

458A.15 Acquisition and handling illegal oil and gas prohibited — seizure of illegal oil and gas and sale thereof.

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is prohibited. However, a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. The person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved.

b. The person fails to obtain a certificate of clearance with respect to the oil, gas, or product where prescribed by order of the department, or fails to follow any other method prescribed by an order of the department for the identification of the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale; seizure and sale to be in addition to any other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. When the department believes that any oil, gas or product is illegal, the department acting by the attorney general, shall bring a civil action in rem in the district court of the county where the oil, gas, or product is found, to seize and sell the same, or the department may include an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by the action may intervene as an interested party in the action.

3. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No bond or similar undertaking shall be required of the plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a notice, with a copy of the complaint attached thereto, which shall be served in the manner provided for service of original notices in civil actions, upon any and all persons having or claiming any interest in the illegal oil, illegal gas, or illegal products described in the petition. Service shall be completed by the filing of an affidavit by the person making the service, stating the time and manner of making such service. Any person who fails to appear and answer within the period of thirty days shall be forever barred by the judgment based on such service. If the court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or product into the sheriff's custody, actual or constructive, and to hold the same subject to the further order of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by the sheriff under the order to an agent appointed by the court as the agent of the court; such agent to give bond in an amount and with such surety as the court may direct, conditioned upon the agent's compliance with the orders of the court concerning the custody and disposition of such oil, gas, or product.

4. Any person having an interest in oil, gas, or product described in an order of seizure and contesting the right of the state to the seizure and sale thereof may, prior to the sale thereof as herein provided, obtain the release thereof, upon furnishing bond to the sheriff approved by the court, in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released, and conditioned as the court may direct upon redelivery to the sheriff of such product released or upon payment to the sheriff of the market value thereof as the court may direct, if and when ordered by the court, and upon full compliance with the further orders of the court.

5. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action except that the court may order that the illegal oil, illegal gas, or illegal product be sold in specified lots or portions and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the purchaser free of the claims of any and all persons having any title thereto or interest therein

at or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

6. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale and all amounts paid as penalties provided for by this chapter shall be paid to the state treasurer and credited to the general fund.

[C66, 71, 73, 75, 77, 79, 81, §84.15; 82 Acts, ch 1199, §50, 96]

C93, §458A.15

Referred to in §331.653