

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1378

By: Taylor

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 87.1, as last amended by Section 2,
9 Chapter 372, O.S.L. 2017 (52 O.S. Supp. 2018, Section
10 87.1), which relates to common source of supply of
11 oil and spacing and drilling units; expanding scope
12 of certain prohibition; stating applicability upon
13 enactment; allowing for wellbore pooling; and
14 providing an effective date.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.1, as
17 last amended by Section 2, Chapter 372, O.S.L. 2017 (52 O.S. Supp.
18 2018, Section 87.1), is amended to read as follows:

19 Section 87.1 Whenever the production from any common source of
20 supply of oil or natural gas in this state can be obtained only
21 under conditions constituting waste or drainage not compensated by
22 counterdrainage, then any person having the right to drill into and
23 produce from such common source of supply may, except as otherwise
24 authorized or in this section provided, take therefrom only such

1 proportion of the oil or natural gas that may be produced therefrom
2 without waste or without such drainage as the productive capacity of
3 the well or wells of any such person considered with the acreage
4 properly assignable to each such well bears to the total productive
5 capacities of the wells in such common source of supply considered
6 with the acreage properly assignable to each well therein.

7 (a) To prevent or to assist in preventing the various types of
8 waste of oil or gas prohibited by statute, or any wastes, or to
9 protect or assist in protecting the correlative rights of interested
10 parties, the Corporation Commission, upon a proper application and
11 notice given as hereinafter provided, and after a hearing as
12 provided in the notice, shall have the power to establish well
13 spacing and drilling units of specified and approximately uniform
14 size and shape covering any common source of supply, or prospective
15 common source of supply, of oil or gas within the State of Oklahoma;
16 provided, that the Commission may authorize the drilling of an
17 additional well or wells on any spacing and drilling unit or units
18 or any portion or portions thereof or may establish, reestablish, or
19 reform well spacing and drilling units of different sizes and shapes
20 when the Commission determines that a common source of supply
21 contains predominantly oil underlying an area or areas and contains
22 predominantly gas underlying a different area or areas; provided
23 further that the units in the predominantly oil area or areas shall
24 be of approximately uniform size and shape, and the units in the

1 predominantly gas area or areas shall be of approximately uniform
2 size and shape, except that the units in the gas area or areas may
3 be of nonuniform size and shape when they adjoin the units in the
4 oil area or areas; provided further that the drilling pattern for
5 such nonuniform units need not be uniform, and provided further that
6 the Commission shall adjust the allowable production within the
7 common source of supply, or any part thereof, and take such other
8 action as may be necessary to protect the rights of interested
9 parties. Any order issued pursuant to the provisions hereof may be
10 entered after a hearing upon the petition of any person owning an
11 interest in the minerals in lands embraced within such common source
12 of supply, or the right to drill a well for oil or gas on the lands
13 embraced within such common source of supply, or on the petition of
14 the Conservation Officer of the State of Oklahoma. When such a
15 petition is filed with the Commission, the Commission shall give at
16 least fifteen (15) days' notice of the hearing to be held upon such
17 petition by one publication, at least fifteen (15) days prior to the
18 hearing, in some newspaper of general circulation published in
19 Oklahoma County, and by one publication, at least fifteen (15) days
20 prior to the date of the hearing, in some newspaper published in the
21 county, or in each county, if there be more than one, in which the
22 lands embraced within the application are situated. Except as to
23 the notice of hearing on such a petition, the procedural

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1 requirements of Section 86.1 et seq. of this title shall govern all
2 proceedings and hearings provided for by this section.

3 (b) ~~In case of a spacing unit of one hundred sixty (160) acres~~
4 ~~or more, no~~ No oil and/or gas leasehold interest outside the spacing
5 unit involved may be held by production from the spacing unit more
6 than ninety (90) days beyond expiration of the primary term of the
7 lease. On and after November 1, 2019, this provision shall apply to
8 all producing wells, leases and pooling orders, regardless of the
9 date pooled, drilled or of the date of the underlying leases or
10 pooling orders.

