requirement. Any applicant or other person aggrieved by any order granting or refusing a permit shall have the same right to appeal therefrom as is provided in section 13 of this act.
- (b) The drilling or operation of any well in violation of any spacing or pooling order is hereby prohibited. Where a well is to be drilled on a unit created pursuant to a spacing or pooling order under this act, there shall be included in the plat required to be filed under subsection (a) of section 6, a survey of the entire spacing unit, showing the location and acreage content of all tracts or portions of tracts included within the spacing unit: Provided, however, That if all of the operators any royalty owners included in the unit agree on the amount of acreage contained in each tract included in the unit, and file a stipulation to that effect, a survey shall not be necessary. Where accurate surveys of the spacing unit or tracts included therein are available, they may be used, and a new survey shall not be required.

## **Section 7. Well spacing.**

The commission shall, to carry out the purpose of this act, and upon proper application and notice given as hereinafter provided, and after a hearing as provided in said notice, enter an order establishing well spacing and drilling units of a specified and an approximate uniform size and shape for each pool. The procedure for obtaining such an order shall be as follows:

- (1) After one well has been drilled establishing a pool horizon covered by this act, an application may be filed by the operator of the discovery well or the operator of any lands directly and immediately affected by the drilling of the discovery well, or subsequent wells in said pool, and the commission shall promptly schedule a hearing on said application. Each application shall be accompanied by a plat indicating latitude and longitude of the pool and such information as the commission may request. No more than ten square miles shall be included in any single application for a spacing order.
- (2) Upon the filing of an application as above set out, notice of the hearing shall be given by the commission by publication for two successive weeks in a newspaper in general circulation in each county where any land which may be affected by such order is located, and by the

commission mailing a copy of such notice to all persons who have specified to the commission an address to which all such notices may be mailed. The first publication and the mailing of such notice shall be at least fifteen days before the date fixed for hearing.

- (3) On the date specified in the notice, the commission shall hold a public hearing to determine the area to be included in the order and the acreage to be embraced within each unit and the shape thereof and the area within which wells may be drilled on such units. Evidence of the following facts may be considered by the commission in entering its orders:
  - (i) The surface topography and property lines of the lands underlaid by the pool.
  - (ii) The plan of well spacing then being employed or proposed in such pool.
  - (iii) The depth at which production from said pool has been found.
  - (iv) The nature and character of the producing formation or formations, and whether the substances produced or sought to be produced are gas or oil.
  - (v) The maximum area which may be drained efficiently and economically by one well.
  - (vi) Any other available geological or scientific data pertaining to said pool, which may be of probative value to said commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners' interest therein.
- (4) The commission shall, within forty five days after the application for spacing is filed, either enter an order establishing spacing units and specifying the size and shape of the units, which shall be such as will, in the opinion of the commission, result in the efficient and economic development of the pool as a whole or shall enter an order dismissing the application. The uniform size of the spacing units shall not be smaller than the maximum area that can efficiently and economically be drained by one well: Provided, however, That if at the time of a hearing to establish spacing units, there is not sufficient evidence from which to determine the area that can be efficiently and economically drained by one well, the commission may enter an order establishing temporary spacing units for the orderly development of the pool pending the obtaining of the information required to determine what the ultimate spacing should be.
- (5) Except where the circumstances reasonable require otherwise, spacing units shall be approximately uniform size and shape for the entire pool: Provided, however, That the commission shall have the power to vary the size and shape of any individual unit in order (i) to take account of wells already completed at the time the application is filed hereunder, or (ii) to make a unit conform to oil and gas property lines: Provided, however, That the units formed by the commission shall conform to the area which will be drained by the well located within the area permitted by the order, and the acreage included in each unit shall be contiguous. In the event that both oil and gas wells are found producing from the same pool, the commission shall have the power to create units of one size for oil wells and of a different size for gas wells.
- (6) An order establishing spacing units shall specify the minimum distance from the nearest boundary of the spacing unit at which a well may be drilled. The minimum distance provided shall be the same in all spacing units established under said order with necessary exceptions for wells drilled or drilling at the time of the filing of the application. If the commission finds that a well to be drilled at or more than the specified minimum distance from the boundary of the spacing unit would not be likely to produce in paying quantities or will encounter surface conditions which would substantially add to the burden or hazard of drilling such well, or

because of objection by coal operators the division has prohibited a location within the area permitted by the order, the commission is authorized after notice and hearing to make an order permitting the well to be drilled at a location within the minimum distance prescribed by the spacing order. In granting exceptions to the spacing order, the commission may restrict the production from such well so that each person entitled thereto in such spacing unit shall not produce or receive more than his just and equitable share of the production.

