

SENATE BILL NO. 441

INTRODUCED BY TVEIT, GRAHAM, E. SMITH,
BOYLAN, CONOVER, SCHYE, THOMAS, ROUSH

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Natural Resources.
February 18, 1983	Committee recommend bill do pass as amended. Report adopted.
February 19, 1983	Bill printed and placed on members' desks.
February 21, 1983	Second reading, do pass.
February 22, 1983	Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 49; Noes, 0. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Natural Resources.
March 23, 1983	Committee recommend bill be concurrent in as amended. Report adopted.
March 26, 1983	Second reading, concurred in.
March 28, 1983	Third reading, concurred in.

IN THE SENATE

March 28, 1983

Returned to Senate with
amendments.

April 6, 1983

Second reading, amendments
concurred in.

April 7, 1983

Third reading, amendments
concurred in. Ayes, 49;
Noes, 0.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *441*
 2 INTRODUCED BY *Torrey Peterson, E. Smith, Doyle*
 3 *Conover, J. Thomas Roush*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING OIL AND GAS
 5 PRODUCERS REGULARLY PAYING ROYALTIES BY CHECK, DRAFT, OR
 6 ORDER TO PROVIDE THE ROYALTY OWNER WITH A RECORD,
 7 ACCOMPANYING EVERY ROYALTY PAYMENT, OF CERTAIN MATTERS
 8 PERTAINING TO PRODUCTION AND PAYMENT OF ROYALTIES; PROVIDING
 9 A PENALTY AND MAKING THAT PENALTY APPLICABLE TO
 10 CORPORATIONS; AMENDING SECTIONS 45-2-311 AND 82-10-102, MCA;
 11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Payment of royalties -- form
 15 of record required. (1) An oil and gas producer regularly
 16 paying royalties by check, draft, or order shall include
 17 with every such payment a form showing the following matters
 18 relating to that payment:

19 (a) the name of the royalty owner to whom the payment
 20 is made;

21 (b) the date of the check, draft, or order;

22 (c) any royalty owner identification number used by
 23 the producer for such royalty owner;

24 (d) the month and year during which production
 25 occurred for which payment is being made;

1 (e) any number used to identify the lease under which
 2 production occurred;

3 (f) the type of product produced;

4 (g) the type of interest for which the check, draft,
 5 or order was paid;

6 (h) the mineral formation from which the product was
 7 taken;

8 (i) the amount of product produced;

9 (j) the amount and type of any state taxes withheld
 10 based on the value of the product;

11 (k) the net value of the product produced; and

12 (l) as to the royalty owner to whom the check, draft,
 13 or order is issued:

14 (i) the percentage of royalty interest; and
 15 (ii) the net value of that percentage.

16 (2) Any person violating the provisions of subsection
 17 (1) is guilty of a misdemeanor and upon conviction shall be
 18 punished by a fine of not less than \$10,000 or imprisoned
 19 for not less than 6 months or by both such fine and
 20 imprisonment.

21 Section 2. Section 45-2-311, MCA, is amended to read:

22 "45-2-311. Criminal responsibility of corporations.
 23 (1) A corporation may be prosecuted for the commission of an
 24 offense if, but only if:

25 (a) the offense is a misdemeanor and is defined by

1 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-6-327,
 2 45-8-113, 45-8-114, 45-8-212, 45-8-214, ~~or [section 1]~~ or by
 3 another statute which clearly indicates a legislative
 4 purpose to impose liability on a corporation and an agent of
 5 the corporation performs the conduct which is an element of
 6 the offense while acting within the scope of his office or
 7 employment and in behalf of the corporation, except that any
 8 limitation in the defining statute concerning the
 9 corporation's accountability for certain agents or under
 10 certain circumstances is applicable; or

11 (b) the commission of the offense is authorized,
 12 requested, commanded, or performed by the board of directors
 13 or by a high managerial agent who is acting within the scope
 14 of his employment in behalf of the corporation.

15 (2) A corporation's proof that the high managerial
 16 agent having supervisory responsibility over the conduct
 17 which is the subject matter of the offense exercised due
 18 diligence to prevent the commission of the offense is a
 19 defense to a prosecution for any offense to which subsection
 20 (1)(a) refers, other than an offense for which absolute
 21 liability is imposed. This subsection is inapplicable if the
 22 legislative purpose of the statute defining the offense is
 23 inconsistent with the provisions of this subsection.

24 (3) For the purposes of this section:

25 (a) "agent" means any director, officer, servant,

1 employee, or other person who is authorized to act in behalf
 2 of the corporation;

3 (b) "high managerial agent" means an officer of the
 4 corporation or any other agent who has a position of
 5 comparable authority for the formulation of corporate policy
 6 or the supervision of subordinate employees in a managerial
 7 capacity."