11 (c) In establishing a well spacing or drilling unit for a
12 common source of supply thereunder, the acreage to be embraced
13 within each unit may include acreage from more than one governmental
14 section, but shall not exceed six hundred forty (640) acres for a
15 gas well plus ten percent (10%) tolerance, unless the unit is a
16 governmental section and the governmental section contains more than
17 six hundred forty (640) acres in which case the unit may comprise
18 the entire section. Provided, however, fractional sections along
19 the state boundary line and within the townships along the boundary
20 where the survey west of the Indian Meridian meets the survey east
21 of the Cimarron Meridian may be spaced with adjoining section unit,
22 and the shape thereof shall be determined by the Commission from the
23 evidence introduced at the hearing, and the following facts, among
24 other things, shall be material: (1) the lands embraced in the

1 actual or prospective common source of supply; (2) the plan of well
2 spacing then being employed or contemplated in the source of supply;
3 (3) the depth at which production from the common source of supply
4 has been or is expected to be found; (4) the nature and character of
5 the producing or prospective producing formation or formations; and
6 (5) any other available geological or scientific data pertaining to
7 the actual or prospective source of supply which may be of probative
8 value to the Commission in determining the proper spacing and well
9 drilling unit therefor, with due and relative allowance for the
10 correlative rights and obligations of the producers and royalty
11 owners interested therein.

12 The order establishing such spacing or drilling units shall set
13 forth: (1) the outside boundaries of the surface area included in
14 such order; (2) the size, form, and shape of the spacing or drilling
15 units so established; (3) the drilling pattern for the area, which
16 shall be uniform except as hereinbefore provided; and (4) the
17 location of the permitted well on each such spacing or drilling
18 unit. To such order shall be attached a plat upon which shall be
19 indicated the foregoing information. Subject to other provisions of
20 Section 86.1 et seq. of this title, the order establishing such
21 spacing or drilling units shall direct that no more than one well
22 shall thereafter be produced from the common source of supply on any
23 unit so established, and that the well permitted on that unit shall
24 be drilled at the location thereon as prescribed by the Commission,

1 with such exception as may be reasonably necessary where it is
2 shown, upon application, notice and hearing in conformity with the
3 procedural requirements of Section 86.1 et seq. of this title, and
4 the Commission finds that any such spacing unit is located on the
5 edge of a pool and adjacent to a producing unit, or for some other
6 reason that to require the drilling of a well at the prescribed
7 location on such spacing unit would be inequitable or unreasonable.
8 Whenever such an exception is granted, the Commission shall adjust
9 the allowable production for the spacing unit and take such other
10 action as may be necessary to protect the rights of interested
11 parties.

12 Except for horizontal spacing units allowed by subsection (f) of
13 this section, any well spacing or drilling unit for a common source
14 of supply thereunder which exceeds six hundred forty (640) acres for
15 a gas well plus ten percent (10%) tolerance or exceeds the total
16 amount of acreage contained in a governmental section, and is not in
17 production or in the process of drilling development on the
18 effective date of this act shall be de-spaced. However, fractional
19 sections along the state boundary line and within the townships
20 along the boundary where the survey west of the Indian Meridian
21 meets the survey east of the Cimarron Meridian may be spaced with
22 adjoining section unit, and the shape thereof shall be determined by
23 the Commission.

