

1 SEC. 2. Section three hundred forty-six point one (346.1), Code
2 1962, is amended by striking in line nine (9) the word "one" and
3 inserting in lieu thereof the word "ten".

1 SEC. 3. Section four hundred eight point two (408.2), Code 1962,
2 is amended by striking in line three (3) the word "one" and inserting
3 in lieu thereof the word "ten".

Approved May 9, 1963.

CHAPTER 84

NATURAL GAS AND OIL

S. F. 430

AN ACT relating to the exploration for and the development, conservation, production, transportation and storage of natural gas and oil.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Sections eighty-four point one (84.1) through eighty-
2 four point five (84.5), inclusive, and eighty-four point ten (84.10),
3 Code 1962, are hereby repealed and the following enacted in lieu
4 thereof:

5 "Section 1. Declaration of policy. It is hereby declared to be in
6 the public interest to foster, to encourage, and to promote the develop-
7 ment, production, and utilization of natural resources of oil and gas
8 in the state in such a manner as will prevent waste; to authorize and
9 to provide for the operation and development of oil and gas properties
10 in such a manner that a greater ultimate recovery of oil and gas be
11 had and that the correlative rights of all owners be fully protected;
12 and to encourage and to authorize such measures as will result in the
13 greatest possible economic recovery of oil and gas within the state
14 to the end that the land owners, the royalty owners, the producers,
15 and the general public realize and enjoy the greatest possible good
16 from these vital natural resources. It is hereby further declared that
17 the general welfare of the people requires that the underground and
18 surface water of the state be protected from pollution and conserved
19 in the best interests of the people of the state.

1 SEC. 2. Definitions. As used in this chapter, unless the context
2 otherwise requires:

- 3 1. "Waste" means and includes:
 - 4 a. Physical waste, as that term is generally understood in the oil
5 and gas industry,
 - 6 b. The inefficient, excessive, or improper use of, or the unnecessary
7 dissipation of reservoir energy.
 - 8 c. The location, spacing, drilling, equipping, operating, or producing
9 of any oil or gas well or wells in a manner which causes, or tends to
10 cause, reduction in the quantity of oil or gas ultimately recoverable
11 from a pool under prudent and proper operations, or which causes or

12 tends to cause unnecessary or excessive surface loss or destruction of
13 oil or gas,

14 d. The inefficient storing of oil, and

15 e. The production of oil or gas in excess of transportation or mar-
16 keting facilities or in excess of reasonable market demand.

17 2. "Person" means and includes any natural person, corporation,
18 association, partnership, receiver, trustee, executor, administrator,
19 guardian, fiduciary or other representative of any kind, and includes
20 any department, agency, or instrumentality of the state or of any
21 governmental subdivision thereof; the masculine gender, in referring
22 to a person, includes the feminine and the neuter genders.

23 3. "Oil" means and includes crude petroleum oil and other hydro-
24 carbons regardless of gravity which are produced at the wellhead in
25 liquid form and the liquid hydrocarbons known as distillate or con-
26 densate recovered or extracted from gas, other than gas produced in
27 association with oil and commonly known as casinghead gas.

28 4. "Gas" means and includes all natural gas and all other fluid
29 hydrocarbons which are produced at the wellhead and not hereinabove
30 defined as oil.

31 5. "Pool" means an underground reservoir containing a common
32 accumulation of oil or gas or both; each zone of a structure which is
33 completely separated from any other zone in the same structure is a
34 pool, as that term is used in this chapter.

35 6. "Field" means the general area underlaid by one or more pools.

36 7. "Owner" means the person who has the right to drill into and
37 produce from a pool and to appropriate the oil or gas he produces
38 therefrom either for himself or others or for himself and others.

39 8. "Producer" means the owner of a well or wells capable of produc-
40 ing oil or gas or both.

41 9. "Product" means any commodity made from oil or gas and in-
42 cludes refined crude oil, crude tops, topped crude, processed crude,
43 processed crude petroleum, residue from crude petroleum, cracking
44 stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,
45 casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash oil,
46 waste oil, blended gasoline, lubricating oil, blends or mixtures of oil
47 with one or more liquid products or by-products derived from oil or
48 gas, and blends or mixtures of two or more liquid products or by-
49 products derived from oil or gas, whether hereinabove enumerated or
50 not.

