

## HOUSE BILL No. 2317

By Committee on Environment

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AN ACT concerning oil and gas; relating to pollution from certain lease facilities and conditions; amending K.S.A. 55-178 and K.S.A. 2000 Supp. 55-179, 55-191 and 55-192 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 55-178 is hereby amended to read as follows: 55-178. (a) Any person who has reason to believe that any well *or other lease condition* which has been abandoned is causing or is likely to cause the pollution of any usable water strata or supply or the loss of any usable water through downward drainage by reason of the fact that the well *or lease condition* has not been plugged, *restored or remediated* or was improperly plugged, *restored or remediated*, or that the plugging, *restoration or remediation* is no longer effective by reason of the deterioration of the pipe ~~or by or other equipment or by reason of~~ any other cause, may file a *with the commission a written* complaint ~~in writing~~, so alleging, ~~with the commission secretary~~. Such complaint shall state the location of the well *or lease condition* and the facts which caused the complainant to believe that such well *or lease condition* is causing or is likely to cause the pollution of any usable water strata or supply or the loss of usable water.

(b) *As used in this section and K.S.A. 55-179, and amendments thereto, "lease condition" means any equipment, facility, condition or material which is related to or used or produced in conjunction with current or past oil or gas activities, conducted on or from the leasehold acreage, which are within the commission's jurisdiction pursuant to K.S.A. 74-623, and amendments thereto. "Lease condition" includes, but is not limited to, any petroleum hydrocarbon or other waste, whether or not contained in a pit, pond, dike, equipment, facility or other structure or abutment.*

Sec. 2. K.S.A. 2000 Supp. 55-179 is hereby amended to read as follows: 55-179. (a) Upon receipt of any complaint filed pursuant to K.S.A. 55-178 and amendments thereto, the commission shall make an investigation for the purpose of determining whether ~~such~~ *the* abandoned well *or other lease condition* is polluting or is likely to pollute any usable water strata or supply or causing the loss of usable water, or the commission may initiate such investigation on its own motion. If the commission

1 determines:

2 (1) That such abandoned well *or lease condition* is causing or likely  
3 to cause such pollution or loss; and

4 (2) (A) that no person is legally responsible for the proper care and  
5 control of such well *or lease condition*; or (B) that the person legally  
6 responsible for the care and control of such well *or lease condition* is  
7 dead, is no longer in existence, is insolvent or cannot be found, then, after  
8 completing its investigation, and as funds are available, the commission  
9 shall plug, replug ~~or~~, repair, *restore or remediate* such well *or lease con-*  
10 *dition*, or cause it to be plugged, replugged ~~or~~, repaired, *restored or re-*  
11 *mediated*, in such a manner as to prevent any further pollution or danger  
12 of pollution of any usable water strata or supply or loss of usable water,  
13 and shall remediate pollution from the well *or lease condition*, whenever  
14 practicable and reasonable. The cost of the investigation, ~~the and any~~  
15 ~~plugging, replugging or~~ repair, ~~and the~~ *restoration and* remediation shall  
16 be paid by the commission from the conservation fee fund or the aban-  
17 doned oil and gas well fund, as appropriate.

18 (b) For the purposes of this section, a person who is legally respon-  
19 sible for the proper care and control of an abandoned well *or lease or*  
20 *lease condition* shall include, but is not limited to, one or more of the  
21 following: Any operator of a waterflood or other pressure maintenance  
22 program deemed to be causing pollution or loss of usable water; the  
23 current or last operator of the lease upon which such well *or lease con-*  
24 *dition* is located, irrespective of whether such operator plugged or aban-  
25 doned such well *or lease condition*; the original operator who plugged or  
26 abandoned such well *or lease condition*; and any person who without  
27 authorization tampers with or removes surface ~~equipment~~ or downhole  
28 equipment from an abandoned well *or lease condition*.

29 (c) Whenever the commission determines that a well *or lease con-*  
30 *dition* has been abandoned and is causing or is likely to cause pollution  
31 of any usable water strata or supply or loss of usable water, and whenever  
32 the commission has reason to believe that a particular person is legally  
33 responsible for the proper care and control of such well *or lease condition*,  
34 the commission shall cause such person to come before it at a hearing  
35 held in accordance with the provisions of the Kansas administrative pro-  
36 cedure act to show cause why the requisite care and control has not been  
37 exercised with respect to such well *or lease condition*. After such hearing,  
38 if the commission finds that the person is legally responsible for the  
39 proper care and control of such well *or lease condition* and that such well  
40 *or lease condition* is abandoned, in fact, and is causing or is likely to cause  
41 pollution of any usable water strata or supply or loss of usable water, the  
42 commission may make any order or orders prescribed in K.S.A. 55-162,  
43 and amendments thereto. Proceedings for reconsideration and judicial

1 review of any of the commission's orders may be held pursuant to K.S.A.  
2 55-606, and amendments thereto.

