
SUBSTITUTE HOUSE BILL 2701

State of Washington

60th Legislature

2008 Regular Session

By House Technology, Energy & Communications (originally sponsored by Representative Morris)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to fossil fuel production; adding a new section to
2 chapter 84.36 RCW; adding a new chapter to Title 82 RCW; and providing
3 an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Department" means the department of revenue.

8 (2) "Gas" means natural gas and casinghead gas, or other gaseous
9 hydrocarbons from any lands or waters of this state, regardless of
10 whether it is produced from a gas well or from a well producing oil or
11 other liquid hydrocarbons.

12 (3) "Oil" means crude oil, condensate, distillate, or other oil, or
13 other liquid hydrocarbons extracted from any lands or waters of this
14 state, regardless of gravity.

15 (4) "Operating producer" means a producer who shares in the
16 production expenses of the severed product, and who conducts,
17 personally or by lease or contract, the daily operations of the
18 business of producing the product, including, but not limited to, the

1 sale of the product, receipt of proceeds of the sale, and the payment
2 of expenses.

3 (5) "Person" has the meaning provided in RCW 82.04.030.

4 (6) "Point of production" means:

5 (a) For oil, the point where it is severed and is first metered or
6 measured in a manner approved by the department;

7 (b) For gas recovered from, or in association with, oil, where it
8 is severed and is first metered or measured in a manner approved by the
9 department after separation from the oil; and

10 (c) For gas not recovered from, or in association with, oil, where
11 it is severed and is first metered or measured in a manner approved by
12 the department.

13 (7) "Producer" means any person having an economic interest in the
14 severed product, whether engaged in the business of producing or
15 extracting oil or gas or not, who has, as a result of the ownership of
16 such interests, a right to receive a part or all of the oil and gas
17 produced or has a right to receive all or a part of the proceeds of the
18 oil or gas severed. Such persons include, but are not limited to,
19 persons owning a royalty interest, an overriding royalty interest, a
20 working or operating interest, a net profit interest, or any
21 combination thereof, but does not include laborers or employees working
22 on or at the production site.

23 (8) "Severance" means the taking from the lands or waters of this
24 state of any oil and gas in any manner, except that the withdrawal of
25 gas from underground storage, as underground storage is defined under
26 RCW 80.40.010, may not constitute severance.

27 (9) "Value" means the fair market value of the oil or gas when
28 first metered and at the point of production.

29 NEW SECTION. **Sec. 2.** (1) In addition to any other tax, an excise
30 tax is imposed upon the severance of oil and gas from any lands or
31 waters of this state, less the value of any part of the oil or gas, the
32 ownership or right to which is exempt from taxation under section 4 of
33 this act.

34 (2) The rate of the tax imposed is six percent.

35 (3) The measure of the tax is the value of the oil and gas at the
36 time and point of production.

1 NEW SECTION. **Sec. 3.** (1) The taxes imposed by this chapter on the
2 severance of oil and gas is the liability of the producer or producers.
3 The operating producer must file the return with the department, must
4 pay the tax due, and must deduct and withhold the rateable share of the
5 tax from payments made to other producers in proportion to their
6 interest.

7 (2) If oil or gas on which the severance and conservation taxes are
8 due is not sold at the time of production but is retained by the
9 producer, the operating producer must pay to the department the taxes
10 due with respect to the oil and gas severed but not sold and must
11 deduct or withhold the rateable share of the tax from payments made to
12 other producers in proportion to their interest.

13 (3) The department may require taxes to be paid upon the basis of
14 the prevailing price being paid when first metered and point of
15 production of other oil or gas of like kind, character, quality, or
16 comparable source when the value reported to the department does not
17 represent the market value of oil or gas sold or retained.

18 NEW SECTION. **Sec. 4.** The following are exempt from the taxes
19 imposed under this chapter:

20 (1) The value of any oil or gas reinjected for storage, provided
21 that any subsequent removal of oil or gas produced in this state from
22 storage for sale, use, or other retention constitutes a severance
23 within the meaning of this chapter;

24 (2) The value of any oil or gas owned by a producer or producers
25 exempt from tax by reason of federal law or a compact negotiated by the
26 state with a tribal government; and

27 (3) The value of liquid hydrocarbons that are a byproduct of carbon
28 sequestration.

29 NEW SECTION. **Sec. 5.** All of chapter 82.32 RCW applies to the tax
30 imposed by this chapter. The department must provide for the effective
31 administration of this chapter by rules which must include, but are not
32 limited to, the value at the time and point of production and a
33 determination of metering methods, and measuring the severance of oil
34 and gas.

1 NEW SECTION. **Sec. 6.** (1) The department shall deposit eighty
2 percent of the amount collected by it under section 2 of this act in
3 the energy freedom account under RCW 43.325.040. Moneys from this
4 account may be appropriated by the legislature to recover the cost of
5 oil and gas regulation as contained in the budget of the department of
6 natural resources. The legislature shall compensate the department of
7 natural resources for regulating oil and gas production.

8 (2) The local government severance taxation account is established
9 in the state treasury into which twenty percent of the taxes collected
10 under section 2 of this act shall be deposited. Moneys in the account
11 may be spent after appropriation. Moneys from this account shall be
12 used solely for making distributions to those local governments in
13 which impacts from oil and gas production activities occur, after
14 appropriation by statute.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 84.36 RCW
16 to read as follows:

17 (1) The following real or personal property is exempt from property
18 taxation: Oil or gas reserves and leases on the rights to develop and
19 operate upon or within any lands and waters of this state for oil or
20 gas and the property rights attached to or inherent therein.

21 (2) This section does not in any way exempt the land, improvements,
22 or other real or personal property from property taxation.

23 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act constitute
24 a new chapter in Title 82 RCW.

25 NEW SECTION. **Sec. 9.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2009.

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