51 10. "Reasonable market demand" means the demand for oil or gas
52 for reasonable current requirements for consumption and use within
53 and without the state, together with such quantities as are reasonably
54 necessary for building up or maintaining reasonable working stocks
55 and reasonable reserves of oil or gas or product.

56 11. "Illegal oil" means oil which has been produced from any well
57 within the state in excess of the quantity permitted by any rule, regu-
58 lation, or order of the council.

59 12. "Illegal gas" means gas which has been produced from any well
60 within this state in excess of the quantity permitted by any rule, reg-
61 ulation, or order of the council.

62 13. "Illegal product" means any product derived in whole or in part
63 from illegal oil or illegal gas.

64 14. "Certificate of clearance" means a permit prescribed by the
65 council for the transportation or the delivery of oil or gas or product
66 and issued or registered in accordance with the rule, regulation, or
67 order requiring such permit.

68 15. The word "and" includes the word "or" and the use of the word
69 "or" includes the word "and". The use of the plural includes the
70 singular and the use of the singular includes the plural.

71 16. Council means Iowa Natural Resources Council as defined in
72 chapter four hundred fifty-five A (455A), Code 1962.

1 SEC. 3. Waste prohibited. Waste of oil and gas is prohibited.

1 SEC. 4. Jurisdiction of council. The council has the duty of ad-
2 ministering the provisions of this chapter. The state geologist shall
3 act as administrator with the duty and responsibility of enforcing the
4 regulations and orders of the council applicable to the crude petroleum
5 oil and natural gas resources of this state and the provisions of this
6 chapter. The council has the duty and authority to make such inves-
7 tigations as it deems proper to determine whether waste exists or is
8 imminent or whether other facts exist which justify action. The
9 council acting through the office of the state geologist has the au-
10 thority:

11 1. To require:

12 a. Identification of ownership of oil or gas wells, producing leases,
13 tanks, plants, structures, and facilities for the refining or intra-state
14 transportation of oil and gas;

15 b. The making and filing of all mechanical well logs and the filing
16 of directional surveys if taken, and the filing of reports on well loca-
17 tion, drilling and production, and the filing free of charge of samples
18 and core chips and of complete cores less tested sections when re-
19 quested in the office of the state geologist within six months after the
20 completion or abandonment of the well;

21 c. The drilling, casing, operation, and plugging of wells in such
22 manner as to prevent the escape of oil or gas out of one stratum into
23 another, the intrusion of water into oil or gas stratum, the pollution
24 of fresh water supplies by oil, gas, or highly mineralized water, to
25 prevent blowouts, cavings, seepages, and fires, and to prevent the
26 escape of oil, gas, or water into workable coal or other mineral de-
27 posits;

28 d. The furnishing of a reasonable bond with good and sufficient
29 surety, conditioned upon the full compliance with the provisions of
30 this chapter, and the rules and regulations of the council prescribed
31 to govern the production of oil and gas on state and private lands
32 within the state of Iowa;

33 e. That the production from wells be separated into gaseous and
34 liquid hydrocarbons, and that each be accurately measured by such
35 means and upon such standards as may be prescribed by the council;

36 f. The operation of wells with efficient gas-oil and water-oil ratios,
37 and to fix these ratios;

38 g. Certificates of clearance in connection with the transportation
39 or delivery of any native and indigenous Iowa produced crude oil, gas,
40 or any product;

41 h. Metering or other measuring of any native and indigenous Iowa

42 produced crude oil, gas, or product in pipelines, gathering systems,
43 barge terminals, loading racks, refineries, or other places; and

44 i. That every person who produces, sells, purchases, acquires, stores,
45 transports, refines, or processes native and indigenous Iowa produced
46 crude oil or gas in this state shall keep and maintain within this state
47 complete and accurate records of the quantities thereof, which records
48 shall be available for examination by the council or its agents at all
49 reasonable times, and that every such person file with the council such
50 reports as it may prescribe with respect to such oil or gas or the
51 products thereof.

52 2. To regulate:

53 a. The drilling, producing, and plugging of wells, and all other oper-
54 ations for the production of oil or gas:

55 b. The shooting and chemical treatment of wells;

56 c. The spacing of wells;

57 d. Operations to increase ultimate recovery such as cycling of gas,
58 the maintenance of pressure, and the introduction of gas, water, or
59 other substances into producing formations; and

60 e. Disposal of highly mineralized water and oil field wastes.

61 3. To limit and to allocate the production of oil and gas from any
62 field, pool, or area.

63 4. To classify wells as oil or gas wells for purposes material to the
64 interpretation or enforcement of this chapter.