- (7) An order establishing spacing units for a pool shall, subject to the limitation set by clause (1) of this section, cover all lands determined or believed to be underlaid by such pool, and may be modified by the commission, from time to time, to include additional lands determined to be underlaid by such pool. An order establishing spacing units may be modified by the commission to permit the drilling of additional wells on a reasonable uniform pattern at a uniform minimum distance from the nearest unit boundary as provided by an interested operator and notice and hearing as prescribed above for the original order.
- (8) After the date of the notice of hearing called to establish spacing units, no additional well shall be commenced for production from the pool until the order establishing spacing units has been made, unless the commencement of the well is authorized by order of the commission.
- (9) In the event a permit to drill is refused because of a pending application for a spacing order, as provided in subsection (a) of section 6, and the lease containing the location on which the permit has been refused is being drained of oil or gas by a well or wells on adjoining lands, the commission shall have the power, after notice to the operator of the well or wells affected, and hearing, to shut in such well or wells on adjoining lands if necessary to protect correlative rights, until, and only until, such time as applicant has had the opportunity to obtain a spacing order under section 7.

## **Section 8. Integration of interest in spacing units.**

- (a) When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of a spacing unit, the interested persons may integrate their tracts or interests for the development and operation of the spacing unit. In the absence of voluntary integration, the commission, upon the application of any operator having an interest in the spacing unit, shall make an order integrating all tracts or interests in the spacing unit for the development and operation thereof and for the sharing of production therefrom. The commission as part of the order establishing a spacing unit or units shall prescribe the terms and conditions upon which the royalty interests in the unit or units shall, in the absence of voluntary agreement, be deemed to be integrated without the necessity of a subsequent separate order integrating the royalty interests. Each such integration order shall be upon terms and conditions that are just and reasonable, and shall be made only after a public hearing after notice by certified mail to all other operators and royalty owners within the unit whose interests are of record, at least fifteen days prior to the day of the hearing, or in the alternative by personal service in the manner set out in subsection (d) of section 10. If such persons or their addresses are unknown to the applicant, notice may be given by the commission by publication for two successive weeks in a newspaper of general circulation in the county, or in each county if there be more than one, in which the lands embraced within the unit are situated. The first publication shall be at least fifteen days prior to the date of the hearing. Should the aforesaid notice fail to be given to any operator of record or royalty owner or should an attempt to give notice be held to be invalid, such defect shall not invalidate the proceedings at the hearing or any orders issued: Provided, however, That any such order shall

not be effective as to the interest of the person whose interest is of record who was not notified or to whom notice is held to be invalid.

- (b) All operations, including, but not limited to, the commencement, drilling, or operation of a well upon any portion of a spacing unit for which an integration order has been entered, shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a spacing unit shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon.
- (c) Each such integration order shall authorize the drilling, equipping, and operation, or operation, of a well on the spacing unit; shall provide who may drill and operate the well; shall prescribe the time and manner in which all the operators in the spacing unit may elect to participate therein; and shall make provision for the payment by all those who elect to participate therein of the reasonable actual cost thereof, plus a reasonable charge for supervision and for interest on past due accounts. If requested, each such integration order shall provide just and equitable alternatives whereby an operator who does not elect to participate in the risk and cost of the leasehold interest to the participating operators on some reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the commission, or may elect to participate in the drilling and operation, or operation, of the well on a limited or carried basis upon terms and conditions determined by the commission to be just and reasonable. If one or more of the operators shall drill, equip, and operate, or pay the costs of drilling, equipping or operating a well for the benefit of a nonparticipating operator as provided for in an order to integration, then such operator or operators shall be entitled to the share of production from the spacing unit accruing to the interest of such nonparticipating operator, exclusive of one-eighth of the production, until the market value of such nonparticipating operator's share of the production, exclusive of such one-eighth of production equals double the share of such costs payable by or charged to the interest of such nonparticipating operator. If there is a dispute as to the costs of drilling, equipping or operating a well, the commission shall determine such costs. In instances where a well is completed prior to the integration of interests in a spacing unit, the sharing of production shall be from the effective date of the integration, except that, in calculating costs, credit shall be given for the value of each operator's share of any prior production from the well.

