

**Senator David P. Hinkins** proposes the following substitute bill:

**OIL AND GAS OPERATIONS AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: Mike K. McKell

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**LONG TITLE**

**General Description:**

This bill deals with the state preemption of local regulation of oil and gas operations.

**Highlighted Provisions:**

This bill:

- ▶ states that the Board of Oil, Gas, and Mining has exclusive authority to regulate oil and gas operations; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**40-6-5**, as last amended by Laws of Utah 2012, Chapter 342

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **40-6-5** is amended to read:

**40-6-5. Jurisdiction of board -- Rules.**



26 (1) The board has jurisdiction over all persons and property necessary to enforce this  
27 chapter. The board shall enact rules in accordance with the Utah Administrative Rulemaking  
28 Act.

29 (2) The board shall adopt rules and make orders as necessary to administer the  
30 following provisions:

31 (a) Ownership of all facilities for the production, storage, treatment, transportation,  
32 refining, or processing of oil and gas shall be identified.

33 (b) Well logs, directional surveys, and reports on well location, drilling, and production  
34 shall be made and filed with the division. Logs of wells marked "confidential" shall be kept  
35 confidential for one year after the date on which the log is required to be filed, unless the  
36 operator gives written permission to release the log at an earlier date. Production reports shall  
37 be:

38 (i) filed monthly;

39 (ii) accurate; and

40 (iii) in a form that reasonably serves the needs of state agencies and private fee owners.

41 (c) Monthly reports from gas processing plants shall be filed with the division.

42 (d) Wells shall be drilled, cased, operated, and plugged in such manner as to prevent:

43 (i) the escape of oil, gas, or water out of the reservoir in which they are found into  
44 another formation;

45 (ii) the detrimental intrusion of water into an oil or gas reservoir;

46 (iii) the pollution of fresh water supplies by oil, gas, or salt water;

47 (iv) blowouts;

48 (v) cavings;

49 (vi) seepages;

50 (vii) fires; and

51 (viii) unreasonable:

52 (A) loss of a surface land owner's crops on surface land;

53 (B) loss of value of existing improvements owned by a surface land owner on surface  
54 land; and

55 (C) permanent damage to surface land.

56 (e) The drilling of wells shall not commence without an adequate and approved supply

57 of water as required by Title 73, Chapter 3, Appropriation. This provision is not intended to  
58 impose any additional legal requirements, but to assure that existing legal requirements  
59 concerning the use of water have been met prior to the commencement of drilling.

60 (f) The operator shall furnish a reasonable performance bond or other good and  
61 sufficient surety, conditioned for the performance of the duty to:

62 (i) plug each dry or abandoned well;

63 (ii) repair each well causing waste or pollution;

64 (iii) maintain and restore the well site; and

65 (iv) except as provided in Subsection (8), protect a surface land owner against  
66 unreasonable:

67 (A) loss of a surface land owner's crops on surface land;

68 (B) loss of value of existing improvements owned by a surface land owner on surface  
69 land; and

70 (C) permanent damage to surface land.

71 (g) Production from wells shall be separated into oil and gas and measured by means  
72 and upon standards that will be prescribed by the board and will reflect current industry  
73 standards.

74 (h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and  
75 any accumulation of nonmerchantable waste crude oil shall be treated and processed, as  
76 prescribed by the board.

77 (i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or  
78 processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced  
79 recovery, or salt water disposal in this state shall maintain complete and accurate records of the  
80 quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or  
81 injected for a period of at least six years. The records shall be available for examination by the  
82 board or its agents at any reasonable time. Rules enacted to administer this subsection shall be  
83 consistent with applicable federal requirements.

84 (j) Any person with an interest in a lease shall be notified when all or part of that  
85 interest in the lease is sold or transferred.

86 (3) [The] To the extent not preempted by federal law, and notwithstanding any other  
87 provision of state law, the board has the exclusive authority to regulate:

- 88 (a) all operations for and related to the production of oil or gas including:
- 89 (i) drilling, testing, equipping, completing, performing hydraulic fracturing or other
- 90 stimulation techniques, operating, producing, and plugging of wells; and
- 91 (ii) reclamation of sites;
- 92 (b) the spacing and location of wells;
- 93 (c) operations to increase ultimate recovery, such as:
- 94 (i) cycling of gas;
- 95 (ii) the maintenance of pressure; and
- 96 (iii) the introduction of gas, water, or other substances into a reservoir;
- 97 (d) the disposal of salt water and oil-field wastes;
- 98 (e) the underground and surface storage of oil, gas, or products; and
- 99 (f) the flaring of gas from an oil well.
- 100 (4) For the purposes of administering this chapter, the board may designate:
- 101 (a) wells as:
- 102 (i) oil wells; or
- 103 (ii) gas wells; and
- 104 (b) pools as:
- 105 (i) oil pools; or
- 106 (ii) gas pools.
- 107 (5) The board has exclusive jurisdiction over:
- 108 (a) class II injection wells, as defined by the federal Environmental Protection Agency
- 109 or any successor agency; and
- 110 (b) pits and ponds in relation to these injection wells.
- 111 (6) The board has jurisdiction:
- 112 (a) to hear any questions regarding multiple mineral development conflicts with oil and
- 113 gas operations if there:
- 114 (i) is potential injury to other mineral deposits on the same lands; or
- 115 (ii) are simultaneous or concurrent operations conducted by other mineral owners or
- 116 lessees affecting the same lands; and
- 117 (b) to enter its order or rule with respect to those questions.
- 118 (7) The board has enforcement powers with respect to operators of minerals other than

119 oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple  
120 mineral development issues.

121 (8) The provisions of Subsection (2)(f)(iv) do not apply if the surface land owner is a  
122 party to, or a successor of a party to:

123 (a) a lease of the underlying privately owned oil and gas;

124 (b) a surface use agreement applicable to the surface land owner's surface land; or

125 (c) a contract, waiver, or release addressing an owner's or operator's use of the surface  
126 land owner's surface land.

127 Section 2. **Effective date.**

128 If approved by two-thirds of all the members elected to each house, this bill takes effect  
129 upon approval by the governor, or the day following the constitutional time limit of Utah  
130 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
131 the date of veto override.