

# HOUSE BILL No. 4169

February 7, 1991, Introduced by Rep. Alley and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 2 and 3 of Act No. 61 of the Public Acts of 1939, entitled as amended

"An act to provide for a supervisor of wells; to prescribe his powers and duties; to provide for an advisory board and an appeal board; to prescribe their powers and duties; to provide for the prevention of waste and for the control over certain matters, persons and things relating to the conservation of oil and gas, and for the making and promulgation of rules, regulations and orders relative thereto; to provide for the plugging of wells and for the entry on private property for that purpose; to provide for the enforcement of such rules, regulations and orders and of the provisions of this act, and to provide penalties for the violations thereof; and to provide for the assessment and collection of certain fees,"

being sections 319.2 and 319.3 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 2 and 3 of Act No. 61 of the Public  
2 Acts of 1939, being sections 319.2 and 319.3 of the Michigan  
3 Compiled Laws, are amended to read as follows:

1       Sec. 2. Unless the context requires a different meaning,  
2 the words defined in this section shall have the following  
3 meaning when found in this act: ~~, to wit:~~

4       (a) "Person" means any natural person, corporation, associa-  
5 tion, partnership, receiver, trustee, so-called common law or  
6 statutory trust, guardian, executor, administrator, and a fidu-  
7 ciary of any kind.

8       (b) "Oil" means natural crude oil or petroleum and other  
9 hydrocarbons, regardless of gravity, ~~which~~ THAT are produced at  
10 the well in liquid form by ordinary production methods and  
11 ~~which~~ THAT are not the result of condensation of gas after it  
12 leaves the underground reservoir.

13       (c) "Gas" means a mixture of hydrocarbons and varying quan-  
14 tities of nonhydrocarbons in a gaseous state ~~which~~ THAT may or  
15 may not be associated with oil, and including those liquids  
16 resulting from condensation.

17       (d) "Pool" means an underground reservoir containing a  
18 common accumulation of oil or gas, or both. Each productive zone  
19 of a general structure ~~which~~ THAT is completely separated from  
20 any other zone in the structure, or for the purposes of this act  
21 may be so declared by the supervisor of wells, is covered by the  
22 word "pool" as used ~~herein~~ IN THIS ACT.

23       (e) "Field" means the general area which is underlain or  
24 appears to be underlain by at least 1 pool. ~~, and "field"~~  
25 "FIELD" also includes the underground reservoir or reservoirs  
26 containing such oil or gas, or both. The words "field" and  
27 "pool" mean the same thing when only one underground reservoir is

1 involved; however, "field," unlike "pool," may relate to 2 or  
2 more pools.

3 (f) "Product" means any commodity or thing made or manufac-  
4 tured from oil or gas, and all derivatives of oil or gas, includ-  
5 ing refined crude oil, crude tops, topped crude, processed crude  
6 petroleum, residue from crude petroleum, cracking stock,  
7 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas  
8 oil, naphtha, distillate, gasoline, casing-head gasoline, natural  
9 gas gasoline, kerosene, benzine, wash oil, waste oil, lubricating  
10 oil, and blends or mixtures of oil or gas or any derivatives  
11 thereof whether enumerated or not.

12 (g) "Owner" means the person who has the right to drill into  
13 and produce from any pool, and to appropriate the production  
14 either for himself or for himself and another or others.

15 (h) "Producer" means the operator, whether owner or not, of  
16 a well or wells capable of producing oil or gas or both in paying  
17 quantities.

18 (i) "Commission" means the commission of ~~natural resources~~  
19 ~~for the state of Michigan~~ CONSERVATION AND RECREATION.

20 (j) "Supervisor" means the supervisor of wells as provided  
21 by this act.

22 (k) "Board" means the advisory board appointed, as provided  
23 in this act, by the supervisor of wells.

24 (l) "Waste" in addition to its ordinary meaning includes ANY  
25 OF THE FOLLOWING:

1        (i) ~~(1)~~ "Underground waste" as those words are generally  
 2 understood in the oil business, and in any event to embrace (1)  
 3 ~~the~~ EITHER OR BOTH OF THE FOLLOWING:

4        (A) THE inefficient, excessive, or improper use or dissipa-  
 5 tion of the reservoir energy, including gas energy and water  
 6 drive, of any pool, and the locating, spacing, drilling, equip-  
 7 ping, operating, or producing of any well or wells in a manner to  
 8 reduce or tend to reduce the total quantity of oil or gas ulti-  
 9 mately recoverable from any pool. ~~, and (2) unreasonable~~

10        (B) UNREASONABLE damage to underground fresh or mineral  
 11 waters, natural brines, or other mineral deposits from operations  
 12 for the discovery, development, and production and handling of  
 13 oil or gas.

