



Sen. David Koehler

**Filed: 4/6/2018**

10000SB3174sam001

LRB100 19698 XWW 37953 a

1 AMENDMENT TO SENATE BILL 3174

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3174 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Oil and Gas Act is amended by  
5 changing Sections 1, 6, and 6.1 and by adding Section 6.3 as  
6 follows:

7 (225 ILCS 725/1) (from Ch. 96 1/2, par. 5401)

8 Sec. 1. Unless the context otherwise requires, the words  
9 defined in this Section have the following meanings as used in  
10 this Act.

11 "Person" means any natural person, corporation,  
12 association, partnership, governmental agency or other legal  
13 entity, receiver, trustee, guardian, executor, administrator,  
14 fiduciary or representative of any kind.

15 "Oil" means natural crude oil or petroleum and other  
16 hydrocarbons, regardless of gravity, which are produced at the

1 well in liquid form by ordinary production methods or by the  
2 use of an oil and gas separator and which are not the result of  
3 condensation of gas after it leaves the underground reservoir.

4 "Gas" means all natural gas, including casinghead gas, and  
5 all other natural hydrocarbons not defined above as oil.

6 "Pool" means a natural, underground reservoir containing  
7 in whole or in part, a natural accumulation of oil or gas, or  
8 both. Each productive zone or stratum of a general structure,  
9 which is completely separated from any other zone or stratum in  
10 the structure, is deemed a separate "pool" as used herein.

11 "Field" means the same general surface area which is  
12 underlaid or appears to be underlaid by one or more pools.

13 "Permit" means the Department's written authorization  
14 allowing a well to be drilled, deepened, converted, or operated  
15 by an owner.

16 "Permittee" means the owner holding or required to hold the  
17 permit, and who is also responsible for paying assessments in  
18 accordance with Section 19.7 of this Act and, where applicable,  
19 executing and filing the bond associated with the well as  
20 principal and who is responsible for compliance with all  
21 statutory and regulatory requirements pertaining to the well.

22 When the right and responsibility for operating a well is  
23 vested in a receiver or trustee appointed by a court of  
24 competent jurisdiction, the permit shall be issued to the  
25 receiver or trustee.

26 "Orphan Well" means a well for which: (1) no fee assessment

1 under Section 19.7 of this Act has been paid or no other bond  
2 coverage has been provided for 2 consecutive years; (2) no oil  
3 or gas has been produced from the well or from the lease or  
4 unit on which the well is located for 2 consecutive years; and  
5 (3) no permittee or owner can be identified or located by the  
6 Department. Orphaned wells include wells that may have been  
7 drilled for purposes other than those for which a permit is  
8 required under this Act if the well is a conduit for oil or  
9 salt water intrusions into fresh water zones or onto the  
10 surface which may be caused by oil and gas operations.

11 "Owner" means the person who has the right to drill into  
12 and produce from any pool, and to appropriate the production  
13 either for the person or for the person and another, or others,  
14 or solely for others, excluding the mineral owner's royalty if  
15 the right to drill and produce has been granted under an oil  
16 and gas lease. An owner may also be a person granted the right  
17 to drill and operate an injection (Class II UIC) well  
18 independent of the right to drill for and produce oil or gas.  
19 When the right to drill, produce, and appropriate production is  
20 held by more than one person, then all persons holding these  
21 rights may designate the owner by a written operating agreement  
22 or similar written agreement. In the absence of such an  
23 agreement, and subject to the provisions of Sections 22.2 and  
24 23.1 through 23.16 of this Act, the owner shall be the person  
25 designated in writing by a majority in interest of the persons  
26 holding these rights.

1 "Department" means the Department of Natural Resources.

2 "Director" means the Director of Natural Resources.

3 "Mining Board" means the State Mining Board in the  
4 Department of Natural Resources, Office of Mines and Minerals.

5 "Mineral Owner's Royalty" means the share of oil and gas  
6 production reserved in an oil and gas lease free of all costs  
7 by an owner of the minerals whether denominated royalty or  
8 overriding royalty.

