

**SENATE BILL No. 418**

By Committee on Utilities

2-10

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1 AN ACT concerning oil and gas; relating to horizontal drilling; amending  
2 K.S.A. 55-1304 and 55-1305 and repealing the existing sections.  
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4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. (a) As used in this section:

6 (1) "Commission" means the state corporation commission; and

7 (2) "horizontally drilled well" means a well with a horizontal  
8 displacement of the well bore drilled at an angle of at least 80 degrees  
9 within the productive common source of supply of at least 300 feet.

10 (b) Upon proper application and notice and a hearing, the commission  
11 shall have the authority to establish horizontal drilling units of  
12 approximately uniform size and shape covering any actual or prospective  
13 common source of supply of oil and gas within the state for the purposes  
14 of preventing unlawful waste of oil or gas and protecting the correlative  
15 rights of interested parties.

16 (c) Any order issued pursuant to this section may be entered after a  
17 hearing upon:

18 (1) The application of any person owning either: (A) An interest in  
19 the minerals; or (B) the right to drill a well for oil or gas on the lands  
20 embraced within the proposed horizontal drilling unit. Such application  
21 may only be made if one or more persons who collectively own at least an  
22 undivided 50% of the interest in the minerals or the right to drill a well for  
23 oil or gas from the total lands embraced within the proposed horizontal  
24 unit support the application; or

25 (2) the petition of the commission.

26 (d) Upon proper application and notice and a hearing, the commission  
27 shall have jurisdiction to establish horizontal drilling units for horizontally  
28 drilled wells containing 640 acres plus 10% tolerance, and in such cases  
29 where the evidence supports the application, up to 1,280 acres.

30 (e) Upon the entry of an order by the commission creating a  
31 horizontal drilling unit, the separately owned tracts and oil and gas rights  
32 embraced within the horizontal spacing unit shall be combined to form a  
33 single unit for the purposes of drilling for and producing oil or gas.  
34 Operations and production from one tract within the unit shall constitute  
35 operations and production from all separate tracts within the unit. All  
36 existing and future property rights, oil and gas leases, contracts and other

1 rights or obligations embraced within a unit shall be regarded as amended  
2 and modified only to the extent necessary to conform to the provisions of  
3 this section. For the purposes of this section, the owner or owners of oil  
4 and gas rights in and under an unleased tract of land shall be regarded as  
5 the owner of a royalty interest equivalent to the highest royalty interest  
6 provided in an oil and gas lease owned, or contracted to be owned, by the  
7 applicant in such unit to the extent the proportion the unleased tract bears  
8 to the total acreage within the unit as determined by the commission.  
9 Nothing in this section pools the owner of the working interest, nor does it  
10 otherwise bind the owners of the right to drill any well within the unit, to  
11 participate in the drilling of any well within the unit. If such parties within  
12 a horizontal drilling unit do not voluntarily agree to jointly develop a unit,  
13 such rights may be unitized pursuant to the Kansas unitization act, K.S.A.  
14 55-1301 *et seq.*, and amendments thereto.

15 (f) In establishing a horizontal well spacing unit for a common source  
16 of supply, the acreage embraced within each unit may include acreage  
17 from more than one governmental section, but shall not exceed 1,280  
18 acres.

19 (g) The horizontal spacing unit established shall constitute a  
20 developed unit as long as a well capable of producing oil or gas is located  
21 in the common source of supply covered by such unit.

22 (h) The commission shall promulgate rules and regulations necessary  
23 for the administration of this section.

24 Sec. 2. K.S.A. 55-1304 is hereby amended to read as follows: 55-  
25 1304. ~~The commission may make an order providing for the unitization~~  
26 ~~and unit operation of such pool or part thereof sought to be unitized, if,~~  
27 Upon application of any working interest owner and after notice and  
28 hearing in accordance with the provisions of the Kansas administrative  
29 procedure act, the commission *may make an order providing for the*  
30 *unitization and unit operation of a pool or part thereof sought to be*  
31 *unitized if the commission* finds all of the following conditions exist:

32 (a) (1) The primary production from ~~a~~ *the* pool or ~~a~~ *the* part thereof  
33 sought to be unitized has reached a low economic level and, without  
34 introduction of artificial energy, abandonment of oil or gas wells is  
35 imminent; ~~or~~

36 (2) the unitized management, operation and further development of  
37 the pool or the part thereof sought to be unitized is economically feasible  
38 and reasonably necessary to prevent waste within the reservoir and thereby  
39 ~~increase~~ *substantially increase* the ultimate recovery of oil or gas; *or*

40 (3) *the development of the pool or part thereof by the drilling of a*  
41 *horizontal well or wells will maximize recovery within the reservoir and*  
42 *thereby substantially increase the ultimate recovery of oil and gas;*

43 (b) the value of the estimated additional recovery of oil or gas

1 substantially exceeds the estimated additional cost incident to conducting  
2 such operations; and

3 (c) the proposed operation is fair and equitable to all interest owners.