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1 (d) The Commission shall have jurisdiction upon the filing of a
2 proper application therefor, and upon notice given as provided in
3 subsection (a) of this section, to decrease the size of the well
4 spacing units or to permit additional wells to be drilled within the
5 established units, or to increase the size or modify the shape of
6 the well spacing units, upon proper proof at such hearing that such
7 modification or extension of the order establishing drilling or
8 spacing units will prevent or assist in preventing the various types
9 of wastes prohibited by statute, or any of the wastes, or will
10 protect or assist in protecting the correlative rights of persons
11 interested in the common source of supply, or upon the filing of a
12 proper application therefor to enlarge the area covered by the
13 spacing order, if such proof discloses that the development or the
14 trend of development indicates that such common source of supply
15 underlies an area not covered by the spacing order and such proof
16 discloses that the applicant is an owner within the area or within a
17 drilling and spacing unit contiguous to the area covered by the
18 application. Except in the instance of reservoir dewatering as
19 described herein, the Commission shall not establish well spacing
20 units of more than forty (40) acres in size covering common sources
21 of supply of oil, the top of which lies less than four thousand
22 (4,000) feet below the surface as determined by the original or
23 discovery well in the common source of supply, and the Commission
24 shall not establish well spacing units of more than eighty (80)

1 acres in size covering common sources of supply of oil, the top of
2 which lies less than nine thousand nine hundred ninety (9,990) feet
3 and more than four thousand (4,000) feet below the surface as
4 determined by the original or discovery well in the common source of
5 supply. In the instance of reservoir dewatering to extract oil from
6 reservoirs having initial water saturations at or above fifty
7 percent (50%), the Commission may establish drilling and spacing
8 units not to exceed six hundred forty (640) acres in size.

9 (e) The drilling of any well or wells into any common source of
10 supply for the purpose of producing oil or gas therefrom, after a
11 spacing order has been entered by the Commission covering such
12 common source of supply, at a location other than that fixed by the
13 order is hereby prohibited. The drilling of any well or wells into
14 a common source of supply, covered by a pending spacing application,
15 at a location other than that approved by a special order of the
16 Commission authorizing the drilling of such well is hereby
17 prohibited. The operation of any well drilled in violation of any
18 spacing so entered is also hereby prohibited. When two or more
19 separately owned tracts of land are embraced within an established
20 spacing unit, or where there are undivided interests separately
21 owned, or both such separately owned tracts and undivided interests
22 embraced within such established spacing unit, the owners thereof
23 may validly pool their interests and develop their lands as a unit
24 or for a proposed well or wells. Where, however, such owners have

1 not agreed to pool their interests and where one such separate owner
2 has drilled or proposes to drill a well on the unit to the common
3 source of supply, the Commission, to avoid the drilling of
4 unnecessary wells, or to protect correlative rights, shall, upon a
5 proper application therefor and a hearing thereon, require such
6 owners to pool and develop their lands ~~in~~ within the spacing unit ~~as~~
7 ~~a unit~~ for the proposed well or wells. On and after November 1,
8 2019, all such orders by the Commission shall only require the
9 separate owners to pool their interests in the spacing unit as to
10 the proposed well or wells, and not as to the entire spacing unit
11 for the common source of supply, this may be commonly referred to as
12 "wellbore pooling". The applicant shall give all the owners whose
13 addresses are known or could be known through the exercise of due
14 diligence at least fifteen (15) days' notice by mail, return receipt
15 requested. The applicant shall also give notice by one publication,
16 at least fifteen (15) days prior to the hearing, in some newspaper
17 of general circulation published in Oklahoma County, and by one
18 publication, at least fifteen (15) days prior to the date of the
19 hearing, in some newspaper published in the county, or in each
20 county, if there be more than one, in which the lands embraced
21 within the spacing unit are situated. The applicant shall file
22 proof of publication and an affidavit of mailing with the Commission
23 prior to the hearing. All orders requiring such pooling shall be
24 made after notice and hearing, and shall be upon such terms and

