

**As Introduced**

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**H. B. No. 493**

**Representatives Okey, Fedor**

**Cosponsors: Representatives Antonio, Carney, Driehaus, Foley,  
Garland, Gerberry, Goyal, Hagan, R., Heard, Letson, Lundy, Murray,  
Phillips, Williams, Yuko**

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**A BILL**

To amend sections 1509.022, 1509.19, 1509.24, and 1509.25 and to enact sections 1509.081, 1509.311, and 1509.312 of the Revised Code to establish additional requirements governing wells that are drilled into the Marcellus shale formation or a deeper formation, to establish requirements governing oil and gas land professionals, including the registration of such professionals and the creation of disclosure forms that must be presented to a prospective lessor of oil and gas mineral rights and to a prospective seller of mineral rights, and to make other changes in the Oil and Gas Law.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1509.022, 1509.19, 1509.24, and 1509.25 be amended and sections 1509.081, 1509.311, and 1509.312 of the Revised Code be enacted to read as follows:

**Sec. 1509.022.** (A) Except as provided in section 1509.021 of the Revised Code, the surface location of a new well that will be drilled using directional drilling may be located on a parcel of land that is not in the drilling unit of the well.

(B) On and after the effective date of this amendment, the surface location of a new well shall not be within seven hundred fifty feet from the property line of a parcel of land that is not in the drilling unit of the well if the parcel of land is not located in an urbanized area and the well will have a depth at or below the depth of the top of the Marcellus shale formation.

(C) On and after the effective date of this amendment, no portion of a lateral line of a well, which has a depth at or below the depth of the top of the Marcellus shale formation, shall be within seven hundred fifty feet from the property line of a parcel of land that is not in the drilling unit of the well.

**Sec. 1509.081.** (A) On and after the effective date of this section, an oil or gas lease that is necessary for the formation of a drilling unit in which is or will be located a well that will have a depth at or below the depth of the top of the Marcellus shale formation shall include at a minimum all of the following:

(1) A requirement that written notice be provided to the lessor by the lessee immediately after the recording of a declared pooled unit in the office of the applicable county recorder that the property or mineral rights, as applicable, that are the subject of the lease are a part of a drilling unit;

(2) A requirement that ground water testing be conducted prior to commencement of the drilling of the well and after stimulation of the well. The ground water testing shall be conducted by the department of natural resources, the board of health of the health district in which the proposed well or well is to be or is located, or a person who has received a registration certificate from the chief of the division of oil and gas resources management under section 1509.312 of the Revised Code. In addition, the person who conducts the ground water testing shall provide written results of the testing to the lessor and to the chief. The lessee shall pay the costs of the ground water testing required by this division.

(3) A provision that holds the lessor harmless against any claims, losses, including, but not limited to, court costs and attorney fees reasonably incurred, or damages arising from the lessee's actions or operations on the applicable property;

(4) A provision that allows the lessor annually to request a written audit of the lessee's production. The audit shall be conducted by an auditor who is independent of the lessee. The lessee shall pay the costs of the audit.

(5) A provision that allows the lessor of the property on which the surface facilities of a well will be or are located to receive a lump sum payment in lieu of free gas to the house or other dwelling that is located on the leased property. The amount of money to be paid in full shall not be less than three thousand dollars.

(6) A requirement that a lessee timely provide written notice to the lessor of the property on which the surface facilities of a well will be or are located of all serious injuries to or death of a person that occurred on the property and of any damage to the property resulting from the lessee's operations on the property;

(7) A requirement that whenever the lessee assigns or otherwise transfers the lessee's interest of the oil or gas lease, the assignor or transferor notify in writing the lessor of the assignment or transfer not later than thirty days after the date of the assignment or transfer.

(B) On and after the effective date of this section and notwithstanding section 5301.08 of the Revised Code, an oil or gas lease that is necessary for the formation of a drilling unit in which is or will be located a well that will have a depth at or below the depth of the top of the Marcellus shale formation shall be lawfully executed and properly recorded. In addition, such a lease shall be valid only if the lease is signed by the lessor and lessee before a notary public.

(C) On and after the effective date of this section, the minimum rate of a royalty interest for a well that will have a depth at or below the depth of the top of the Marcellus shale formation shall not be less than fifteen per cent of the gross revenue from the sale of oil, liquid natural gas, dry gas, and their constituents for that well. In calculating the gross revenue, no costs or expenses shall be deducted.