65 5. To promulgate and to enforce rules, regulations, and orders to
66 effectuate the purposes and the intent of this chapter.

67 6. To make rules, regulations, or orders for the classification of
68 wells as oil wells or dry natural gas wells; or wells drilled, or to be
69 drilled, for geological information, or as wells for secondary recovery
70 projects, or wells for the disposal of highly mineralized water, brine,
71 or other oil field wastes, or wells for the storage of dry natural gas,
72 or casinghead gas, or wells for the development of reservoirs for the
73 storage of liquid petroleum gas.

1 **SEC. 5. Drilling permit required.** It shall be unlawful to commence
2 operations for the drilling of a well for oil or gas or commence opera-
3 tions to deepen any well to a different geological formation without
4 first giving the state geologist notice of intention to drill, or without
5 first obtaining a permit from the state geologist, under such rules and
6 regulations as may be prescribed by the council and paying to the
7 council a fee of fifty dollars for such well. Such fee shall be used by
8 the council for administering this chapter, including the payment of
9 expenses incurred in publishing legal notice.

1 **SEC. 6. Council shall determine market demand and regulate the**
2 **amount of production.** The council shall determine market demand
3 for each marketing district and regulate the amount of production as
4 follows:

5 1. The council shall limit the production of oil and gas within each
6 marketing district to that amount which can be produced without
7 waste, and which does not exceed the reasonable market demand.

8 2. Whenever the council limits the total amount of oil or gas which
9 may be produced in the state or a marketing district, the council shall

10 allocate or distribute the allowable production among the pools therein
11 on a reasonable basis, giving, where reasonable under the circum-
12 stances to each pool with small wells of settled production, an allow-
13 able production which prevents the general premature abandonment
14 of such wells in the pool.

15 3. Whenever the council limits the total amount of oil or gas which
16 may be produced in any pool in this state to an amount less than that
17 amount which the pool could produce if no restriction was imposed,
18 which limitation is imposed either incidental to, or without, a limita-
19 tion of the total amount of oil or gas produced in the marketing dis-
20 trict wherein the pool is located, the council shall allocate or distribute
21 the allowable production among the several wells or producing prop-
22 erties in the pool on a reasonable basis, preventing or minimizing
23 reasonable avoidable drainage, so that each property will have the
24 opportunity to produce or to receive its just and equitable share,
25 subject to the reasonable necessities for the prevention of waste.

26 4. In allocating the market demand for gas as between pools within
27 marketing districts, the council shall give due regard to the fact that
28 gas produced from oil pools is to be regulated in a manner as will
29 protect the reasonable use of its energy for oil production.

30 5. The council shall not be required to determine the reasonable
31 market demand applicable to any single pool, except in relation to all
32 other pools within the same marketing district, and in relation to the
33 demand applicable to the marketing district. In allocating allowables
34 to pools, the council may consider, but shall not be bound by nomina-
35 tions of purchasers to purchase from particular fields, pools, or por-
36 tions thereof. The council shall allocate the total allowable for the
37 state in such manner as prevents undue discrimination between mar-
38 keting districts, fields, pools, or portions thereof resulting from selec-
39 tive buying or nomination by purchasers.

1 SEC. 7. Council shall set spacing units. The council shall set spac-
2 ing units as follows:

3 1. When necessary to prevent waste, to avoid the drilling of un-
4 necessary wells, or to protect correlative rights, the council shall estab-
5 lish spacing units for a pool. Spacing units when established shall be
6 of uniform size and shape for the entire pool, except that when found
7 to be necessary for any of the purposes above mentioned, the council
8 is authorized to divide any pool into zones and establish spacing units
9 for each zone, which units may differ in size and shape from those
10 established in any other zone.

11 2. The size and shape of spacing units are to be such as will result
12 in the efficient and economical development of the pool as a whole.

13 3. An order establishing spacing units for a pool shall specify the
14 size and shape of each unit and the location of the permitted well
15 thereon in accordance with a reasonably uniform spacing plan. Upon
16 application, if the state geologist finds that a well drilled at the pre-
17 scribed location would not produce in paying quantities, or that surface
18 conditions would substantially add to the burden or hazard of drilling
19 such well, the state geologist is authorized to enter an order permit-
20 ting the well to be drilled at a location other than that prescribed by
21 such spacing order; however, the state geologist shall include in the
22 order suitable provisions to prevent the production from the spacing

23 unit of more than its just and equitable share of the oil and gas in
24 the pool.

