



HOUSE  
COMMITTEE REPORT

3/7

(7)

Date referred: 2/12/86

FURTHER REFERRALS: FINANCE

DATE: 3/5/86

HOUSE SPECIAL COMMITTEE  
The ON OIL AND GAS

Committee has considered HB 572

"An Act relating to the Alaska Oil and Gas Conservation Commission; and providing an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with \_\_\_\_\_  same title
- \_\_\_\_\_  new title

and recommends \_\_\_\_\_

further referral to the \_\_\_\_\_ Committee

- and attaches:
- letter of intent
  - first fiscal note
  - new fiscal note
  - zero fiscal note

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Jan GTE

Marking

Hubert

Mike Symonaki

\_\_\_\_\_

\_\_\_\_\_

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AVM MARRSU No Rec.

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Mike D

Chairman

Introduced: 2/12/86  
Referred: House Special Committee on  
Oil & Gas and Finance

*Gov. Lyster*  
*1. State Supp 4*  
*1. Gen. Note*

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 572

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Alaska Oil and Gas Conserva-  
7 tion Commission; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 31.05.027 is amended to read:

11 Sec. 31.05.027. LAND SUBJECT TO COMMISSION'S AUTHORITY. The  
12 authority of the commission applies to all land in the state lawfully  
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16 CONSERVATION OF OIL AND GAS AND PREVENTION OF WASTE BY THE UNITED  
17 STATES ON ITS LAND FAILS TO CARRY OUT THE INTENT AND PURPOSES OF THIS  
18 CHAPTER, AND OTHERWISE APPLIES TO FEDERAL LAND SO FAR AS AN OFFICER OF  
19 THE UNITED STATES HAVING JURISDICTION, OR AN AUTHORIZED REPRESENTA-  
20 TIVE, SHALL APPROVE ANY OF THE PROVISIONS OF THIS CHAPTER OR ORDERS OF  
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HB 572

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3 REASON THAT THE TESTIMONY OR EVIDENCE, DOCUMENTARY OR OTHERWISE,  
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19 read:

20 ARTICLE 2A. MISCELLANEOUS PROVISIONS.

21 Sec. 31.05.141. AFFILIATION WITH THE INTERSTATE OIL COMPACT  
22 COMMISSION. The governor, in the name of the state, may join with the  
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10 (b) If a person, for the purpose of evading this chapter, or any  
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22 OR BY BOTH].

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24 (f) A person who knowingly violates a regulation or order of the  
25 commission is guilty of a misdemeanor punishable by a fine of no more  
26 than \$5,000 per day for each day of violation.

27 \* Sec. 7. This Act takes effect immediately in accordance with AS 01.-  
28 10.070(c).

29

BILL SHEFFIELD  
GOVERNOR



HB 572

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 12, 1986

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Oil and Gas Conservation Commission (commission). This bill offers revisions to improve the state's proposed underground injection control (UIC) program for injection wells related to the recovery and production of oil and natural gas (Class II wells). It also reinstates statutory authority for affiliation with the Interstate Oil Compact Commission, and conforms certain sections of AS 31.05 to the revised criminal code.

In 1984, CSHB 680 (L&C) was enacted (ch. 91, SLA 1984), which authorized the commission to "take all actions necessary to allow the state to acquire primary enforcement responsibility under 42 U.S.C. 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f-300j), for the control of underground injection related to the recovery and production of oil and natural gas." AS 31.05.030(h). Under this authority, the commission prepared an application for a state UIC program for Class II wells, which has been submitted to the U.S. Environmental Protection Agency (EPA) for approval.

In the context of their review, EPA staff identified certain provisions in AS 31.05 which could be amended to improve the state's proposed program. The amendments were proposed under the terms of a memorandum of agreement between the commission and EPA, Region 10.