4 Sec. 3. K.S.A. 55-1305 is hereby amended to read as follows: 55-  
5 1305. (a) The order providing for the unitization and unit operation of a  
6 pool or a part thereof shall be upon terms and conditions that are just and  
7 reasonable and shall prescribe a plan for unit operations that shall include:

8 (a) (1) A legal description in terms of surface area of the pool or a  
9 part thereof to be so operated, termed "the unit area";

10 (b) (2) a statement of the nature of the operations contemplated;

11 (c) (3) an allocation to the separately owned tracts in the unit area of  
12 all the oil and gas that is produced from the unit area and is saved, being  
13 the production that is not used in the conduct of operations on the unit area  
14 or not unavoidably lost. The allocation shall be in accord with the  
15 agreement, if any, of all interest owners. If there is no such agreement as to  
16 the allocation, the commission shall determine the relative value of the  
17 separately owned tracts in the unit area, exclusive of physical equipment,  
18 for development of oil and gas by unit operations, and the production  
19 allocated to each tract shall be the proportion that the value of each tract so  
20 determined bears to the total value of all tracts in the unit area;

21 (d) (4) a provision for the credits and charges to be made in the  
22 adjustment among the working interest owners in the unit area for their  
23 respective investments in wells, tanks, pumps, machinery, materials and  
24 equipment contributed to the unit operations;

25 (e) (5) a provision providing how the costs of unit operations,  
26 including capital investments, shall be determined and charged to the  
27 separately owned tracts and how such costs shall be paid, including a  
28 provision providing when, how and by whom the unit production allocated  
29 to a working interest owner who does not pay the share of the cost of unit  
30 operations charged to such owner, or to the interest of such owner, may be  
31 sold and the proceeds applied to the payment of such costs;

32 (f) (6) a provision whereby a nonoperating working interest owner  
33 shall be furnished, but not more often than once a month, reasonably  
34 detailed information regarding the nature and amount of the various items  
35 of costs and expenses, including capital investments, chargeable against  
36 the interest of the nonoperating working interest owners;

37 (g) (7) a provision for carrying any nonoperating working interest  
38 owner on a limited, carried or net-profits basis, payable out of production,  
39 upon terms and conditions determined by the commission to be just and  
40 reasonable, or otherwise financing any nonoperating working interest  
41 owner who elects to be carried or otherwise financed or who does not meet  
42 the owner's financial obligations with the unit and a provision for  
43 establishing a reasonable rate of interest and a penalty on all unpaid

1 expenses, in amounts established by rules and regulations adopted by the  
2 commission, not to exceed:

3 ~~(+)~~ (A) One hundred percent of the unpaid portion of the owner's  
4 share of the cost of aboveground surface equipment beyond the wellhead  
5 connection, including, but not limited to, stock tanks, separators, treaters,  
6 pumping equipment and piping, plus 100% of the unpaid portion of the  
7 owner's share of the cost of operation of the unit, all subject to the rate of  
8 interest established;

9 ~~(2)~~ (B) three hundred percent of the unpaid portion of the owner's  
10 share of the costs and expenses of drilling wells in the unitized area,  
11 including staking, well site preparation, rigging up, or drilling, and  
12 reworking, deepening or plugging back, testing and completing wells; and

13 ~~(3)~~ (C) three hundred percent of the unpaid portion of the owner's  
14 share of the costs and expenses of underground pipeline systems, expenses  
15 for injected substances and any other nonrecoupable expenses incurred.  
16 All interest and penalties prescribed under this subsection shall be paid  
17 from the nonpaying interest owner's share of production;

18 ~~(+)~~ (8) a provision for the supervision and conduct of the unit  
19 operations, including the selection, removal or substitution of an operator  
20 from among the working interest owners to conduct the unit operations;

21 ~~(+)~~ (9) a provision for a voting procedure for the decision of matters to  
22 be decided by the working interest owners in respect to which each  
23 working interest owner shall have a vote with a value corresponding to the  
24 percentage of the costs of unit operations chargeable against the interest of  
25 such owner;

26 ~~(+)~~ (10) the time when the unit operations shall commence and the  
27 manner in which, and the circumstances under which, the unit operations  
28 shall terminate and for the settlement of accounts upon such termination;

29 ~~(+)~~ (11) a provision specifying the particular records the unit operator  
30 shall keep and the detailed accounting procedure that the unit operator  
31 shall follow. A plan of unitization shall not be considered fair and  
32 reasonable if it contains a provision for operating charges which include  
33 any part of district or central office expense other than reasonable  
34 overhead charges; and

35 ~~(+)~~ (12) such additional provisions that are found to be appropriate for  
36 carrying on the unit operations and for the protection of correlative rights.