(D) On and after the effective date of this section, the owner of a well that has a depth at or below the depth of the top of the Marcellus shale formation shall notify in writing all owners of property of any diminution to or contamination of their drinking water supply as a result of the activities of the owner of the well.

**Sec. 1509.19.** (A) An owner who elects to stimulate a well shall stimulate the well in a manner that will not endanger underground sources of drinking water. Not later than twenty-four hours before commencing the stimulation of a well, the owner or the owner's authorized representative shall notify an oil and gas resources inspector. If during the stimulation of a well damage to the production casing or cement occurs and results in the circulation of fluids from the annulus of the surface production casing, the owner shall immediately terminate the stimulation of the well and notify the chief of the division of oil and gas resources management. If the chief determines that

the casing and the cement may be remediated in a manner that isolates the oil and gas bearing zones of the well, the chief may authorize the completion of the stimulation of the well. If the chief determines that the stimulation of a well resulted in irreparable damage to the well, the chief shall order that the well be plugged and abandoned within thirty days of the issuance of the order.

For purposes of determining the integrity of the remediation of the casing or cement of a well that was damaged during the stimulation of the well, the chief may require the owner of the well to submit cement evaluation logs, temperature surveys, pressure tests, or a combination of such logs, surveys, and tests.

(B) An owner who elects to stimulate a well shall submit to the chief a complete listing of all of the chemicals and other substances that will be used in the stimulation of the well. The list shall be submitted on a form or in a manner prescribed by the chief.

**Sec. 1509.24.** (A) ~~The~~ Except as otherwise provided in division (C) of this section, the chief of the division of oil and gas resources management, with the approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, may adopt, amend, or rescind rules relative to minimum acreage requirements for drilling units and minimum distances from which a new well may be drilled or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, and other wells for the purpose of conserving oil and gas reserves. The rules relative to minimum acreage requirements for drilling units shall require a drilling unit to be compact and composed of contiguous land.

(B) Rules adopted under this section and special orders made under section 1509.25 of the Revised Code shall apply only to new wells to be drilled or existing wells to be deepened, plugged back, or reopened to a source of supply different from the existing pool for the purpose of extracting oil or gas in their natural state.

(C) On and after the effective date of this amendment, the maximum acreage of a drilling unit for a well that will have a depth at or below the depth of the top of the Marcellus shale formation shall not exceed one thousand two hundred eighty acres. The drilling unit shall be compact and composed of contiguous land. The chief may adopt rules for the administration of this division.

**Sec. 1509.25.** The chief of the division of oil and gas resources management, upon the chief's own motion or upon application of an owner, may hold a hearing to consider the need or desirability of adopting a special order for drilling unit requirements in a particular pool different from those established under division (A) of section 1509.24 of the Revised Code. The chief shall notify every owner of land within the area proposed to be included within the order, of the date, time, and place of the hearing and the nature of the order being considered at least thirty days prior to the date of the hearing. Each application for such an order shall be accompanied by such information as the chief may request. If the chief finds that the pool can be defined with reasonable certainty, that the pool is in the initial state of development, and that the establishment of such different requirements for drilling a well on a tract or drilling unit in the pool is reasonably necessary to protect correlative rights or to provide effective development, use, or conservation of oil and gas, the chief, with the written approval of the technical advisory council on oil and gas created in section 1509.38 of the Revised Code, shall make a special order designating the area covered by the order, and specifying the acreage requirements for drilling a well on a tract or drilling unit in the area, which acreage requirements shall be uniform for the entire pool. The order shall specify minimum distances from the boundary of the tract or drilling unit for the drilling of wells and minimum distances from other wells and allow exceptions for

wells drilled or drilling in a particular pool at the time of the filing of the application. The chief may exempt the discovery well from minimum acreage and distance requirements in the order. After the date of the notice for a hearing called to make the order, no additional well shall be commenced in the pool for a period of sixty days or until an order has been made pursuant to the application, whichever is earlier. The chief, upon the chief's own motion or upon application of an owner, after a hearing and with the approval of the technical advisory council on oil and gas, may include additional lands determined to be underlaid by a particular pool or to exclude lands determined not to be underlaid by a particular pool, and may modify the spacing and acreage requirements of the order.

Nothing in this section permits the chief to establish drilling units in a pool by requiring the use of a survey grid coordinate system with fixed or established unit boundaries.