### **Section 9. Validity of unit agreements.**

No agreement between or among lessees or other owners of oil and gas rights in oil and gas properties, entered into pursuant hereto or with a view or for the purpose of bringing about the unitized development or operation of such properties, shall be held to violate any statute of this Commonwealth prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

**Section 10. Rules, regulations, notices, orders and hearings.**

- (a) The commission shall prescribe rules and regulations governing the practice and procedure before the commission. [Editors Comment: The powers and duties of the Commission were transferred to the Department of Environmental Resources by the Act of Dec. 3, 1970, P.L. 834, No. 275, § 20, 71 P.S. § 510-1 (Adm. Code § 1901-A). Act 275 also vested the Environmental Quality Board (EQB) with the power to adopt rules and regulations for the Department and transferred the rulemaking authority of the Commission to the EQB 71 P.S. § 510-20 (Adm. Code § 1920-A).]
- (b) No rule, regulation, or order, or amendment thereof, except in an emergency, shall be made by the commission without a public hearing upon at least fifteen days' notice. The public hearing shall be held at such time and place as may be prescribed by the commission, and any interested person shall be entitled to be heard. No spacing or integration order shall be entered except upon application of an operator of land affected by the order, and notice and hearing as specifically provided under clause (2) of section 7 and subsection (a) of section 8. [Editors Comment: The powers and duties of the Commission were transferred to the Department of Environmental Resources by the Act of Dec. 3, 1970, P.L. 834, No. 275, § 20, 71 P.S. § 510-1 (Adm. Code § 1901-A). Act 275 also vested the Environmental Quality Board (EQB) with the power to adopt rules and regulations for the Department and transferred the rulemaking authority of the Commission to the EQB 71 P.S. § 510-20 (Adm. Code § 1920-A).]
- (c) When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing which shall be effective upon promulgation. No emergency order shall remain effective for more than twenty-five days.
- (d) Any notice required by this act, except that required under clause (2) of section 7 and subsection (a) of section 8, shall be given at the election of the commission, either by personal service or by one publication in a newspaper of general circulation in Harrisburg and in the county where the land affected or some part thereof is situated or by United States mail addressed, postage prepaid, to the last known mailing address of the operator or royalty owner affected. The notice shall issue in the name of the Commonwealth, shall be signed by the chairman or secretary of the commission, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the commission elect to give notice by personal service, such service may be made by an officer authorized to serve process or by any agent of the commission in the same manner as is provided by law for the service of process in civil actions in the court of the Commonwealth. Proof of the service by such agent shall be made by the affidavit of the persons making personal service.
- (e) All rules, regulations, and orders issued by the commission shall be in writing, shall be entered in full and indexed in books to be kept by the commission for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule, regulation, and order certified by any member of the commission or its secretary under its seal shall be received in evidence in all courts of this Commonwealth with the same effect as the original. No spacing or pooling order entered pursuant to sections 7 and 8 shall be effective until it is recorded in the office for the recording of deeds in each county containing land affected by the order.

- (f) The commission may act upon its own motion or upon the application of any interested person, except that spacing and pooling orders may be entered only on the application of an interested operator. On the filing of an application concerning any matter within the jurisdiction of the commission, the commission shall promptly fix a date for a hearing thereon and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition.