14        (ii) ~~(2)~~ "Surface waste," as those words are generally  
 15 understood in the oil business, and in any event to embrace ~~(1)~~  
 16 ~~the~~ ANY OF THE FOLLOWING:

17        (A) THE unnecessary or excessive surface loss or destruction  
 18 without beneficial use, however caused, of gas, oil, or other  
 19 product thereof, but including the loss or destruction, without  
 20 beneficial use, resulting from evaporation, seepage, leakage or  
 21 fire, especially such loss or destruction incident to or result-  
 22 ing from the manner of spacing, equipping, operating, or produc-  
 23 ing well or wells, or incident to or resulting from inefficient  
 24 storage or handing of oil. ~~, (2) the~~

25        (B) THE unnecessary damage to or destruction of the surface,  
 26 soils, animal, fish or aquatic life or property, or other

1 environmental values from or by oil and gas operations. ~~and~~  
2 ~~(3) the~~

3 (C) THE drilling of unnecessary wells.

4 (iii) ~~(3)~~ "Market waste," which ~~shall embrace~~ EMBRACES  
5 the production of oil or gas in any field or pool in excess of  
6 the market demand. ~~as defined herein.~~

7 (m) ~~The words "market"~~ "MARKET demand" ~~as used herein~~  
8 ~~shall be construed to mean~~ MEANS the actual demand for oil or  
9 gas from any particular pool or field for current requirements  
10 for current consumption and use within or outside the state,  
11 together with the demand for such amounts as are necessary for  
12 building up or maintaining reasonable storage reserves of oil or  
13 gas or the products ~~thereof~~ OF OIL OR GAS.

14 (n) "Illegal oil or gas" means oil or gas which has been  
15 produced by any owner or producer in violation of this act, rules  
16 promulgated ~~pursuant to~~ UNDER this act or orders of the  
17 supervisor.

18 (o) "Illegal product" means any product of oil or gas or any  
19 part of which was processed or derived in whole or part knowingly  
20 from illegal oil or gas.

21 (p) "Illegal conveyance" means any conveyance by or through  
22 which illegal oil or gas or illegal products are being  
23 transported.

24 (q) "Illegal container" means any receptacle which contains  
25 illegal oil or gas or illegal products.

1 (r) "Tender" means a permit or certificate of clearance for  
2 the transportation of oil or gas or products, approved and issued  
3 or registered under the authority of the supervisor.

4 Sec. 3. (1) The director of the department of natural  
5 resources shall act as the supervisor of wells. The director  
6 shall designate, with the approval of the commission, suitable  
7 assistants as are required to carry out this act, and after con-  
8 ference with and recommendations by oil or gas producers or oper-  
9 ators or their representatives, and subject to approval by the  
10 commission, shall appoint 8 persons who shall constitute the  
11 advisory board. Six members of the board shall be chosen from  
12 oil or gas producers or operators, or their managing agents or  
13 representatives, having ownership, production, or operations  
14 within this state. However, not less than 3 members of the board  
15 shall be independent oil or gas producers or operators whose  
16 ownership, production, or operations are chiefly within this  
17 state. A company or its subsidiaries or affiliates shall not  
18 have more than 1 representative. Two persons shall be chosen  
19 from the general public.

20 (2) The 6 members of the advisory board chosen from the oil  
21 and gas industry shall be selected with special reference to  
22 their training, experience, and standing as oil or gas producers  
23 or operators, or as managing agents or representatives of oil or  
24 gas producers or operators. Each member of the board shall have  
25 at least 5 years of practical or technical experience as a  
26 producer or operator or as managing agent or representative of  
27 oil producers or operators and shall be a resident of the state

1 at the time of appointment and throughout the period of the  
2 member's membership on the board.

3 (3) The term of a member of the advisory board shall be for  
4 3 years. Of the first 6 members selected, 2 shall serve for 1  
5 year, 2 for 2 years, and 2 for 3 years. At the initial selection  
6 of the 2 public members, 1 shall be appointed for a 1-year term  
7 and 1 shall be appointed for a 2-year term. The supervisor,  
8 after conference with and recommendations by oil and gas produc-  
9 ers, and operators or their managing agents or representatives,  
10 shall fill a vacancy occurring in the membership of the advisory  
11 board subject to the approval of the commission, and may remove a  
12 member of the advisory board for good cause, except for political  
13 reasons or causes, after a full public hearing and approval by  
14 the commission. A member of the board, unless removed in the  
15 manner provided for in this subsection, shall serve until the  
16 appointment and qualification of a successor.

