
HOUSE BILL 3308

State of Washington

59th Legislature

2006 Regular Session

By Representative Morris

Read first time 02/09/2006. Referred to Committee on Technology,
Energy & Communications.

1 AN ACT Relating to revenue from fossil fuel production; amending
2 RCW 79.14.070 and 79.14.010; adding a new chapter to Title 82 RCW; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 79.14.070 and 1955 c 131 s 7 are each amended to read
6 as follows:

7 (1) All oil and gas leases issued pursuant to this chapter ((shall
8 be upon a royalty of not less than twelve and one-half)) are subject to
9 a royalty. The royalty for each lease entered into under this chapter
10 must be established by the commissioner of public lands and represent
11 at least five percent, but no more than thirty percent of the gross
12 production of all oil, gas, or other hydrocarbons produced and saved
13 from the lands covered by ((such)) a lease issued under this chapter.

14 (2) In determining the royalty for leases under this section, the
15 commissioner must consider the remaining income to the owner after all
16 costs are considered, including normal risk and a fair rate of return.
17 The royalty adopted by the commissioner should ensure that the state of
18 Washington receives a fair share of the revenue from oil and gas

1 resources, while allowing the owner to maintain a large enough share of
2 the production to allow the owner to receive a reasonable return on the
3 investment.

4 (3)(a) The commissioner may, if deemed to be in the best interest
5 of the state, establish in leases entered into under this section
6 different royalty rates for:

7 (i) The recovery of different gas types;

8 (ii) The recovery of oil and gas from different fields, based on
9 the physical and geological characteristics of the field and the energy
10 content of the gasses in the field; and

11 (iii) The same well that changes over time, taking into account the
12 changes in resource quality and production ability over the life of the
13 well.

14 (b) The commissioner may determine different points in the recovery
15 process for measuring the royalty based on different recovery,
16 delivery, or production processes used by the producer.

17 **Sec. 2.** RCW 79.14.010 and 2003 c 334 s 471 are each amended to
18 read as follows:

19 As used in this chapter, "public lands" means lands and areas
20 belonging to or held in trust by the state, including tide and
21 submerged lands of the Pacific Ocean or any arm thereof and lands of
22 every kind and nature including mineral rights reserved to the state.
23 All other terms used in this chapter have the meaning provided in RCW
24 78.52.010.

25 NEW SECTION. **Sec. 3.** The definitions in this section apply
26 throughout this chapter unless the context clearly requires otherwise.

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

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

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

35 (4) "Operating producer" means a producer who shares in the
36 production expenses of the severed product, and who conducts,

1 personally or by lease or contract, the daily operations of the
2 business of producing the product, including, but not limited to, the
3 sale of the product, receipt of proceeds of the sale, and the payment
4 of expenses.

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

6 (6) "Point of production" means:

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

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

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

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

25 (8) "Severance" means the taking from the lands or waters of this
26 state of any oil and gas in any manner.

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

29 NEW SECTION. **Sec. 4.** (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 6 of
33 this act.

34 (2) The rate of the tax imposed shall be five 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. 5.** (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 shall file the return with the department, shall
4 pay the tax due, and shall deduct and withhold the rateable share of
5 the 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 shall pay to the department the taxes
10 due with respect to the oil and gas severed but not sold and shall
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 at the time and point of production of
15 other oil or gas of like kind, character, quality, or comparable source
16 when the value reported to the department does not represent the market
17 value of oil or gas sold or retained.

18 NEW SECTION. **Sec. 6.** 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 shall constitute a severance
23 within the meaning of this chapter; and

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.

27 NEW SECTION. **Sec. 7.** All of chapter 82.32 RCW applies to the tax
28 imposed by this chapter. The department shall provide for the
29 effective administration of this chapter by rules which shall include,
30 but are not limited to, the value at the time and point of production
31 and a determination of metering methods, and measuring the severance of
32 oil and gas.

33 NEW SECTION. **Sec. 8.** The department shall deposit amounts
34 collected by it under section 4 of this act to the energy freedom
35 account created in chapter . . . (Second Substitute House Bill No.

1 2393), Laws of 2006, or if chapter . . . (Second Substitute House Bill
2 No. 2393), Laws of 2006 is not enacted during the 2006 regular session,
3 the money must be distributed to the state general fund.

4 NEW SECTION. **Sec. 9.** Sections 3 through 8 of this act constitute
5 a new chapter in Title 82 RCW.

6 NEW SECTION. **Sec. 10.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 11.** Sections 3 through 8 of this act take
11 effect January 1, 2007.

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