

CHAPTER 312

NATURAL RESOURCES

HOUSE BILL 07-1298

BY REPRESENTATIVE(S) Gibbs, Benefield, Borodkin, Buescher, Carroll M., Carroll T., Casso, Curry, Fischer, Frangas, Gagliardi, Gallegos, Green, Jahn, Kefalas, Kerr A., Kerr J., Labuda, Liston, Madden, Marshall, May M., McFadyen, McGihon, McNulty, Merrifield, Peniston, Primavera, Riesberg, Roberts, Romanoff, Solano, Soper, Summers, Todd, White, Witwer, Looper, and Weissmann;
 also SENATOR(S) Tochtrop, Boyd, Fitz-Gerald, Harvey, Isgar, Kopp, Mitchell S., Penry, Romer, Sandoval, Schwartz, Shaffer, Spence, Taylor, Ward, Wiens, and Williams.

AN ACT

CONCERNING THE CONSERVATION OF WILDLIFE HABITAT IN CONNECTION WITH THE DEVELOPMENT OF OIL AND GAS, AND MAKING AN APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 34-60-102 (1), Colorado Revised Statutes, is amended to read:

34-60-102. Legislative declaration. (1) (a) It is declared to be in the public interest to:

(I) Foster, encourage, and promote the development, production, and utilization of the natural resources of oil and gas in the state of Colorado in a manner consistent with protection of public health, safety, and welfare; ~~to~~

(II) Protect the public and private interests against the evils of waste in the production and utilization of oil and gas by prohibiting waste; ~~to~~

(III) Safeguard, protect, and enforce the coequal and correlative rights of owners and producers in a common source or pool of oil and gas to the end that each such owner and producer in a common pool or source of supply of oil and gas may obtain a just and equitable share of production therefrom; AND

(IV) PLAN AND MANAGE OIL AND GAS OPERATIONS IN A MANNER THAT BALANCES DEVELOPMENT WITH WILDLIFE CONSERVATION IN RECOGNITION OF THE STATE'S OBLIGATION TO PROTECT WILDLIFE RESOURCES AND THE HUNTING, FISHING, AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

RECREATION TRADITIONS THEY SUPPORT, WHICH ARE AN IMPORTANT PART OF COLORADO'S ECONOMY AND CULTURE. PURSUANT TO SECTION 33-1-101, C.R.S., IT IS THE POLICY OF THE STATE OF COLORADO THAT WILDLIFE AND THEIR ENVIRONMENT ARE TO BE PROTECTED, PRESERVED, ENHANCED, AND MANAGED FOR THE USE, BENEFIT, AND ENJOYMENT OF THE PEOPLE OF THIS STATE AND ITS VISITORS.

(b) It is not the intent nor the purpose of this article to require or permit the proration or distribution of the production of oil and gas among the fields and pools of Colorado on the basis of market demand. It is the intent and purpose of this article to permit each oil and gas pool in Colorado to produce up to its maximum efficient rate of production, subject to the prohibition of waste, and subject further to the enforcement and protection of the coequal and correlative rights of the owners and producers of a common source of oil and gas, so that each common owner and producer may obtain a just and equitable share of production therefrom.

SECTION 2. 34-60-103, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

34-60-103. Definitions. As used in this article, unless the context otherwise requires:

(4.3) "DIVISION OF WILDLIFE" MEANS THE DIVISION OF WILDLIFE IDENTIFIED IN ARTICLE 1 OF TITLE 33, C.R.S.

(5.5) "MINIMIZE ADVERSE IMPACTS" MEANS TO, WHEREVER REASONABLY PRACTICABLE:

(a) AVOID ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS ON WILDLIFE RESOURCES;

(b) MINIMIZE THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT CANNOT BE AVOIDED;

(c) MITIGATE THE EFFECTS OF UNAVOIDABLE REMAINING IMPACTS; AND

(d) TAKE INTO CONSIDERATION COST-EFFECTIVENESS AND TECHNICAL FEASIBILITY WITH REGARD TO ACTIONS AND DECISIONS TAKEN TO MINIMIZE ADVERSE IMPACTS TO WILDLIFE RESOURCES.

(14) "WILDLIFE COMMISSION" MEANS THE WILDLIFE COMMISSION CREATED IN SECTION 33-1-103, C.R.S.