Amendment of the criminal provisions of AS 31.05 is recommended by the criminal division of the Department of Law. When the comprehensive rewrite of AS 11 and AS 12 was undertaken in 1981-82, it was determined to be too great a task to attempt amendment of the state's other criminal provisions, scattered throughout the Alaska statutes, at the same time. As this bill amends AS 31.05 for other reasons, I believe it appropriate to take advantage of this opportunity to "clean up" the criminal provisions of AS 31.05 as well, in order to make them consistent with AS 11 and AS 12, as revised.

The amendments to AS 31.05 in the bill are as follows:

Section 1. AS 31.05.027 is amended to eliminate state statutory limitations on the commission's jurisdiction over land of the United States.

Federal law requires that state UIC programs apply to underground injection occurring on property leased or owned by the United States. 42 U.S.C. 300h(b)(1)(D) and 300j-6. However, AS 31.05.027 presently provides in part:

The authority of the commission. . . applies to land of the United States or to land subject to the jurisdiction of the United States only to the extent that control and supervision of conservation of oil and gas and prevention of waste by the United States on its land fails to carry out the intent and purposes of AS 31.05.005 -- 31.05.170, and otherwise applies to federal land so far as an officer of the United States having jurisdiction, or an authorized representative, shall approve any of the provisions of AS 31.05.005 -- 31.05.170 or orders of the commission which affect land.

The jurisdictional limitations of AS 31.05.027 first appeared as territorial legislation enacted in 1955, when Alaska's relationship to the federal government was far more subservient than after Alaska's acceptance into the Union. As a state, Alaska's potential jurisdiction over oil and gas activities on federal land is limited only by constitutional restrictions on the exercise of state police powers. See Myers, The Law of Pooling and Unitization, sec. 11.04 (2d Ed. 1984). AS 31.05.027 asserts less jurisdiction than is now constitutionally permissible, and would be amended by the bill to remove this potential impediment to the commission's regulation of oil and gas activities on federal land.

Section 2. AS 31.05.070(a) is amended to eliminate the transactional immunity provided as a result of a person

being compelled to testify or produce documents before the commission or a court, and to make its provisions consistent with the revised criminal code.

As it now reads, AS 31.05.070(a) affords a person transactional immunity if compelled to appear as a witness under that statute. This provision could preclude effective enforcement of the state's UIC requirements if it were to be applied to compel testimony of a witness, and consequently foreclosed subsequent prosecution of that witness for violating a requirement of the state's UIC program. The provision is also inconsistent with the immunity provision of AS 12.50.101. The amendments eliminate the immunity provision. Under new language added to AS 31.05.070(a), a witness who asserts his or her privilege against self-incrimination may be granted immunity under AS 12.50.101 -- that is, immunity from the use of his or her testimony and any evidence derived from it. Language that disallows self-incrimination as a ground for excusing attendance, testimony, or production of books and records, is also deleted. That language is potentially unconstitutional, and is unnecessary.

AS 31.05.070(a) also provides that a compelled witness is not exempt from prosecution and punishment for perjury committed while testifying. This provision would also be repealed because it duplicates provisions of the criminal code.

Section 3. New AS 31.05.141 would be placed in a "miscellaneous provisions" article in AS 31.05, to reinstate express authority to affiliate with the Interstate Oil Compact Commission (IOCC). The new statute is patterned after Vt. Stat. Ann., tit. 29, sec. 565 (1983). Section 15, ch. 40, SLA 1955, which created the Oil and Gas Conservation Commission, authorized affiliation with the IOCC. After statehood, sec. 15 became AS 31.05.130 and 31.05.140. Section 2, ch. 247, SLA 1970, repealed AS 31.05.130 and 31.05.140, purging AS 31.05 of that authorization. Of note is the fact that the state is still a dues-paying member of the IOCC.

Sections 4 and 5. AS 31.05.150(a) and (b) are amended to eliminate the "wilful" standard from consideration in the imposition and recovery of civil penalties; to increase imposable civil penalties; to make its provisions consistent with the provisions of the revised criminal code; and to institute criminal liability for violations of the commission's regulations and orders.