9 "Waste" means "physical waste" as that term is generally  
10 understood in the oil and gas industry, and further includes:

11 (1) the locating, drilling, and producing of any oil or  
12 gas well or wells drilled contrary to the valid order,  
13 rules and regulations adopted by the Department under the  
14 provisions of this Act;

15 (2) permitting the migration of oil, gas, or water from  
16 the stratum in which it is found, into other strata,  
17 thereby ultimately resulting in the loss of recoverable  
18 oil, gas or both;

19 (3) the drowning with water of any stratum or part  
20 thereof capable of producing oil or gas, except for  
21 secondary recovery purposes;

22 (4) the unreasonable damage to underground, fresh or  
23 mineral water supply, workable coal seams, or other mineral  
24 deposits in the operations for the discovery, development,  
25 production, or handling of oil and gas;

26 (5) the unnecessary or excessive surface loss or

1 destruction of oil or gas resulting from evaporation,  
2 seepage, leakage or fire, especially such loss or  
3 destruction incident to or resulting from the escape of gas  
4 into the open air in excessive or unreasonable amounts,  
5 provided, however, it shall not be unlawful for the  
6 operator or owner of any well producing both oil and gas to  
7 burn such gas in flares when such gas is, under the other  
8 provisions of this Act, lawfully produced, and where there  
9 is no market at the well for such escaping gas; and where  
10 the same is used for the extraction of casinghead gas, it  
11 shall not be unlawful for the operator of the plant after  
12 the process of extraction is completed, to burn such  
13 residue in flares when there is no market at such plant for  
14 such residue gas;

15 (6) permitting unnecessary fire hazards;

16 (7) permitting unnecessary damage to or destruction of  
17 the surface, soil, animal, fish or aquatic life or property  
18 from oil or gas operations.

19 "Directional drilling" means controlled directional  
20 drilling where the bottom of the wellbore is intentionally  
21 directed away from the vertical position.

22 "Drilling Unit" means the surface area allocated by an  
23 order or regulation of the Department to the drilling of a  
24 single well for the production of oil or gas from an individual  
25 pool.

26 "Enhanced Recovery Method" means any method used in an

1 effort to recover hydrocarbons from a pool by injection of  
2 fluids, gases or other substances to maintain, restore or  
3 augment natural reservoir energy, or by introducing immiscible  
4 or miscible gases, chemicals, other substances or heat or by  
5 in-situ combustion, or by any combination thereof.

6 "Horizontal well" means a well with a wellbore drilled  
7 laterally at an angle of at least 80 degrees to the vertical  
8 and with a horizontal projection exceeding 100 feet measured  
9 from the initial point of penetration into the productive  
10 formation through the terminus of the lateral in the same  
11 common source of hydrocarbon supply.

12 "Survey" means the Illinois State Geological Survey.

13 "Well-Site Equipment" means any production-related  
14 equipment or materials specific to the well, including motors,  
15 pumps, pump jacks, tanks, tank batteries, separators,  
16 compressors, casing, tubing, and rods.

17 (Source: P.A. 99-78, eff. 7-20-15.)

18 (225 ILCS 725/6) (from Ch. 96 1/2, par. 5409)

19 Sec. 6. The Department shall have the authority to conduct  
20 hearings and to make such reasonable rules as may be necessary  
21 from time to time in the proper administration and enforcement  
22 of this Act, including the adoption of rules and the holding of  
23 hearings for the following purposes:

24 (1) To require the drilling, casing and plugging of  
25 wells to be done in such a manner as to prevent the

1 migration of oil or gas from one stratum to another; to  
2 prevent the intrusion of water into oil, gas or coal  
3 strata; to prevent the pollution of fresh water supplies by  
4 oil, gas or salt water.