25 4. An order establishing units for a pool shall cover all lands deter-
26 mined or believed to be underlaid by such pool, and may be modified
27 by the state geologist from time to time to include additional areas
28 determined to be underlaid by such pool. When found necessary for
29 the prevention of waste, or to avoid the drilling of unnecessary wells
30 or to protect correlative rights, an order establishing spacing units
31 in a pool may be modified by the state geologist to increase the size
32 of spacing units in the pool or any zone thereof, or to permit the
33 drilling of additional wells on a reasonable uniform plan in the pool,
34 or any zone thereof. Orders of the state geologist may be appealed to
35 the council within thirty (30) days.

1 **SEC. 8. Integration of fractional tracts.**

2 1. When two or more separately owned tracts are embraced within
3 a spacing unit, or when there are separately owned interests in all or
4 a part of the spacing unit, then the owners and royalty owners thereof
5 may pool their interests for the development and operation of the
6 spacing unit. In the absence of voluntary pooling the council upon
7 the application of any interested person, shall enter an order pooling
8 all interests in the spacing unit for the development and operations
9 thereof. Each such pooling order shall be made after notice and hear-
10 ing, and shall be upon terms and conditions that are just and reason-
11 able, and that afford to the owner of each tract or interest in the
12 spacing unit the opportunity to recover or receive, without unneces-
13 sary expense, his just and equitable share. Operations incident to the
14 drilling of a well upon any portion of a spacing unit covered by a
15 pooling order shall be deemed for all purposes, the conduct of such
16 operations upon each separately owned tract in the drilling unit by
17 the several owners thereof. That portion of the production allocated
18 to each tract included in a spacing unit covered by a pooling order
19 shall, when produced, be deemed for all purposes to have been pro-
20 duced from such tract by a well drilled thereon.

21 2. Each such pooling order shall make provision for the drilling and
22 operation of a well on the spacing unit, and for the payment of the
23 reasonable actual cost thereof by the owners of interests in the spac-
24 ing unit, plus a reasonable charge for supervision. In the event of any
25 dispute as to such costs the council shall determine the proper costs.
26 If one or more of the owners shall drill and operate, or pay the ex-
27 penses of drilling and operating the well for the benefit of others,
28 then, the owner or owners so drilling or operating shall, upon comply-
29 ing with the terms of section 10, have a lien on the share of produc-
30 tion from the spacing unit accruing to the interest of each of the
31 other owners for the payment of his proportionate share of such
32 expenses. All the oil and gas subject to the lien shall be marketed
33 and sold and the proceeds applied in payment of the expenses secured
34 by such lien as provided for in section 10.

1 **SEC. 9. Voluntary agreements for unit operation valid.** An agree-
2 ment for the unit or co-operative development and operation of a field
3 or pool, in connection with the conduct of a repressuring or pressure

4 maintenance operations, cycling or recycling operations, including the
 5 extraction and separation of liquid hydrocarbons from natural gas in
 6 connection therewith, or any other method of operation, including
 7 water floods, is authorized and may be performed and shall not be
 8 held or construed to violate any of the statutes of this state relating
 9 to trusts, monopolies, or contracts and combinations in restraint of
 10 trade, if the agreement is approved by the council as being in the
 11 public interest, protective of correlative rights, and reasonably neces-
 12 sary to increase ultimate recovery or to prevent waste of oil or gas.
 13 Such agreements bind only the persons who execute them, and their
 14 heirs, successors, assigns, and legal representatives.

1 **SEC. 10. Development and operating costs of integrated fractional**
 2 **tracts.** A person to whom another is indebted for expenses incurred
 3 in drilling and operating a well on a drilling unit required to be
 4 formed as provided for in section 8, may, in order to secure payment
 5 of the amount due, fix a lien upon the interest of the debtor in the
 6 production from the drilling unit or the unit area, as the case may be,
 7 by filing for record, with the recorder of the county where property
 8 involved, or any part thereof, is located, an affidavit setting forth the
 9 amount due and the interest of the debtor in such production. The
 10 person to whom the amount is payable may, at the expense of the
 11 debtor, store all or any part of the production upon which the lien
 12 exists until the total amount due, including reasonable storage
 13 charges, is paid or the commodity is sold at foreclosure sale and
 14 delivery is made to the purchaser. The lien may be foreclosed as
 15 provided for with respect to foreclosure of a lien on chattels.

