

## CHAPTER 268

## (HB 616)

AN ACT relating to oil and gas.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 353.620 is amended to read as follows:

- (1) Notwithstanding KRS 353.610, if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610 and the application is accompanied by the written consent of all owners of oil and gas interests in any premises which will be offset by the proposed well, the department shall issue a permit for the well.
- (2) Notwithstanding KRS 353.610, the department may issue a permit for a well to be drilled, deepened, or reopened closer to a boundary or another well than prescribed in KRS 353.610, if the director, after notice and hearing, finds that topographical or other conditions are such as to make compliance with the requirements of KRS 353.610 unduly burdensome or in conflict with reasonably prudent methods and practices for the production of oil or gas.
- (3) ***Notwithstanding KRS 353.610, the department shall issue a permit for a well to be drilled, deepened, or reopened closer to a boundary than prescribed in KRS 353.610 if a pooling order has been issued pursuant to Section 2 of this Act.***
- (4) If a permit is issued to drill, deepen, or reopen a well under ***subsection (1) or (2) of this section*** at a location closer to a well or boundary than prescribed in KRS 353.610, the department shall permit a like variance from the requirements of KRS 353.610 on all premises offset and adversely affected by the well. Section 2. KRS 353.630 is amended to read as follows:

- (1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The department shall require the development and operation of all pooled ***acreage***~~tracts~~ as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.
- (2) ***Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.***

- (3) *Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.*
- (4) No pooling as permitted by this section shall be ordered except:
- (a) ~~When~~*After* an application *has been filed* to drill, deepen or reopen a well *within the distance limitations prescribed in KRS 353.610*~~[for the production of oil upon the tract or within four hundred (400) feet of the tract, or after an application for a permit to drill, deepen or reopen a well for the production of gas upon the tract or within one thousand (1,000) feet of the tract has been submitted];~~ and
  - (b) ~~When~~*After* a lessee or owner of an oil or gas interest in the tract shall request the pooling.
- (5)~~(3)~~No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened or reopened:
- (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract *pursuant to subsection (1), (2), or (3) of this section*~~[which does not contain a location at which a well for oil or gas may be drilled, deepened or reopened];~~ and
  - (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.
- (6)~~(4)~~Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 3. KRS 353.640 is amended to read as follows:

- (1) *The operator shall provide a list to the department of all persons reasonably known to own an oil or gas interest in any tract, or portion thereof, proposed to be pooled in an application to the department for a pooling order. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest in any tract, or a portion thereof, proposed to be pooled after a hearing has been held. In the event of the filing of an application for a pooling order under KRS 353.630(2) where unknown owners or nonlocatable owners exist, the operator shall cause to be published, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1)*

*notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:*

- (a) State that an application for a pooling order is being filed with the Division of Oil and Gas in the department;*
  - (b) Describe any tract, or portion thereof, proposed to be pooled;*
  - (c) In the case of an unknown owner, identify the name of the last known owner;*
  - (d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and*
  - (e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the Director of the Division of Oil and Gas in the department within twenty (20) days of the date of publication*~~[A pooling order shall be made only after notice to all persons owning an oil or gas interest in any tract proposed to be pooled with another tract, and after a hearing].~~
- (2) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of oil or gas on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners *of operating interests* in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared by all owners of operating interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.
- (3) Upon request a pooling order shall provide one (1) or more just and equitable alternatives whereby, an owner of an operating interest, who does not elect to participate in the risk and cost of the drilling, deepening or reopening of a well:
- (a) May elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration which, if not agreed upon, shall be determined by the director; or*
  - (b) May elect to participate in the drilling, deepening or reopening of the well on a limited or carried basis upon terms and conditions determined by the director to be just and reasonable.*
- (4) A certified copy of any pooling order entered under KRS 353.500 to 353.720 shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

**Approved March 31, 2000**