5 (2) To require the person desiring or proposing to  
6 drill, deepen or convert any well for the exploration or  
7 production of oil or gas, for injection or water supply in  
8 connection with enhanced recovery projects, for the  
9 disposal of salt water, brine, or other oil or gas field  
10 wastes, or for input, withdrawal, or observation in  
11 connection with the storage of natural gas or other liquid  
12 or gaseous hydrocarbons before commencing the drilling,  
13 deepening or conversion of any such well, to make  
14 application to the Department upon such form as the  
15 Department may prescribe and to comply with the provisions  
16 of this Section. The drilling, deepening or conversion of  
17 any well is hereby prohibited until such application is  
18 made and the applicant is issued a permit therefor as  
19 provided by this Act. Each application for a well permit  
20 shall include the following: (A) The exact location of the  
21 well, (B) the name and address of the manager, operator,  
22 contractor, driller, or any other person responsible for  
23 the conduct of drilling operations, (C) the proposed depth  
24 of the well, (D) lease ownership information, ~~and~~ (E)  
25 Global Positioning System (GPS) surface and bottom hole  
26 locations for all wells drilled utilizing directional or

1       horizontal drilling techniques, (F) a list of chemicals and  
2       additives intended to be used in the drilling or completion  
3       operations as identified in Section 6.3, and (G) ~~(E)~~ such  
4       other relevant information as the Department may deem  
5       necessary or convenient to effectuate the purposes of this  
6       Act.

7             Additionally, each applicant who has not been issued a  
8       permit that is of record on the effective date of this  
9       amendatory Act of 1991, or who has not thereafter made  
10      payments of assessments under Section 19.7 of this Act for  
11      at least 2 consecutive years preceding the application,  
12      shall execute, as principal, and file with the Department a  
13      bond, executed by a surety authorized to transact business  
14      in this State, in an amount estimated to cover the cost of  
15      plugging the well and restoring the well site, but not to  
16      exceed \$5000, as determined by the Department for each  
17      well, or a blanket bond in an amount not to exceed \$100,000  
18      for all wells, before drilling, deepening, converting, or  
19      operating any well for which a permit is required that has  
20      not previously been plugged and abandoned in accordance  
21      with the Act. The Department shall release the bond if the  
22      well, or all wells in the case of a blanket bond, is not  
23      completed but is plugged and the well site restored in  
24      accordance with the Department's rules or is completed in  
25      accordance with the Department's rules and the permittee  
26      pays assessments to the Department in accordance with



1 Section 19.7 of this Act for 2 consecutive years.

2 In lieu of a surety bond, the applicant may provide  
3 cash, certificates of deposit, or irrevocable letters of  
4 credit under such terms and conditions as the Department  
5 may provide by rule.

6 The sureties on all bonds in effect on the effective  
7 date of this amendatory Act of 1991 shall remain liable as  
8 sureties in accordance with their undertakings until  
9 released by the Department from further liability under the  
10 Act. The principal on each bond in effect on the effective  
11 date of this amendatory Act of 1991 shall be released from  
12 the obligation of maintaining the bond if either the well  
13 covered by a surety bond has been plugged and the well site  
14 restored in accordance with the Department's rules or the  
15 principal of the surety has paid the initial assessment in  
16 accordance with Section 19.7 and no well or well site  
17 covered by the surety bond is in violation of the Act.

18 No permit shall be issued to a corporation incorporated  
19 outside of Illinois until the corporation has been  
20 authorized to do business in Illinois.

21 No permit shall be issued to an individual,  
22 partnership, or other unincorporated entity that is not a  
23 resident of Illinois until that individual, partnership,  
24 or other unincorporated entity has irrevocably consented  
25 to be sued in Illinois.

26 (3) To require the person assigning, transferring, or

1 selling any well for which a permit is required under this  
2 Act to notify the Department of the change of ownership.  
3 The notification shall be on a form prescribed by the  
4 Department, shall be executed by the current permittee and  
5 by the new permittee, or their authorized representatives,  
6 and shall be filed with the Department within 30 days after  
7 the effective date of the assignment, transfer or sale.  
8 Within the 30 day notification period and prior to  
9 operating the well, the new permittee shall pay the  
10 required well transfer fee and, where applicable, file with  
11 the Department the bond required under subsection (2) of  
12 this Section.