AS 31.05.150(a) imposes civil penalties for wilful violations of AS 31.05 or regulations or orders of the commission. However, there is no indication of the type of wilfulness required.


Use of the term "wilfully" in criminal statutes has traditionally required a showing of bad intent. Although evidence of bad intent is generally not required to impose civil penalties, amendment of the statute to eliminate the term would remove any doubt as to the ability of the state to impose civil penalties in the absence of evidence of bad intent.

The amendments would increase the amount of civil penalties imposable under AS 31.05.150(a) from "not more than \$1,000" to "no more than \$5,000 per day for each day of violation." The \$1,000 amount, which was first established in 1955, is now inadequate to deter violations. The increased penalty would more effectively accomplish that.

The bill would amend AS 31.05.150(b), which imposes criminal liability for falsifying records and committing similar offenses, to make the description of those offenses consistent with AS 11.46.630(a)(1)--(4). The class A misdemeanor penalty classification raises the possible maximum term of imprisonment to one year but the amount of the fine is unaffected.

Section 6. AS 31.05.150 is amended by adding a new subsection (f), imposing criminal liability on a person who knowingly violates a regulation or order of the commission. I urge your prompt action on this measure to strengthen the state's UIC program, to reinstate authority to affiliate with the IOCC, and to update AS 31.05.

Sincerely,

  
Bill Sheffield  
Governor

**STATE OF ALASKA 1986 LEGISLATIVE SESSION  
FISCAL NOTE**

Revision Date : \_\_\_\_\_

**REQUEST**

*HB 572*

Bill/Resolution No. : Law File #377-023-86  
 Title : Dealing with the State's  
underground injection well  
program.  
 Sponsor : Governor  
 Requestor : Governor  
 Date of Request : 1-21-86

**FISCAL DETAIL**

Agency Affected : Natural Resources  
 BRU : Petroleum Management  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS :**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by : Rod Mourant  
 Division : Management

Phone : 465-2424  
 Date : 1-22-86

Approved by Commissioner : Ned F. ...  
 Agency : Natural Resources

Date : 1/23

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

**ALASKA STATE LEGISLATURE**

14th Legislature SECOND Session

HOUSE BILL NO. 572

By THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

"An Act relating to the Alaska Oil and Gas Conservation Commission; and providing for an effective date."

Oil and Gas Conservation

Introduced in the House .. 2/12... 19.86

**HISTORY IN THE HOUSE**

1986		Read first time and referred to Committee on										
Feb	12	OIL AND GAS AND FINANCE										
		Reported back with recommendation that										
		Read second time and										
		Read third time and										
		<table border="0"> <tr> <td>PASS</td> <td>Effective Date</td> </tr> <tr> <td>Yeas</td> <td>Yeas</td> </tr> <tr> <td>Nays</td> <td>Nays</td> </tr> <tr> <td>Absent</td> <td>Absent</td> </tr> <tr> <td>Excused</td> <td>Excused</td> </tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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		Reported correctly engrossed Signed by Speaker Sent to Senate										
CHIEF CLERK OF THE HOUSE												

**HISTORY IN THE SENATE**

19		Read first time and referred to Committee on										
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		Reported correctly engrossed Signed by President Returned to House										
SECRETARY OF THE SENATE												

**HISTORY IN THE HOUSE**

19		Received from Senate
		Concurred in Senate amendment thus adopting: VOTE
		Failed to concur in Senate amendment; asked Senate to recede VOTE
		Senate receded from amendment VOTE
		Senate failed to recede from amendment VOTE
		CC appointed by House
		CC appointed by Senate
		CC adopted by House VOTE
		CC adopted by Senate VOTE
		To enrolling Reported correctly enrolled Sent to Governor
		..... by Governor
		Filed with Lt. Governor
		Chapter No. ....

Introduced: 2/12/86  
Referred: House Special Committee on  
Oil & Gas and Finance

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