

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 396

BY SENATORS WALTERS (BY REQUEST), FACEMIRE AND

BOSO

[Introduced January 27, 2016;

Referred to the Committee on Energy, Industry and Mining;

and then to the Committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §22-6-33a, relating to authorizing shut-in of oil and gas wells in West Virginia;
 3 payment of shut-in royalty or shut-in payments; and deferment of certain charges or fees
 4 in certain circumstances.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §22-6-33a, to read as follows:

**ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS; ADMINISTRATION;
 ENFORCEMENT.**

§22-6-33a. Shut-in of oil and gas wells to prevent waste.

1 (a) The Legislature finds and declares that:
 2 Beginning in the early 1800s when oil was first produced in West Virginia, oil and gas
 3 production has been an important part of the history and economy of our state;
 4 West Virginia oil and gas producers provide, and for many years, have provided, valuable
 5 oil and gas resources and jobs for West Virginians;
 6 Oil and gas production and the long term viability of oil and gas producers is vital to the
 7 West Virginia economy and energy supply;
 8 Oil and gas wells in West Virginia often supply consumers with natural gas to heat homes
 9 and small businesses, and those consumers would suffer if oil and gas wells were prematurely
 10 plugged and abandoned;
 11 Due to the volume of natural gas produced with recent technological advances, abundant
 12 gas supply from horizontal wells has lowered the market price of natural gas to a level below the
 13 costs of commercially producing many wells otherwise capable of production, which encourages
 14 producers to prematurely plug and abandon oil and gas wells, many of which provide necessary
 15 heat for consumers; and

16 It is in the public interest to prevent the premature plugging of wells that can produce
17 natural gas. With respect to wells capable of commercial production but not economic at lower
18 market prices, it is in the public interest to restrict production to the amount of production
19 necessary to serve consumers entitled to receive gas from those wells.

20 (b) As used in this section:

21 “Economic production” or “economically produced” means production of an oil and gas
22 well when the revenue realized from producing the well pays all transportation obligations related
23 to the well or natural gas produced from the well, plus the costs of producing and operating the
24 well. The cost of producing and operating the well does not include any recovery of the costs of
25 drilling the well, but includes all the costs of operations and administration.

26 “Operator” means any owner of the right to develop, operate and produce oil and gas from
27 a well that produces oil or natural gas.

28 “Person” means any natural person, corporation, limited liability company, partnership,
29 receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind,
30 and includes any government or any political subdivision or any agency thereof.

31 “Pipeline company” means any person that transports natural gas or natural gas liquids
32 and charges one or more fees, takes a portion of the amount of natural gas delivered thereto in
33 connection with transportation, withholds payment with respect to some or all of the natural gas
34 delivered thereto, or processes natural gas.

35 “Shut-in” means turning or installing a valve so that natural gas does not flow from a well.

36 “Waste” means and includes physical waste of oil and gas and economic waste from
37 producing an oil and gas well when the net revenue realized from that well exceeds the total cost
38 of operating the well, or the plugging, before the end of its useful life, of any oil and gas well that
39 can produce economically at other times when the revenue realized from production justifies
40 commercial production of the well.

41 (c) Oil and gas wells in West Virginia otherwise capable of producing at least one thousand

42 cubic feet of natural gas per day shall be shut-in when the well cannot be economically produced.
43 A well shut-in pursuant to this provision is not considered a nonproducing or abandoned well and
44 need not be plugged pursuant to sections nineteen, twenty-three or twenty-four, of this article or
45 other applicable law or rule. At least fourteen days before a shut-in pursuant to this section, the
46 well operator shall provide written notice to: (i) Any pipeline company which transported natural
47 gas from the shut-in well prior to the exercise of the shut-in right provided by this section, (ii) any
48 known consumer that received natural gas from the well before gas from that well is delivered to
49 a pipeline company, and (iii) any party which purchased natural gas produced from a well to be
50 shut-in.

51 (d) If a consumer legally entitled to receive natural gas and who actually consumes natural
52 gas from a well shut-in pursuant to subsection (c) of this section is unable to receive sufficient
53 natural gas supply because of the shut-in, then the consumer can demand that the shut-in well
54 be placed in production to the extent necessary to supply the consumer or to the extent of the
55 normal operating flow of the well, whichever is less. If a well is placed in production pursuant to
56 this section, that well shall nevertheless be and remain a well shut-in pursuant to subsection (c)
57 of this section.

58 (e) Notwithstanding any agreement or requirement to the contrary, upon shut-in pursuant
59 to subsection (c) of this section all purchase, sale and transportation obligations related to a well
60 shut-in pursuant to subsection (c) of this section or natural gas therefrom shall be suspended until
61 the well can be economically produced by the well operator. A well shut-in pursuant to subsection
62 (c) of this section is considered a well producing in paying quantities for all purposes. No person
63 may assert forfeiture, breach, damages, failure to produce, or penalty as a result of or in
64 connection with any shut-in pursuant to subsection (c) of this section.

NOTE: The purpose of this bill is to prevent waste of oil and gas.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.