1 **SEC. 11. Rules covering practice before council.**

2 1. The council shall prescribe rules and regulations governing the
 3 practice and procedure before it.

4 2. No order, or amendment thereof, except in an emergency, shall
 5 be made by the council without a public hearing upon at least ten days
 6 notice. The public hearing shall be held at such time and place as may
 7 be prescribed by the council, and any interested person shall be en-
 8 titled to be heard.

9 3. When an emergency requiring immediate action is found to exist
 10 the council is authorized to issue an emergency order without notice
 11 of hearing, which shall be effective upon promulgation. No emergency
 12 order shall remain effective for more than fifteen days.

13 4. Any notice required by this chapter shall be given at the election
 14 of the council either by personal service or by letter to the last re-
 15 corded address and one publication in a newspaper of general circula-
 16 tion in the state capitol* city and in a newspaper of general circulation
 17 in the county where the land affected, or some part thereof, is situ-
 18 ated. The notice shall issue in the name of the state, shall be signed
 19 by the state geologist, shall specify the style and number of the
 20 proceeding, the time and place of the hearing, and shall briefly state
 21 the purpose of the proceeding. Should the council elect to give notice
 22 by personal service, such service may be made by any officer author-
 23 ized to serve process, or by any agent of the council, in the same
 24 manner as is provided by law for the service of original notices in civil

*According to enrolled Act.

25 actions in the district court of the state. Proof of the service by such
26 agent shall be by the affidavit of the person making personal service.

27 5. All orders issued by the council shall be in writing, shall be en-
28 tered in full and indexed in books to be kept by the state geologist
29 for that purpose, and shall be public records open for inspection at
30 all times during reasonable office hours. A copy of any rule, regula-
31 tion, or order certified by the state geologist or any officer of the
32 council shall be received in evidence in all courts of this state with
33 the same effect as the original.

34 6. The council may act upon its own motion, or upon the petition
35 of any interested person. On the filing of a petition concerning any
36 matter within the jurisdiction of the council, the council shall
37 promptly fix a date for a hearing thereon, and shall cause notice of
38 the hearing to be given. The hearing shall be held without undue
39 delay after the filing of the petition. The council shall enter its order
40 within thirty days after the hearing.

1 SEC. 12. Council shall have power to summon witnesses, admin-
2 ister oaths, require production of records, and to appoint hearing
3 examiners.

4 1. The council shall have the power to summon witnesses, to admin-
5 ister oaths, and require the production of records, books, and docu-
6 ments for examination at any hearing or investigation conducted.
7 No person shall be excused from attending and testifying, or from
8 producing books, papers, and records before the council or a court,
9 or from obedience to the subpoena of the council or a court, on the
10 ground or for the reason that the testimony or evidence, documentary
11 or otherwise, required of him may tend to incriminate him or subject
12 him to a penalty or forfeiture; provided, that nothing herein con-
13 tained shall be construed as requiring any person to produce any
14 books, papers, or records, or to testify in response to any inquiry not
15 pertinent to some question lawfully before such council or court for
16 determination. No natural person shall be subjected to criminal pros-
17 ecution or to any penalty or forfeiture for or on account of any trans-
18 action, matter, or thing concerning which, in spite of his objections,
19 he may be required to testify or produce evidence, documentary or
20 otherwise, before the council or court, or in obedience to subpoena;
21 provided, that no person testifying shall be exempted from prosecu-
22 tion and punishment for perjury committed in so testifying.

23 2. In case of failure or refusal on the part of any person to comply
24 with the subpoena issued by the council, or in case of the refusal of
25 any witness to testify as to any matter regarding which he may be
26 interrogated, any court in the state, upon the application of the coun-
27 cil, may in term time or vacation issue an attachment for such person
28 and compel him to comply with such subpoena, and to attend before
29 the council and produce such records, books, and documents, for
30 examination, and to give his testimony. Such courts shall have the
31 power to punish for contempt as in the case of disobedience to a like
32 subpoena issued by the court, or for refusal to testify therein.

33 3. The council may appoint a hearing examiner or examiners to
34 conduct hearings required by this Act. When so appointed, such
35 hearing examiner or examiners shall have and exercise all of the
36 powers delegated to the council by this section.

1 **SEC. 13. Person adversely affected may apply for rehearing.** Any
2 person adversely affected by any order of the council may within
3 thirty days after its effective date apply to the council in writing for
4 a rehearing. The application for rehearing shall be acted upon within
5 fifteen days after its filing, and if granted, the rehearing shall be held
6 without undue delay.