13 (4) To require the filing with the ~~State Geological~~  
14 Survey of all geophysical logs, a well drilling report and  
15 drill cuttings or cores, if cores are required, within 90  
16 days after drilling ceases; and to file a completion report  
17 with the Department within 30 days after the date of first  
18 production following initial drilling or any reworking, or  
19 after the plugging of the well, if a dry hole. A copy of  
20 each completion report submitted to the Department shall be  
21 delivered to the ~~State Geological~~ Survey. The Department  
22 and the ~~State Geological~~ Survey shall keep the reports  
23 confidential, if requested in writing by the permittee, for  
24 2 years after the date the permit is issued by the  
25 Department. Horizontal wells or wells drilled utilizing  
26 directional drilling, including, but not limited to, oil

1       and gas wells, coalbed methane wells, and coal mine methane  
2       wells, shall be prohibited from classification as  
3       confidential. This confidentiality requirement shall not  
4       prohibit the use of the report for research purposes,  
5       provided the ~~State Geological~~ Survey does not publish  
6       specific data or identify the well to which the completion  
7       report pertains. Well drilling reports and completion  
8       reports for horizontal wells or wells drilled utilizing  
9       directional drilling shall be subject to the requirements  
10      of Section 6.3.

11           (5) To prevent "blowouts", "caving", "frac hits", and  
12       "seepage" in the same sense that conditions indicated by  
13       such terms are generally understood in the oil and gas  
14       business.

15           (6) To prevent fires.

16           (7) To ascertain and identify the ownership of all oil  
17       and gas wells, producing leases, refineries, tanks,  
18       plants, structures, and all storage and transportation  
19       equipment and facilities.

20           (8) To regulate the use of any enhanced recovery method  
21       in oil pools and oil fields.

22           (9) To regulate or prohibit the use of vacuum.

23           (10) To regulate the spacing of wells, the issuance of  
24       permits, and the establishment of drilling units.

25           (11) To regulate directional drilling of oil or gas  
26       wells.

1           (12) To regulate the plugging of wells.

2           (13) To require that wells for which no logs or  
3           unsatisfactory logs are supplied shall be completely  
4           plugged with cement from bottom to top.

5           (14) To require a description in such form as is  
6           determined by the Department of the method of well plugging  
7           for each well, indicating the character of material used  
8           and the positions and dimensions of each plug.

9           (15) To prohibit waste, as defined in this Act.

10          (16) To require the keeping of such records, the  
11          furnishing of such relevant information and the  
12          performance of such tests as the Department may deem  
13          necessary to carry into effect the purposes of this Act.

14          (17) To regulate the disposal of salt or  
15          sulphur-bearing water and any oil field waste produced in  
16          the operation of any oil or gas well.

17          (18) To prescribe rules, conduct inspections and  
18          require compliance with health and safety standards for the  
19          protection of persons working underground in connection  
20          with any oil and gas operations. For the purposes of this  
21          paragraph, oil and gas operations include drilling or  
22          excavation, production operations, plugging or filling in  
23          and sealing, or any other work requiring the presence of  
24          workers in shafts or excavations beneath the surface of the  
25          earth. Rules promulgated by the Department may include  
26          minimum qualifications of persons performing tasks

1 affecting the health and safety of workers underground,  
2 minimum standards for the operation and maintenance of  
3 equipment, and safety procedures and precautions, and  
4 shall conform, as nearly as practicable, to corresponding  
5 qualifications, standards and procedures prescribed under  
6 the Coal Mining Act.

7 (19) To deposit the amount of any forfeited surety bond  
8 or other security in the Plugging and Restoration Fund, a  
9 special fund in the State treasury which is hereby created;  
10 to deposit into the Fund any amounts collected, reimbursed  
11 or recovered by the Department under Sections 19.5, 19.6  
12 and 19.7 of this Act; to accept, receive, and deposit into  
13 the Fund any grants, gifts or other funds which may be made  
14 available from public or private sources and all earnings  
15 received from investment of monies in the Fund; and to make  
16 expenditures from the Fund for the purposes of plugging,  
17 replugging or repairing any well, and restoring the site of  
18 any well, determined by the Department to be abandoned or  
19 ordered by the Department to be plugged, replugged,  
20 repaired or restored under Sections 8a, 19 or 19.1 of this  
21 Act, including expenses in administering the Fund.

22 For the purposes of this Act, the ~~State Geological~~ Survey  
23 shall co-operate with the Department in making available its  
24 scientific and technical information on the oil and gas  
25 resources of the State, and the Department shall in turn  
26 furnish a copy to the ~~State Geological~~ Survey of all drilling

1 permits as issued, and such other drilling and operating data  
2 received or secured by the Department which are pertinent to  
3 scientific research on the State's mineral resources.