#### **Section 11. Procedure before the commission.**

- (a) The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination relevant or pertinent to any hearing or investigation conducted by it. All proceedings and appeals shall be in accordance with the "Administrative Agency Act" and other appropriate law. [Editors Comment: As explained in the previous comment to § 410, the EQB has the powers described in this section.]
- (b) Upon failure or refusal on the part of any person to comply with the subpoena issued by the commission, or upon the refusal of any witness to testify as to any matter regarding which he may be interrogated and which is pertinent to the hearing or investigation, any court of common pleas in the Commonwealth, upon the application of the commission, may compel him to comply with such subpoena and to attend before the commission and produce such records, books, and documents for examination and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein. [Editors Comment: As explained in the previous comment to § 410, the EQB has the powers described in this section.]

#### **Section 12. Penalties.**

- (a) It shall be unlawful and subject to a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000) or imprisonment for a term not exceeding six months, or both, for any person:
  - (1) To violate any provision of this act or any rule, regulation, or order of the commission.
  - (2) To commence operations for the drilling or deepening of a well for oil or gas without first obtaining a permit from the division under such rules and regulations as may be prescribed by the commission.
  - (3) To make or cause to be made for the purpose of evading this act, or any rule, regulation or order of the commission, any false entry or statement in a report required by this act, or by any rule, regulation, or order of the commission; or to make or cause to be made any false entry into any record, account, or memorandum required by this act or by any such rule, regulation, or order; to remove from this Commonwealth or destroy, mutilate, alter, or falsify any such record, account, or memorandum.
- (b) Any person knowingly aiding or abetting any other person in the violation of any provision of this act, or any rule, regulation, or order of the commission, shall be subject to the same punishment and penalty as that prescribed in this section 12 for the violation by such other person.

- (c) Each day of violation after notification thereof by the commission shall constitute a separate offense.

### **Section 13. Court review.**

Repealed. 1978, April 28, P.L. 202, No. 53, § 2(a), effective June 27, 1978.

For disposition of repealed subject matter, see Disposition Table preceding new Title 42, Judiciary and Judicial Procedure, of the Pennsylvania Consolidated Statutes Annotated.

### **Section 14. Enforcement.**

Whenever it appears that any person is violating or threatening to violate any provision of this act, or any rule, regulation, or order of the commission, the commission shall bring suit against such person to restrain such person from continuing such violation or from carrying out the threat of violation. Upon the filing of any such suit, summons issued to such person may be directed to the sheriff of any county in this Commonwealth, for service by such sheriff or his deputies. In any such suit, the court shall have jurisdiction to grant to the commission, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders and preliminary injunctions.

**As affected 1978, April 28, P.L. 202, No. 53, § 2(a)[1348], effective June 27, 1978.**

- (b) If the commission shall fail to bring suit to enjoin a violation or threatened violation of any provision of this act, or any rule, regulation, or order of the commission, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the commission might have brought suit. The commission shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of this act, or a rule, regulation, or order of the commission, and the action shall proceed and injunctive relief may be granted without bond, or other understanding, in the same manner as if the suit had been brought by the commission.

### **Section 15. Commission personnel.**

- (a) The commission, or its designated representatives, shall appoint and fix the compensation of such additional experts, engineers, geologists, inspectors, investigators, hearing officers, attorneys, clerks, reporters and other employes as may be necessary for the proper conduct of the work of the commission.
- (b) Except as otherwise specifically provided in this act, the commission and its employes shall be subject to all the provisions of "The Administrative Code of 1929," which apply generally to administrative departments and offices.

**Section 16. Constitutionality.**

If any section, subsection, sentence, or clause of this act is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of the remaining portion of this act. The General Assembly hereby declares that it would have passed this act and each division, section, subsection, sentence or clause thereof, irrespective of the fact that any one or more sections, subsections, sentences or clauses might be adjudged to be unconstitutional, or for any other reason invalid.

**Section 17. Appropriation.**

The sum of fifty thousand dollars (\$50,000), or as much thereof as may be necessary, is hereby appropriated to the Department of Mines and Mineral Industries to carry out the provisions of this act.

**Section 18. Repeals.**

The act of July 2, 1937 (P.L. 2772), entitled "An act to require certain records of oil and gas wells drilled in the Commonwealth showing the location of the same and the geologic formations encountered therein, and to make copies of such records available upon payment of prescribed fees, and providing fees and penalties", is hereby repealed.

**Section 19. Effective date.**

This act shall take effect sixty days after final enactment.