**Sec. 1509.311.** (A) As used in this section, "land professional" means a person who is engaged primarily in any of the following activities:

- (1) Negotiating the acquisition or divestiture of mineral rights regarding the extraction of oil or gas, including wet gas;
- (2) Negotiating business agreements that provide for the exploration for or development of oil or gas, including wet gas;
- (3) Securing the pooling of interests in oil or gas, including wet gas.

"Land professional" includes a person colloquially known as a landman conducting the activities specified in divisions (A)(1) to (3) of this section.

(B) No person shall operate as a land professional in this state unless the person first registers with and obtains a registration certificate from the chief of the division of oil and gas resources management. A registration certificate issued under this section is valid for one year from the date of issuance and may be renewed annually.

(C) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (1) Establish a registration form for an initial registration and a form for the renewal of a registration for purposes of division (B) of this section. The rules shall require each person registering or renewing a registration under this section to identify the counties of the state in which the person intends to operate as a land professional.
- (2) Establish the amount of a fee for the issuance of an initial registration and a registration renewal. All fees collected under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.
- (3) Provide for the assignment of a registration number to each land professional who is issued a registration certificate;
- (4) Establish any other requirements and procedures that are necessary to implement this section.

(D) The chief shall publish on the division's web site the name of and other relevant information concerning each person registered under this section.

(E)(1) A land professional shall provide a copy of the applicable disclosure form established by division (F) or (G) of this section to a prospective lessor or prospective seller when initially approaching the landowner regarding any of the activities specified in division (A) of this section. The land professional shall explain thoroughly each item on the applicable disclosure form. In addition, the land professional shall obtain on duplicate forms the initials of the prospective lessor or prospective seller, as applicable, for each item on the disclosure form at the appropriate location as an acknowledgement that the land professional explained each item to the prospective lessor or prospective seller. The land professional and the prospective lessor or

prospective seller, as applicable, each shall sign and date each copy of the applicable disclosure form. The land professional shall provide one copy of the initialed, signed, and dated disclosure form to the prospective lessor or prospective seller and may retain the other copy.

(2) No land professional shall fail to comply with division (E)(1) of this section.

(F) The disclosure form used by a land professional under division (E) of this section for negotiations with a prospective lessor shall be as follows:

**"Oil and Gas Lease Disclosure Form**

I, .....(printed name of registered land professional), on behalf of .....(name, address, and telephone number of the entity for which the land professional is an agent or by which the land professional is employed), am here to negotiate a lease of your mineral rights for the purpose of removing the oil or gas that may be under your property.

As a part of the negotiation, I am required by state law to thoroughly explain all of the following: (Landowner/Lessor: please initial each item below that was thoroughly explained by the land professional)

.... 1. I acknowledge that I have received a thorough explanation of the company, organization, or entity that the land professional represents, is an agent of, or is employed by.

.... 2. I acknowledge that I have received a thorough explanation of how oil and gas drilling works, including a description of the equipment used in oil and gas drilling and how hydraulic fracturing is used to remove oil and gas from the ground.

.... 3. I acknowledge that I have received a thorough explanation of how a company obtains the right to drill an oil or gas well under Ohio laws, which means an oil or gas drilling permit.

.... 4. I acknowledge that I have received a thorough explanation of the lease for oil or gas rights, including an explanation of how long the lease may last and the minimum royalty required under Ohio law.

.... 5. I acknowledge that I have received a thorough explanation of all of the parts of the lease for my oil or gas mineral rights that may make the lease last longer, including an explanation of the longest time that the oil and gas lease would last.

.... 6. I acknowledge that I have received a thorough explanation that I have a right to request a separate land-use contract to use my property to drill a well.

.... 7. I acknowledge that I have received a thorough explanation that I have a right to request a no surface use lease, which means a lease that would not allow a well to be drilled on my property.

.... 8. I acknowledge that I have received a thorough explanation that I have a right to put in the lease a requirement to prevent the use of my property for anything that is not removal of oil or gas. That requirement in the lease also would prevent the use of my property to store equipment, to store wastes from drilling or from the removal of oil or gas, to dispose of wastes from drilling or from the removal of oil or gas, and to prevent the drilling of an injection well on my property to dispose of wastes from drilling or wastes from the removal of oil or gas.

.... 9. I acknowledge that I have received a thorough explanation that I have a right to put in the lease a requirement to stop the lessee from free use of oil, gas, and water from my property. I also acknowledge that I have received a thorough explanation that I have a right to put in the lease a requirement that I must be paid for the lessee's use of oil, gas, or water from my property.