1 conditions as are just and reasonable and will afford to the owner
2 of such tract in the unit the opportunity to recover or receive
3 without unnecessary expense the owner's just and fair share of the
4 oil and gas from the proposed well or wells. The portion of the
5 production allocated to the owner of each tract or interests
6 included in a well spacing unit formed by a pooling order for the
7 proposed well or wells shall, when produced, be considered as if
8 produced by such owner from the separately owned tract or interest
9 by a well drilled thereon. Such pooling order of the Commission
10 shall make definite provisions for the payment of cost of the
11 development and operation, which shall be limited to the actual
12 expenditures required for such purpose not in excess of what are
13 reasonable, including a reasonable charge for supervision. In the
14 event of any dispute relative to such costs, the Commission shall
15 determine the proper costs after due notice to interested parties
16 and a hearing thereon. The operator of such unit, in addition to
17 any other right provided by the pooling order or orders of the
18 Commission, shall have a lien on the mineral leasehold estate or
19 rights owned by the other owners therein and upon their shares of
20 the production from such unit to the extent that costs incurred in
21 the development and operation upon the unit are a charge against
22 such interest by order of the Commission or by operation of law.
23 Such liens shall be separable as to each separate owner within such
24 unit, and shall remain liens until the owner or owners drilling or

1 operating the well have been paid the amount due under the terms of
2 the pooling order. The Commission is specifically authorized to
3 provide that the owner or owners drilling, or paying for the
4 drilling, or for the operation of a well for the benefit of all
5 shall be entitled to production from such well which would be
6 received by the owner or owners for whose benefit the well was
7 drilled or operated, after payment of royalty, until the owner or
8 owners drilling or operating the well have been paid the amount due
9 under the terms of the pooling order or order settling such dispute.
10 No part of the production or proceeds accruing to any owner of a
11 separate interest in such unit shall be applied toward payment of
12 any cost properly chargeable to any other interest in the unit.

13 For the purpose of this section, the owner or owners of oil and
14 gas rights in and under an unleased tract of land shall be regarded
15 as a lessee to the extent of a seven-eighths (7/8) interest in and
16 to the rights and a lessor to the extent of the remaining one-eighth
17 (1/8) interest therein, unless and until the owner or owners make an
18 election or are deemed to make an election not to participate in a
19 proposed well or wells under a pooling order issued by the
20 Commission, at which time each such owner in the proposed well or
21 wells shall be considered a lessor, subject to the judicially
22 recognized implied covenant to market found to exist by the courts
23 of this state in oil and gas leases covering lands located in this
24 state, to the extent of the full royalty percentage elected under

1 the pooling order. Should the owners of separate tracts or
2 interests embraced within a spacing unit fail to agree upon a
3 pooling of their interests and the drilling of a well on the unit,
4 and should it be established by final, unappealable judgment of a
5 court of competent jurisdiction that the Commission is without
6 authority to require pooling as provided for herein, then, subject
7 to all other applicable provisions of this act, the owner of each
8 tract or interest embraced within a spacing unit may drill on his or
9 her separately owned tract, and the allowable production therefrom
10 shall be that portion of the allowable for the full spacing unit as
11 the area of such separately owned tract bears to the full spacing
12 unit.

13 In the event a producing well or wells are completed upon a unit
14 where there are, or may thereafter be, two or more separately owned
15 tracts, each royalty interest owner shall share in all production
16 from the well or wells drilled within the unit, or in the gas well
17 rental provided for in the lease covering such separately owned
18 tract or interest in lieu of the customary fixed royalty, to the
19 extent of such royalty interest owner's interest in the unit. Each
20 royalty interest owner's interest in the unit shall be defined as
21 the percentage of royalty owned in each separate tract by the
22 royalty owner, multiplied by the proportion that the acreage in each
23 separately owned tract or interest bears to the entire acreage of
24 the unit.