1 **SEC. 14. Person adversely affected may appeal to district court-**
2 **procedure of appeal.**

3 1. Any person adversely affected by an order entered by the coun-
4 cil, may appeal from such order to the district court at the seat of
5 government or the district court of any county in which the property
6 affected or some portion thereof is located or to the court of last
7 appeal. Notice of appeal must be filed by such person with the council
8 within thirty days after the entry of the order complained of, or
9 within thirty days after the entry of the order overruling a motion
10 for rehearing or sustaining the original order in the event a motion
11 for rehearing has been filed. The notice of appeal must identify the
12 order and the grounds of appeal, and reasonably specify that portion
13 of the record which the appellant desires included in the transcript
14 upon appeal. Immediately upon the filing of the notice of appeal the
15 council shall certify to the appellant the estimated cost of preparing
16 the transcript of appeal of the proceedings upon which the order
17 complained of was entered. The amount of the estimated cost must
18 be deposited with the council within ten days after the mailing of the
19 certification of the costs to the appellant. Upon the deposit of the
20 costs the council shall prepare and certify the transcript. The tran-
21 script shall be delivered to the appellant, or his designated attorney,
22 within sixty days after the filing of the notice of appeal.

23 2. Within ninety days after the filing of the notice of appeal, the
24 appellant must file in the district court the transcript of the proceed-
25 ings before the council, together with a petition for review which
26 states briefly the grounds for the appeal. An appeal shall be perfected
27 by filing the notice of appeal within the specified thirty day period.
28 The appeal may be dismissed by the district court for failure of the
29 appellant to make the required cost deposit or to file the transcript
30 and petition for review within the time specified, unless for good cause
31 shown the time is extended by order of the district court. If the dis-
32 trict court deems the transcript insufficient, the court may dismiss
33 the appeal or return the transcript to the appellant for proper addi-
34 tions, and thereafter assess such further costs against the appellant
35 as the court in its discretion deems sufficient.

36 3. At the time of filing of the notice of appeal, if an application for
37 the suspension of the order is filed, the council shall enter an order
38 fixing the amount of the supersedeas bond. Within ten days after the
39 entry of an order by the council which fixes the amount of the bond,
40 the appellant must file with the council a supersedeas bond in the
41 required amount and with proper surety; upon approval of the bond,
42 the council shall suspend the order complained of until its final dis-
43 position upon appeal. The bond shall run in favor of the state of Iowa
44 for the use and benefit of any person who may suffer damage by
45 reason of the suspension of the order in the event the same is affirmed
46 by the district court. If the order of the council is not superseded, it

47 shall continue in force and effect as if no appeal was pending.
48 4. The district court shall, insofar as is practicable, give precedence
49 to appeals from orders of the council. Upon the appeal of such an
50 order the district court shall review the proceedings before the council
51 as disclosed by the transcript upon appeal, and thereafter enter its
52 judgment affirming or reversing the order appealed. Orders of the
53 council shall be sustained if the council has regularly pursued its
54 authority and its findings and conclusions are sustained by the law
55 and by substantial and credible evidence.

1 **SEC. 15. Acquisition and handling illegal oil and gas prohibited—**
2 **seizure of illegal oil and gas and sale thereof.**

3 1. The sale, purchase, acquisition, transportation, refining, process-
4 ing, or handling of illegal oil, illegal gas, or illegal product is hereby
5 prohibited. However, no penalty by way of fine shall be imposed upon
6 a person who sells, purchases, acquires, transports, refines, processes,
7 or handles illegal oil, illegal gas, or illegal product unless

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

10 b. Such person fails to obtain a certificate of clearance with respect
11 to such oil, gas, or product where prescribed by order of the council,
12 or fails to follow any other method prescribed by an order of the council
13 for the identification of such oil, gas or product.

14 2. Illegal oil, illegal gas, and illegal product are declared to be con-
15 traband and are subject to seizure and sale as herein provided; seizure
16 and sale to be in addition to any and all other remedies and penalties
17 provided in this chapter for violations relating to illegal oil, illegal
18 gas, or illegal product. Whenever the council believes that any oil,
19 gas or product is illegal, the council acting by the attorney general,
20 shall bring a civil action in rem in the district court of the county
21 where such oil, gas, or product is found, to seize and sell the same,
22 or the council may include such an action in rem for the seizure and
23 sale of illegal oil, illegal gas, or illegal product in any suit brought
24 for an injunction or penalty involving illegal oil, illegal gas, or illegal
25 product. Any person claiming an interest in oil, gas, or product
26 affected by any such action shall have the right to intervene as an
27 interested party in such action.