3 (d) For the purpose of this section, any well *or lease condition* which  
4 has been abandoned, in fact, and has not been plugged, *restored and*  
5 *remediated* pursuant to the rules and regulations in effect at the time of  
6 *such* plugging ~~such well~~, *restoration and remediation* shall be and is  
7 hereby deemed likely to cause pollution of any usable water strata or  
8 supply.

9 (e) For the purpose of this section, the person legally responsible for  
10 the proper care and control of an abandoned well *or lease condition* shall  
11 not include the landowner or surface owner unless the landowner or  
12 surface owner has operated or produced the well, has deliberately altered  
13 or tampered with such well *or lease condition* thereby causing the pol-  
14 lution or has assumed by written contract such responsibility.

15 Sec. 3. K.S.A. 2000 Supp. 55-191 is hereby amended to read as fol-  
16 lows: 55-191. As used in this act:

17 (a) "*Abandoned lease condition*" means any lease condition that the  
18 commission has authority to restore or remediate under K.S.A. 55-179,  
19 and amendments thereto.

20 (b) "Abandoned well" means any well that the commission has au-  
21 thority to plug, replug or repair under K.S.A. 55-179 and amendments  
22 thereto.

23 ~~(c)~~ (c) "Commission" means the state corporation commission.

24 ~~(d)~~ (d) "Contamination site" means any of: (1) The 17 sites of pollu-  
25 tion from oil and gas activities, identified as of March 1, 1996, over which  
26 jurisdiction was transferred from the department of health and environ-  
27 ment to the commission by chapter 204 of the 1995 Session Laws of  
28 Kansas; or (2) the 92 sites of pollution from oil and gas activities identified  
29 by the commission as of March 1, 1996.

30 ~~(e)~~ (e) "Abandoned well site" means the location of an abandoned  
31 well and any pollution from such well.

32 Sec. 4. K.S.A. 2000 Supp. 55-192 is hereby amended to read as fol-  
33 lows: 55-192. (a) There is hereby established in the state treasury the  
34 abandoned oil and gas well fund.

35 (b) Moneys in the abandoned oil and gas well fund shall be used only  
36 for the purpose of paying the costs of: (1) Investigation and remediation  
37 of contamination sites; (2) investigation of abandoned wells, and their well  
38 sites, drilling of which began before July 1, 1996; ~~and~~ (3) plugging, re-  
39 plugging or repairing abandoned wells, and remediation of the well sites,  
40 drilling of which began before July 1, 1996; (4) *investigation of aban-*  
41 *doned lease conditions from oil and gas activities conducted before July*  
42 *1, 1996; and (5) restoration and remediation of abandoned lease condi-*  
43 *tions from oil and gas activities conducted before July 1, 1996. Use of*

1 *moneys pursuant to subsections (b)(3) and (b)(5) shall be* in accordance  
2 with a prioritization schedule adopted by the commission and based on  
3 the degree of threat to public health or the environment. No moneys  
4 credited to the fund shall be used to pay administrative expenses of the  
5 commission or to pay compensation or other expenses of employing per-  
6 sonnel to carry out the duties of the commission.

7 (c) On or before the 10th day of each month, the director of accounts  
8 and reports shall transfer from the state general fund to the abandoned  
9 oil and gas well fund interest earnings based on: (1) The average daily  
10 balance of moneys in the abandoned oil and gas well fund for the pre-  
11 ceding month; and (2) the net earnings rate for the pooled money in-  
12 vestment portfolio for the preceding month.

13 (d) All expenditures from the abandoned oil and gas well fund shall  
14 be made in accordance with appropriations acts upon warrants of the  
15 director of accounts and reports issued pursuant to vouchers approved  
16 by the chairperson of the state corporation commission or a person des-  
17 ignated by the chairperson.

18 Sec. 5. K.S.A. 55-178 and K.S.A. 2000 Supp. 55-179, 55-191 and 55-  
19 192 are hereby repealed.

20 Sec. 6. This act shall take effect and be in force from and after its  
21 publication in the statute book.

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