17 (4) A member of the board shall qualify by taking and sub-  
18 scribing to the constitutional oath of office and by filing the  
19 oath in the office of the secretary of state. The board, after  
20 having qualified, shall immediately, and annually thereafter,  
21 meet at the office of the supervisor of wells in Lansing and  
22 organize by electing a chairperson and a vice-chairperson. Four  
23 members of the board shall constitute a quorum for the transac-  
24 tion of business. The board shall hold at least 1 meeting each  
25 month, and other meetings as it may consider necessary upon  
26 notice as required under this act. Meetings shall be held at the  
27 office of the supervisor of wells at Lansing, or at another place

1 in this state as fixed by the board or the supervisor. Meetings  
2 shall be called by the chairperson, or in the chairperson's  
3 absence by the vice-chairperson, by a majority of the members of  
4 the board, or by the supervisor.

5 (5) The business which the advisory board may perform shall  
6 be conducted at a public meeting of the board held in compliance  
7 with THE OPEN MEETINGS ACT, Act No. 267 of the Public Acts of  
8 1976, being sections 15.261 to 15.275 of the Michigan Compiled  
9 Laws. Public notice of the time, date, and place of a meeting of  
10 the board shall be given in the manner required by Act No. 267  
11 of the Public Acts of 1976.

12 (6) In addition to the powers and duties of the board which  
13 are specifically PROVIDED in this act, when requested by the com-  
14 mission or the supervisor, the board shall consult and advise  
15 with the commission or the supervisor, and shall perform other  
16 duties as may be lawfully delegated to it by the supervisor, in  
17 the administration of this act. The board may participate offi-  
18 cially in all public hearings provided for in this act, and, upon  
19 request being made by the board, may consult promptly with the  
20 supervisor with respect to the rule or order, which should be  
21 made in view of the hearing.

22 (7) The board, at all reasonable times, shall have access to  
23 office records, documents, and orders of the supervisor excepting  
24 records as are provided in section 6(d) and shall be kept  
25 informed by bulletins or otherwise agreed plan as to the conduct  
26 of the supervisor relative to the enforcement of this act. A  
27 writing prepared, owned, used, in the possession of, or retained



1 by the board in the performance of an official function shall be  
2 made available to the public in compliance with THE FREEDOM OF  
3 INFORMATION ACT, Act No. 442 of the Public Acts of 1976, being  
4 sections 15.231 to 15.246 of the Michigan Compiled Laws.

5 (8) The commission of ~~natural resources~~ CONSERVATION AND  
6 RECREATION shall act as an appeal board. When the advisory board  
7 or a producer or owner considers a rule, order, action, inaction,  
8 or procedure as proposed, initiated, or made by the supervisor to  
9 be burdensome, inequitable, unreasonable, or unwarranted, the  
10 board, producer, or owner may appeal to the appeal board for  
11 relief from the rule, order, action, inaction, or procedure,  
12 while giving notice to the supervisor. The chairperson of the  
13 commission shall set a date and place to hear the appeal, which  
14 may be at a regular or special meeting of the commission called  
15 for the purpose.

16 (9) The action of the appeal board shall be final with  
17 respect to an appeal by the advisory board. A person may seek  
18 relief in the courts as provided elsewhere in this act, and the  
19 taking of an appeal as provided in this act shall not be a pre-  
20 requisite to seeking relief in the courts.

21 (10) The supervisor and employees, in addition to their sal-  
22 aries, shall receive their reasonable expenses while away from  
23 their homes traveling on business connected with their duties. A  
24 member of the board and of the appeal board shall not receive  
25 compensation. ~~, however~~ HOWEVER, a member shall be entitled to  
26 reasonable expenses while traveling in the performance of a duty  
27 imposed by this act. Salaries and expenses authorized in this

1 act shall be paid out of the state treasury in the same manner as  
2 the salaries and expenses of other officers and employees of the  
3 department of natural resources are paid.

4 (11) The department of management and budget shall furnish  
5 suitable offices for the use of the supervisor, the board, and  
6 the employees.

7 Section 2. This amendatory act shall not take effect unless  
8 all of the following bills of the 86th Legislature are enacted  
9 into law:

10 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4177

11 (request no. 00827'91).

12 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4173

13 (request no. 00827'91 a).