4 (Source: P.A. 86-205; 86-364; 86-1177; 87-744.)

5 (225 ILCS 725/6.1) (from Ch. 96 1/2, par. 5410)

6 Sec. 6.1. When the applicant has complied with all  
7 applicable provisions of this Act and the rules of the  
8 Department, the Department shall issue the permit. All  
9 applications for a permit submitted to the Department shall  
10 either be granted, denied, or a deficiency letter issued in  
11 writing within 20 business days after the date of receipt by  
12 the Department, unless the applicant and Department mutually  
13 agree to extend the 20-day period. If granted, the written  
14 permit shall be issued. If a deficiency letter is issued, the  
15 Department shall provide specific requirements for additional  
16 information or documentation needed for the application to be  
17 considered and the permit issued. Upon submission of the  
18 required information and documentation, the same process and  
19 timeframe as provided in this Section shall continue until  
20 either the permit is issued or it is determined that the permit  
21 cannot be issued because of legal or regulatory impediments.  
22 The Department shall respond in a timely manner to any  
23 application or submission of additional information and  
24 documentation after initial submission.

25 On a weekly basis, the Department shall post on its website

1 a notice indicating all permits issued during the preceding  
2 week. The weekly permit notice shall include the surface and  
3 bottom hole locations for all wells drilled utilizing  
4 directional or horizontal drilling techniques in Global  
5 Positioning System (GPS) decimal degree format.

6 (Source: P.A. 98-926, eff. 9-1-14; 99-131, eff. 1-1-16.)

7 (225 ILCS 725/6.3 new)

8 Sec. 6.3. Horizontal and directional well; drilling and  
9 completion reports; trade secret.

10 (a) Well drilling and completion reports for horizontal  
11 wells or wells drilled using directional drilling shall contain  
12 the following information:

13 (1) the permittee's name as listed in the permit  
14 application;

15 (2) the dates of the drilling or completion operations;

16 (3) the county where the well is located;

17 (4) the well name and Department reference number;

18 (5) the Global Positioning System (GPS) surface and  
19 bottom hole locations for the well;

20 (6) a chemical disclosure report identifying each  
21 chemical and additive used during drilling or completion  
22 operations that includes the following information:

23 (A) the total volume of water used in the drilling  
24 or completion of the well or the type and total volume  
25 of the base fluid used, if the base fluid used is

1           something other than water;

2           (B) each additive used during the drilling or  
3           completion of the well, including the trade name,  
4           vendor, a brief descriptor of the intended use or  
5           function of each additive, and the Material Safety Data  
6           Sheet, if applicable;

7           (C) each chemical intentionally added to any base  
8           fluid used during the drilling or completion of the  
9           well, including the Chemical Abstracts Service number  
10          for each chemical, if applicable; and

11          (D) the actual concentration in the base fluid, in  
12          percent by mass, of each chemical intentionally added  
13          to the base fluid.

14          (b) The Survey and the Department shall make all well  
15          drilling and completion reports subject to this Section public  
16          by posting them on their respective websites within 30 days  
17          after receipt of the reports.

18          (c) When an applicant, permittee, or a person subject to  
19          this Act furnishes chemical disclosure information to the  
20          Survey or Department under this Section under a claim of trade  
21          secret, the person shall submit redacted and un-redacted copies  
22          of the documents containing the information to the Survey or  
23          Department, and the Survey or Department shall use the redacted  
24          copies when posting materials on its website.

25          (d) Upon submission or within 5 calendar days after  
26          submission of chemical disclosure information to the Survey or



1 Department under this Section under a claim of trade secret,  
2 the person claiming trade secret protection shall provide a  
3 statement of justification of the claim that contains the  
4 following: (i) a detailed description of the procedures used by  
5 the person to safeguard the information from becoming available  
6 to persons other than those selected by the person to have  
7 access to the information for limited purposes; (ii) a detailed  
8 statement identifying the persons or class of persons to whom  
9 the information has been disclosed; (iii) a certification  
10 indicating that the person has no knowledge that the  
11 information has ever been published or disseminated or has  
12 otherwise become a matter of general public knowledge; (iv) a  
13 detailed discussion of why the person believes that the  
14 information has competitive value; and (v) any other  
15 information that shall support the claim.