37 (b) (1) No order of the commission providing for unit operations  
38 upon a finding pursuant to subsection (a)(1) of K.S.A. 55-1304, and  
39 amendments thereto, shall become effective unless and until the plan for  
40 unit operations prescribed by the commission has been approved in writing  
41 by those persons who, under the commission's order, will be required to  
42 pay at least 63% of the costs of the unit operation, and also by the owners  
43 of at least 63% of the production or proceeds thereof that will be credited

1 to royalties, excluding overriding royalties or other like interests which are  
2 carved out of the leasehold estate, and the commission has made a finding,  
3 either in the order providing for unit operations or in a supplemental order,  
4 that the plan for unit operations has been so approved.

5 (2) No order of the commission providing for unit operations upon a  
6 finding pursuant to subsection (a)(2) of K.S.A. 55-1304, and amendments  
7 thereto, shall become effective unless and until the plan for unit operations  
8 prescribed by the commission has been approved in writing by those  
9 persons who, under the commission's order, will be required to pay at least  
10 63% of the costs of the unit operation, and also by the owners of at least  
11 75% of the production or proceeds thereof that will be credited to  
12 royalties, excluding overriding royalties or other like interests which are  
13 carved out of the leasehold estate, and the commission has made a finding,  
14 either in the order providing for unit operations or in a supplemental order,  
15 that the plan for unit operations has been so approved.

16 (3) *No order of the commission providing for unit operations upon a*  
17 *finding pursuant to subsection (a)(3) of K.S.A. 55-1304, and amendments*  
18 *thereto, shall become effective unless and until the plan for unit operations*  
19 *prescribed by the commission has been approved in writing by those*  
20 *persons who under the commission's order, will be required to pay at least*  
21 *50% of the costs of the unit operation and the commission has made a*  
22 *finding, either in the order providing for unit operations or in a*  
23 *supplemental order; that the plan for unit operations has been approved.*

24 If the plan for unit operations has not been so approved at the time the  
25 order providing for unit operations is made, the commission shall upon  
26 application and notice hold such supplemental hearings as may be required  
27 to determine if and when the plan for unit operations has been so  
28 approved. If the persons owning the required percentage of interest in the  
29 unit area do not approve the plan for unit operations within a period of six  
30 months from the date on which the order providing for unit operations is  
31 made, such order shall cease to be of further force and effect and shall be  
32 revoked by the commission, except that the commission may extend the  
33 six-month period not to exceed 60 days for good cause shown.

34 (c) An order providing for unit operations may be amended by the  
35 commission in the same manner and subject to the same conditions as are  
36 necessary or required for an original order providing for unit operations,  
37 except that: ~~(a)~~ (1) If such an amendment affects only the rights and  
38 interest of the working interest owners, the approval of the amendment by  
39 the royalty owners shall not be required; and ~~(b)~~ (2) no such order of  
40 amendment shall change the percentage for the allocation of oil and gas as  
41 established for any separately owned tract by the original order, except  
42 with the consent of all persons owning oil and gas rights in such tract; no  
43 such order shall change the percentage for the allocation of cost as

1 established for any separately owned tract by the original order, except  
2 with the consent of all working interest owners in such tract.

3 (d) The commission by an order may provide for the unit operation of  
4 a pool or a part thereof that embraces a unit area previously established  
5 either by voluntary agreement or order of the commission. Such order, in  
6 providing for the allocation of unit production, shall first treat the unit area  
7 previously established as a single tract, and the part of the unit production  
8 so allocated thereto shall then be allocated among the separately owned  
9 tracts included in such previously established unit area in the same  
10 proportions as those specified in the previous agreement or order.

11 (e) An order may provide for the unit operation of less than the whole  
12 of a pool where the unit area is of such size and shape as may be  
13 reasonably required for that purpose, and the conduct thereof will have no  
14 material adverse effect upon other parts of the pool.

15 Sec. 4. K.S.A. 55-1304 and 55-1305 are hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its  
17 publication in the statute book.