1 (f) Notwithstanding any provision of this title to the
2 contrary, the Corporation Commission shall have jurisdiction upon
3 the filing of a proper application therefor, and upon notice given
4 as provided in subsection (a) of this section, to establish spacing
5 rules for horizontally drilled oil or gas wells whereby horizontally
6 drilled oil or gas wells may have well spacing units established of
7 up to one thousand two hundred eighty (1,280) acres plus tolerances
8 and variances as allowed pursuant to subsection (c) of this section.
9 For purposes of this subsection a "horizontally drilled oil or gas
10 well" shall mean an oil or gas well drilled, completed or
11 recompleted in a manner in which the horizontal component of the
12 completion interval in the geological formation exceeds the vertical
13 component thereof and which horizontal component extends a minimum
14 of one hundred fifty (150) feet in the formation. The Corporation
15 Commission shall promulgate rules necessary for the proper
16 administration of this subsection. For the creation and
17 continuation of any horizontal spacing unit pursuant to this
18 subsection that exceeds six hundred forty (640) acres plus
19 tolerances and variances as allowed pursuant to subsection (c) of
20 this section:

21 (1) absent a showing of reasonable cause, the unit shall
22 include all lands within each governmental section to be included in
23 the horizontal spacing unit;

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1 (2) the applicant or applicants requesting the Commission to
2 form the horizontal spacing unit must be the owner of an interest in
3 the oil, gas and other minerals in each of the governmental sections
4 to be included in the horizontal spacing unit;

5 (3) the applicant or applicants requesting the Commission to
6 form a horizontal spacing unit must include in the application the
7 basis for requesting a spacing unit size greater than six hundred
8 forty (640) acres plus tolerances and variances as allowed pursuant
9 to subsection (c) of this section. Absent a showing of reasonable
10 cause, the contemplated horizontal lateral length for the initial
11 unit well in the horizontal spacing unit shall be at least seven
12 thousand five hundred (7,500) feet. If the lateral length of the
13 initial horizontal well does not actually measure a minimum of seven
14 thousand five hundred (7,500) feet, the Commission shall require the
15 applicant to show cause as to why such spacing order should not be
16 modified, superseded or vacated under the circumstances; and

17 (4) absent a showing of reasonable cause, the drilling of a
18 multiunit horizontal well pursuant to Section 87.8 of this title
19 shall not be available as the initial unit well for a horizontal
20 spacing unit unless the contemplated completed portion of the
21 lateral for said well is to exceed ten thousand five hundred sixty
22 (10,560) feet.

23 (g) A horizontal spacing unit may be established for a common
24 source of supply for which there are already established non-

1 horizontal drilling and spacing units. A horizontal spacing unit
2 formed under subsection (f) of this section may exist concurrently
3 with any previously formed nonhorizontal drilling and spacing unit,
4 or any portion thereof, such that each concurrently existing unit
5 may be separately developed with a well drilled into, completed in
6 and hydrocarbons produced from the same common source of supply in
7 each such concurrently existing unit, with production from each such
8 well to be governed by and allocated pursuant to the applicable
9 unit. Subject to all of the provisions of this section, a pooling
10 order for a horizontal spacing unit which overlies an existing,
11 producing nonhorizontal drilling and spacing unit, shall provide
12 that, if a working interest owner in such producing nonhorizontal
13 drilling and spacing unit does not agree to develop the horizontal
14 spacing unit, the owner shall relinquish its nonparticipating
15 working interest in the horizontal spacing unit while retaining all
16 other rights, including the right to concurrently develop the
17 producing nonhorizontal unit.

18 (h) Notwithstanding anything in this title or a pooling order
19 to the contrary, each party owning a right to participate in
20 development of a horizontal well described in this subsection with a
21 vested interest as to which there is production in the geographical
22 area of the spacing unit or spacing units for a proposed horizontal
23 well which is drilled after the effective date of this act pursuant
24 to a pooling order, whether the pooling order was issued before or