.... 10. I acknowledge that I have received a thorough explanation that I have a right to put in the lease a requirement that the lessee must give me a list of all of the chemicals and other substances that will be used in any hydraulic fracturing of the well for which my property will be a part of the drilling unit.

.... 11. I acknowledge that I have received a thorough explanation that I have the right to speak to or meet with an attorney before signing a lease for the oil or gas mineral rights from my property. I also acknowledge that I have received a thorough explanation that I may have an attorney read the lease before I sign the lease and provide advice to me about the lease for the oil or gas mineral rights that I own.

Signature of landowner/lessor

Date

Printed name of landowner/lessor

Signature of land professional

Date

Registration number of land professional"

(G) The disclosure form used by a land professional under division (E) of this section for negotiations with a prospective seller shall be as follows:

**"Mineral Purchase Disclosure Form**

I, .....(printed name of registered land professional), on behalf of .....(name, address, and telephone number of the entity for which the land professional is an agent or by which the land professional is employed), am here to negotiate a land-purchase contract for the purchase of your mineral rights, including the purchase of the oil or gas that may be under your property.

As a part of the negotiation, I am required by state law to thoroughly explain all of the following: (Landowner/Seller: please initial each item below that was thoroughly explained by the land professional)

- .... 1. I acknowledge that I have received a thorough explanation of the company, organization, or entity that the land professional represents, is an agent of, or is employed by.
- .... 2. I acknowledge that I have received a thorough explanation that a purchase of mineral rights is not the same as a lease of mineral rights.
- .... 3. I acknowledge that I have received a thorough explanation that a purchase is the sale of my mineral rights whether my mineral rights are leased or my mineral rights are not leased.
- .... 4. I acknowledge that I have received a thorough explanation that a mineral rights purchase is a sale of property that requires a transfer of rights through a deed.
- .... 5. I acknowledge that I have received a thorough explanation that if my mineral rights have been leased, then a purchase of my mineral rights is the sale of my rights to receive royalty payments or other payments under the lease of my mineral rights.
- .... 6. I acknowledge that I have received a thorough explanation that if my mineral rights have not been leased, then a purchase is the sale of my mineral rights and the buyer of my mineral rights may lease the mineral rights to any other person.
- .... 7. I acknowledge that I have received a thorough explanation that the sale of my mineral rights may limit my right to use and enjoy the surface of my property.

.... 8. I acknowledge that I have received a thorough explanation that the sale of my mineral rights may be for all minerals or only specific minerals.

.... 9. I acknowledge that I have received a thorough explanation that the sale of my mineral rights may be for all of my mineral rights or for a part of my mineral rights.

.... 10. I acknowledge that I have received a thorough explanation that the sale of my mineral rights may have tax consequences that may require tax advice before the sale of my mineral rights.

.... 11. I acknowledge that I have received a thorough explanation that I have the right to speak to or meet with an attorney before signing a land-purchase contract for the mineral rights from my property. I also acknowledge that I have received a thorough explanation that I may have an attorney read the contract before I sign the contract and provide advice to me about the contract to purchase the mineral rights that I own.

Signature of landowner/seller

Date

Printed name of landowner/seller

Signature of land professional

Date

Registration number of land professional"

(H) The chief shall post a copy of the disclosure forms established by division (F) and (G) of this section on the division's web site. The posting of the disclosure forms shall be in a format that may be downloaded or printed by a land professional for purposes of division (E) of this section.

**Sec. 1509.312.** (A) Except for ground water testing conducted by the department of natural resources or by the board of health of the health district in which a proposed well or well is to be or is located, no person shall test ground water for the purposes of division (A)(2) of section 1509.081 of the Revised Code unless the person first registers with and obtains a registration certificate from the chief of the division of oil and gas resources management. A registration certificate issued under this section is valid for one year from the date of issuance and may be renewed annually.

(B) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

- (1) Establish a registration form for an initial registration and a form for the renewal of a registration for purposes of division (A) of this section;
- (2) Establish the amount of a fee for the issuance of an initial registration and a registration renewal. All fees collected under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.
- (3) Establish minimum qualifications that a person must meet in order for the person to test ground water for the purposes of division (A)(2) of section 1509.081 of the Revised Code;
- (4) Establish any other requirements and procedures that are necessary to implement this section.

(C) The chief shall publish on the division's web site the name of and other relevant information concerning each person registered under this section.

**Section 2.** That existing sections 1509.022, 1509.19, 1509.24, and 1509.25 of the Revised Code are hereby repealed.