28 3. Actions for the seizure and sale of illegal oil, illegal gas, or illegal
29 product shall be strictly in rem, and shall proceed in the name of the
30 state as plaintiff against the illegal oil, illegal gas, or illegal products
31 as defendant. No bond or similar undertaking shall be required of the
32 plaintiff. Upon the filing of the petition for seizure and sale, the at-
33 torney general shall issue a notice, with a copy of the complaint
34 attached thereto, which shall be served in the manner provided for
35 service of original notices in civil actions, upon any and all persons
36 having or claiming any interest in the illegal oil, illegal gas, or illegal
37 products described in the petition. Service shall be completed by the
38 filing of an affidavit by the person making the service, stating the
39 time and manner of making such service. Any person who fails to
40 appear and answer within the period of thirty days shall be forever
41 barred by the judgment based on such service. If the court, on a
42 properly verified petition, or affidavits, or oral testimony, finds that
43 grounds for seizure and for sale exist, the court shall issue an im-

44 mediate order of seizure, describing the oil, gas, or product to be
45 seized and directing the sheriff of the county to take such oil, gas, or
46 product into his custody, actual or constructive, and to hold the same
47 subject to the further order of the court. The court, in such order of
48 seizure, may direct the sheriff to deliver the oil, gas, or product seized
49 by him under the order to an agent appointed by the court as the
50 agent of the court; such agent to give bond in an amount and with
51 such surety as the court may direct, conditioned upon his compliance
52 with the orders of the court concerning the custody and disposition
53 of such oil, gas, or product.

54 4. Any person having an interest in oil, gas, or product described
55 in an order of seizure and contesting the right of the state to the
56 seizure and sale thereof may, prior to the sale thereof as herein pro-
57 vided, obtain the release thereof, upon furnishing bond to the sheriff
58 approved by the court, in an amount equal to one hundred fifty per-
59 cent of the market value of the oil, gas, or product to be released, and
60 conditioned as the court may direct upon redelivery to the sheriff of
61 such product released or upon payment to the sheriff of the market
62 value thereof as the court may direct, if and when ordered by the court,
63 and upon full compliance with the further orders of the court.

64 5. If the court, after a hearing upon a petition for the seizure and
65 sale of oil, gas, or product, finds that such oil, gas, or product is con-
66 traband, the court shall order the sale thereof by the sheriff in the
67 same manner and upon the same notice of sale as provided by law for
68 the sale of personal property on execution of judgment entered in a
69 civil action except that the court may order that the illegal oil, illegal
70 gas, or illegal product be sold in specified lots or portions and at speci-
71 fied intervals. Upon such sale, title to the oil, gas, or product sold
72 shall vest in the purchaser free of the claims of any and all persons
73 having any title thereto or interest therein at or prior to the seizure
74 thereof, and the same shall be legal oil, legal gas, or legal product,
75 as the case may be, in the hands of the purchaser.

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

1 SEC. 16. Penalties.

2 1. Any person who violates any provision of this chapter, or any
3 rule, regulation, or order of the council shall be subject to a penalty
4 of not more than one thousand dollars for each act of violation and for
5 each day that such violation continues, unless the penalty for such
6 violation is otherwise specifically provided for and made exclusive in
7 this chapter.

8 2. If any person, for the purpose of evading this chapter, or any
9 rule, regulation, or order of the council, shall make or cause to be
10 made any false entry or statement in a report required by this chap-
11 ter or by any such rule, regulation, or order, or shall make or cause
12 to be made any false entry in any record, account, or memorandum
13 required by this chapter, or by any such rule, regulation, or order, or
14 shall omit, or cause to be omitted, from any such record, account, or
15 memorandum, full, true, and correct entries as required by this chap-

16 ter, or by any such rule, regulation, or order, or shall remove from
17 this state or destroy, mutilate, alter or falsify any such record, ac-
18 count, or memorandum, such person shall be guilty of a misdemeanor
19 and, upon conviction, shall be subject to a fine of not more than five
20 thousand dollars or imprisonment in a county jail for a term not
21 exceeding six months, or to both such fine and imprisonment.