1 after the effective date of this act, shall be afforded separate
2 elections as set forth below, subject to the following, provided;
3 however, a geographic area in which there is no existing producing
4 unit as of the date of the filing of the application for the
5 governing pooling order and which is initially developed pursuant to
6 a multiunit horizontal well authorized under Section 87.8 of this
7 title, or a horizontal spacing unit which contains more than six
8 hundred forty (640) acres plus tolerances and variances as allowed
9 for pursuant to subsection (c) of this section shall not be
10 considered to contain existing production for purposes of this
11 subsection, unless the geographical area of any spacing unit covered
12 by the governing pooling order: is overlain by a horizontal spacing
13 unit greater than six hundred forty (640) acres plus tolerances and
14 variances as allowed for pursuant to subsection (c) of this section
15 which is not subject to said pooling order; has a multiunit well
16 drilled pursuant to Section 87.8 of this title which includes a
17 horizontal spacing unit which contains more than six hundred forty
18 (640) acres plus tolerances and variances as allowed for pursuant to
19 subsection (c) of this section which is subject to said pooling
20 order; or has a multiunit well drilled pursuant to Section 87.8 of
21 this title for a combination of units different than drilled by the
22 initial multiunit well pursuant to said pooling order:

23 (1) as to a multiunit horizontal well authorized under Section
24 87.8 of this title, each party owning a right to participate in

1 development of the proposed multiunit horizontal well with a vested
2 interest as to which there is existing production in the
3 geographical area of the spacing unit for the proposed multiunit
4 well shall be allowed, and as to the extent of their development
5 rights as to which there is existing production, an election as to
6 the targeted reservoir or targeted reservoirs covered by each
7 pooling order for such proposed multiunit horizontal well described
8 above, unless otherwise agreed to or waived in writing after the
9 effective date of this act. If said multiunit well is drilled in
10 accordance with the pooling order, the relinquished rights of an
11 owner who elects or is deemed to have elected not to participate
12 with all or any part of that owner's interest in the multiunit
13 horizontal well shall be limited to only the owner's
14 nonparticipating working interest in the common source or common
15 sources of supply within the targeted reservoir or targeted
16 reservoirs covered by said election which are actually horizontally
17 drilled and completed by said well. The owner shall retain all
18 other rights, including all rights in any existing wellbores in
19 which the owner has participated;

20 (2) as to a horizontal well authorized by the Commission for a
21 horizontal spacing unit created under subsection (f) of this
22 section, if the horizontal spacing unit contains more than six
23 hundred forty (640) acres plus tolerances and variances as allowed
24 for pursuant to subsection (c) of this section, or is comprised of

1 more than one governmental section, each party owning a right to
2 participate in development of the proposed horizontal well with a
3 vested interest as to which there is existing production in the
4 geographical area of the spacing unit for the proposed horizontal
5 well shall be allowed, and as to the extent of their development
6 rights as to which there is existing production, a separate election
7 as to each common source of supply or common sources of supply
8 covered by the pooling order for a proposed horizontal well
9 described above, unless otherwise agreed to or waived in writing
10 after the effective date of this act. If said horizontal well is
11 drilled in accordance with the pooling order, the relinquished
12 rights of an owner who elects or is deemed to have elected not to
13 participate with all or any part of that owner's interest in the
14 horizontal well shall be limited to only the owner's
15 nonparticipating working interest in the common source or common
16 sources of supply covered by said election which are actually
17 horizontally drilled and completed by said well. The owner shall
18 retain all other rights, including any rights in all existing
19 wellbores in which the owner has participated;

20 (3) as to any well which is subject to a pooling order which
21 was entered prior to the effective date of this act, in order to be
22 entitled to the rights and benefits of this subsection, the owner
23 must have been vested with the right to participate in the subject
24 well as of the effective date of this act;

1 (4) any relinquishment of rights under this subsection shall be
2 pursuant to the governing pooling order and at such fair value as
3 determined by the Commission; and

4 (5) the provisions of subsections (g) and (h) of this section
5 shall supplement each affected pooling order as to development of
6 the affected spacing unit by use of horizontal wells from and after
7 the effective date of this act.

8 SECTION 2. This act shall become effective November 1, 2019.

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