16 (e) Chemical disclosure information furnished under this  
17 Section under a claim of trade secret shall be protected from  
18 disclosure as a trade secret if the Survey or Department  
19 determines that the statement of justification demonstrates  
20 that:

21 (1) the information has not been published,  
22 disseminated, or otherwise become a matter of general  
23 public knowledge; and

24 (2) the information has competitive value.

25 There is a rebuttable presumption that the information has  
26 not been published, disseminated, or otherwise become a matter

1 of general public knowledge if the person has taken reasonable  
2 measures to prevent the information from becoming available to  
3 persons other than those selected by the person to have access  
4 to the information for limited purposes, and the statement of  
5 justification contains a certification indicating that the  
6 person has no knowledge that the information has ever been  
7 published, disseminated, or otherwise become a matter of  
8 general public knowledge.

9 (f) Denial of a trade secret request under this Section  
10 shall be appealable under the Administrative Review Law.

11 (g) A person whose request to inspect or copy a public  
12 record is denied, in whole or in part, because of a grant of  
13 trade secret protection, may file a request for review with the  
14 Public Access Counselor under Section 9.5 of the Freedom of  
15 Information Act or for injunctive or declaratory relief under  
16 Section 11 of the Freedom of Information Act for the purpose of  
17 reviewing whether the Survey or Department properly determined  
18 that the trade secret protection should be granted.

19 (h) Except as otherwise provided in subsections (i) and (j)  
20 of this Section, the Survey or Department must maintain the  
21 confidentiality of chemical disclosure information furnished  
22 under this Section until the Survey or Department receives  
23 official notification of a final order by a reviewing body with  
24 proper jurisdiction that is not subject to further appeal  
25 rejecting a grant of trade secret protection for that  
26 information.

1       (i) The Survey or Department shall adopt rules for the  
2 provision of information furnished under a claim of trade  
3 secret to a health professional who states a need for the  
4 information and articulates why the information is needed. The  
5 health professional may share that information with other  
6 persons as may be professionally necessary, including, but not  
7 limited to, the affected patient, other health professionals  
8 involved in the treatment of the affected patient, the affected  
9 patient's family members if the affected patient is unconscious  
10 or a minor who is unable to make medical decisions, the Centers  
11 for Disease Control and Prevention, and other government public  
12 health agencies. Except as otherwise provided in this Section,  
13 any recipient of the information shall not use the information  
14 for purposes other than the health needs asserted in the  
15 request and shall otherwise maintain the information as  
16 confidential. Information so disclosed to a health  
17 professional shall not be construed as publicly available. The  
18 holder of the trade secret may request a confidentiality  
19 agreement consistent with the requirements of this Section from  
20 all health professionals to whom the information is disclosed  
21 as soon as circumstances permit. The rules adopted by the  
22 Survey or Department shall also establish procedures for  
23 providing the information in both emergency and non-emergency  
24 situations.

25       (j) When there is a release of a chemical or additive used  
26 for drilling or completing a well and it is necessary to

1 protect public health or the environment, the Survey or  
2 Department shall disclose information furnished under a claim  
3 of trade secret to the relevant county public health director  
4 or emergency manager, the relevant fire department chief, the  
5 Director of Public Health, the Director of Agriculture, and the  
6 Director of the Illinois Environmental Protection Agency upon  
7 request by that individual. The Director of Public Health, the  
8 Director of the Illinois Environmental Protection Agency, and  
9 the Director of Agriculture may disclose this information to  
10 staff members under the same terms and conditions as apply to  
11 the Survey and Director of Natural Resources. Except as  
12 otherwise provided in this Section, any recipient of the  
13 information shall not use the information for purposes other  
14 than to protect public health or the environment and shall  
15 otherwise maintain the information as confidential.  
16 Information disclosed to staff members shall not be construed  
17 as publicly available. The holder of the trade secret  
18 information may request a confidentiality agreement consistent  
19 with the requirements of this Section from all persons to whom  
20 the information is disclosed as soon as circumstances permit."