(15) "WILDLIFE RESOURCES" MEANS FISH, WILDLIFE, AND THEIR AQUATIC AND TERRESTRIAL HABITATS.

SECTION 3. Article 60 of title 34, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

34-60-128. Habitat stewardship - rules. (1) THIS SECTION SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO HABITAT STEWARDSHIP ACT OF 2007".

(2) THE COMMISSION SHALL ADMINISTER THIS ARTICLE SO AS TO MINIMIZE ADVERSE IMPACTS TO WILDLIFE RESOURCES AFFECTED BY OIL AND GAS OPERATIONS.

(3) IN ORDER TO MINIMIZE ADVERSE IMPACTS TO WILDLIFE RESOURCES, THE COMMISSION SHALL:

(a) ESTABLISH A TIMELY AND EFFICIENT PROCEDURE FOR CONSULTATION WITH THE WILDLIFE COMMISSION AND DIVISION OF WILDLIFE ON DECISION-MAKING THAT IMPACTS WILDLIFE RESOURCES;

(b) PROVIDE FOR COMMISSION CONSULTATION AND CONSENT OF THE AFFECTED SURFACE OWNER, OR THE SURFACE OWNER'S APPOINTED TENANT, ON PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT PROTECTION. SUCH CONDITIONS SHALL BE DISCONTINUED WHEN FINAL RECLAMATION HAS OCCURRED.

(c) IMPLEMENT, WHENEVER REASONABLY PRACTICABLE, BEST MANAGEMENT PRACTICES AND OTHER REASONABLE MEASURES TO CONSERVE WILDLIFE RESOURCES;

(d) PROMULGATE RULES BY JULY 1, 2008, IN CONSULTATION WITH THE WILDLIFE COMMISSION, TO ESTABLISH STANDARDS FOR MINIMIZING ADVERSE IMPACTS TO WILDLIFE RESOURCES AFFECTED BY OIL AND GAS OPERATIONS AND TO ENSURE THE PROPER RECLAMATION OF WILDLIFE HABITAT DURING AND FOLLOWING SUCH OPERATIONS. AT A MINIMUM, THE RULES SHALL ADDRESS:

(I) DEVELOPING A TIMELY AND EFFICIENT CONSULTATION PROCESS WITH THE DIVISION OF WILDLIFE GOVERNING NOTIFICATION AND CONSULTATION ON MINIMIZING ADVERSE IMPACTS, AND OTHER ISSUES RELATING TO WILDLIFE RESOURCES;

(II) ENCOURAGING OPERATORS TO UTILIZE COMPREHENSIVE DRILLING PLANS AND GEOGRAPHIC AREA ANALYSIS STRATEGIES TO PROVIDE FOR ORDERLY DEVELOPMENT OF OIL AND GAS FIELDS;

(III) MINIMIZING SURFACE DISTURBANCE AND FRAGMENTATION IN IMPORTANT WILDLIFE HABITAT BY INCORPORATING APPROPRIATE BEST MANAGEMENT PRACTICES:

(A) IN ORDERS OR RULES ESTABLISHING DRILLING UNITS OR ALLOWING THE DRILLING OF ADDITIONAL WELLS IN DRILLING UNITS PURSUANT TO SECTION 34-60-116;

(B) IN ORDERS APPROVING AGREEMENTS FOR DEVELOPMENT OR UNIT OPERATIONS PURSUANT TO SECTION 34-60-118; AND

(C) ON A SITE-SPECIFIC BASIS, AS CONDITIONS OF APPROVAL TO A PERMIT TO DRILL PURSUANT TO SECTION 34-60-106 (1) (f).

(4) NOTHING IN THIS SECTION SHALL ESTABLISH, ALTER, IMPAIR, OR NEGATE THE AUTHORITY OF LOCAL AND COUNTY GOVERNMENTS TO REGULATE LAND USE RELATED TO OIL AND GAS OPERATIONS.

SECTION 4. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the oil and gas conservation and

environmental response fund created in section 34-60-122 (5), Colorado Revised Statutes, not otherwise appropriated, to the department of natural resources, for allocation to the oil and gas conservation commission, for the fiscal year beginning July 1, 2007, the sum of five thousand fifty dollars (\$5,050), or so much thereof as may be necessary, for the implementation of this act.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2007, and shall apply to acts of the Colorado oil and gas conservation commission on or after said date.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2007