22 3. Any person knowingly aiding or abetting any other person in the
23 violation of any provision of this chapter, or any rule, regulation, or
24 order of the council shall be subject to the same penalty as that pre-
25 scribed by this chapter for the violation by such other person.

26 4. The penalties provided in this section shall be recoverable by
27 suit filed by the attorney general in the name and on behalf of the
28 council, in the district court of the county in which the defendant
29 resides, or in which any defendant resides, if there be more than one
30 defendant, or in the district court of any county in which the violation
31 occurred. The payment of any such penalty shall not operate to legal-
32 ize any illegal oil, illegal gas, or illegal product involved in the viola-
33 tion for which the penalty is imposed, or to relieve a person on whom
34 the penalty is imposed from liability to any other person for damages
35 arising out of such violation.

1 **SEC. 17. Action to restrain violation or threatened violation.**

2 1. Whenever it appears that any person is violating or threatening
3 to violate any provision of this chapter, or any rule, regulation, or
4 order of the council, the council shall bring suit against such person
5 in the district court of any county where the violation occurs or is
6 threatened, to restrain such person from continuing such violation or
7 from carrying out the threat of violation. In any such suit, the court
8 shall have jurisdiction to grant to the council, without bond or other
9 undertaking, such prohibitory and mandatory injunctions as the facts
10 may warrant, including temporary restraining orders, preliminary
11 injunctions, temporary, preliminary, or final orders restraining the
12 movement or disposition of any illegal oil, illegal gas, or illegal prod-
13 uct, any of which the court may order to be impounded or placed in
14 the custody of an agent appointed by the court.

15 2. If the council shall fail to bring suit to enjoin a violation or
16 threatened violation of any provision of this chapter, or any rule,
17 regulation, or order of the council, within ten days after receipt of
18 written request to do so by any person who is or will be adversely
19 affected by such violation, the person making such request may bring
20 suit in his own behalf to restrain such violation or threatened viola-
21 tion in any court in which the council might have brought suit. The
22 council shall be made a party defendant in such suit in addition to the
23 person violating or threatening to violate a provision of this chapter,
24 or a rule, regulation, or order of the council, and the action shall pro-
25 ceed and injunctive relief may be granted to the council or the peti-
26 tioner without bond in the same manner as if suit had been brought
27 by the council.

1 **SEC. 18. All rights and interests in or to oil, gas or other minerals**
2 **underlying land, whether created by or arising under deed, lease,**
3 **reservation of rights, or otherwise, which rights or interests are**

4 owned by any person other than the owner of the land, shall be as-
5 sessed and taxed separately to the owner of such rights or interests
6 in the same manner as other real estate. The taxes on such rights or
7 interests which are not owned by the owner of the land shall not be a
8 lien on the land.

1 SEC. 19. In order to pay the costs of assessment and collection and
2 provide a reasonable minimum standard of taxation, the taxes on any
3 such rights or interests not owned by the owner of the land, shall be
4 not less than five (5) cents per acre.

1 SEC. 20. When any such rights or interests not owned by the
2 owner of the land are sold at tax sale, and when the owner of such
3 rights or interests does not redeem under the provisions of chapter
4 four hundred forty-seven (447) of the Code within ninety (90) days
5 after such tax sale, the owner of the land shall thereafter have the
6 same right of redemption as the owner of such rights or interests has,
7 and redemption by the owner of the land shall terminate all right of
8 redemption of the owner of such rights or interests.

1 SEC. 21. **Saving clause.** If any provision of this chapter or the
2 application of such provision to any person or circumstance shall be
3 held invalid, the remainder of this chapter or the application of such
4 provision to persons or circumstances other than those to which it is
5 held invalid, shall not be affected thereby.

1 SEC. 22. The state, counties, cities and towns and other political
2 subdivisions are hereby authorized to lease publicly-owned lands under
3 their respective jurisdictions for the purpose of oil or gas exploration
4 and production. Any such leases shall be entered into on behalf of the
5 state by the executive council, on behalf of counties by the board of
6 supervisors, on behalf of cities and towns by the council thereof and
7 on behalf of other political subdivisions by the governing body there-
8 of. Such leases shall be upon such terms and conditions as may be
9 agreed upon.
10 Revenues derived from the leasing of state-owned lands shall be
11 paid into the general fund of the state. Revenues derived from the
12 leasing of other public lands shall be paid into the general fund of the
13 respective lessor political subdivision.

Approved June 4, 1963.