8 Section 3. Section 82-10-102, MCA, is amended to read:

9 "82-10-102. Remedy not exclusive. The remedy herein
 10 provided for in ~~82-10-101~~ is in the nature of a special
 11 remedy additional to and not a substitute for other remedies
 12 given by law to owners of royalties in lands of the
 13 character specified, and all acts or parts of acts in
 14 conflict with the provisions of ~~this part that section~~ shall
 15 not apply in actions authorized and provided for by ~~this~~
 16 ~~part that section.~~"

17 NEW SECTION. Section 4. Codification Instruction.
 18 Section 1 is intended to be codified as an integral part of
 19 Title 82, chapter 10, part 1.

20 NEW SECTION. Section 5. Effective date. This act is
 21 effective on passage and approval.

-End-

Approved by Committee
on Natural Resources

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INTRODUCED BY TVEIT, GRAHAM, E. SMITH,
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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING OIL AND GAS
PRODUCERS REGULARLY PAYING ROYALTIES BY CHECK, DRAFT, OR
ORDER TO PROVIDE THE ROYALTY OWNER WITH A RECORD,
ACCOMPANYING EVERY ROYALTY PAYMENT, OF CERTAIN MATTERS
PERTAINING TO PRODUCTION AND PAYMENT OF ROYALTIES; PROVIDING
A PENALTY AND MAKING THAT PENALTY APPLICABLE TO
CORPORATIONS; AMENDING SECTIONS 45-2-311 AND 82-10-102, MCA;
AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Payment of royalties -- form
of record required. (1) An oil and gas producer regularly
paying royalties by check, draft, or order shall include
with every such payment a form showing the following matters
relating to that payment:

(a) the name of the royalty owner to whom the payment
is made;

(b) the date of the check, draft, or order;

(c) any royalty owner identification number used by
the producer for such royalty owner;

(d) the month and year during which production

occurred for which payment is being made;

(e) any number used to identify the lease under which
production occurred;

(f) the type of product produced;

~~(g) the type of interest for which the check, draft,
or order was paid;~~

~~(h) the mineral formation from which the product was
taken;~~

~~(i) the amount of product produced;~~

~~(G) BARRELS OF OIL AND/OR CUBIC FEET OF GAS FOR WHICH
PAYMENT IS MADE;~~

~~(j)(H) the amount and type of any state taxes withheld
based on the value of the product;~~

~~(k)(I) the net value of the product produced
PRODUCTION; and~~

~~(l) as to the royalty owner to whom the check, draft,
or order is issued;~~

~~(j)(L) the percentage of royalty interest; and~~

~~(i) the net value of that percentage.~~

(2) Any person ~~PURPOSELY AND KNOWINGLY~~ violating the
provisions of subsection (1) is guilty of a misdemeanor and
upon conviction shall be punished by a fine of not less ~~MORE~~
than ~~\$10,000 or imprisoned for not less than 6 months or by~~
~~both such fine and imprisonment \$1,000.~~

Section 2. Section 45-2-311, MCA, is amended to read:

"45-2-311. Criminal responsibility of corporations.

(1) A corporation may be prosecuted for the commission of an offense if, but only if:

(a) the offense is a misdemeanor and is defined by 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-6-327, 45-8-113, 45-8-114, 45-8-212, 45-8-214, ~~or [section 1]~~ or by another statute which clearly indicates a legislative purpose to impose liability on a corporation and an agent of the corporation performs the conduct which is an element of the offense while acting within the scope of his office or employment and in behalf of the corporation, except that any limitation in the defining statute concerning the corporation's accountability for certain agents or under certain circumstances is applicable; or

(b) the commission of the offense is authorized, requested, commanded, or performed by the board of directors or by a high managerial agent who is acting within the scope of his employment in behalf of the corporation.

(2) A corporation's proof that the high managerial agent having supervisory responsibility over the conduct which is the subject matter of the offense exercised due diligence to prevent the commission of the offense is a defense to a prosecution for any offense to which subsection (1)(a) refers, other than an offense for which absolute liability is imposed. This subsection is inapplicable if the

legislative purpose of the statute defining the offense is inconsistent with the provisions of this subsection.

(3) For the purposes of this section:

(a) "agent" means any director, officer, servant, employee, or other person who is authorized to act in behalf of the corporation;

(b) "high managerial agent" means an officer of the corporation or any other agent who has a position of comparable authority for the formulation of corporate policy or the supervision of subordinate employees in a managerial capacity."

Section 3. Section 82-10-102, MCA, is amended to read:

"82-10-102. Remedy not exclusive. The remedy herein provided for ~~in 82-10-101~~ is in the nature of a special remedy additional to and not a substitute for other remedies given by law to owners of royalties in lands of the character specified, and all acts or parts of acts in conflict with the provisions of ~~this part that section~~ shall not apply in actions authorized and provided for by ~~this part that section~~."

~~NEW SECTION.~~ Section 4. Codification instruction. Section 1 is intended to be codified as an integral part of Title 82, chapter 10, part 1.

~~NEW SECTION.~~ Section 5. Effective date. This act is effective ~~on passage and approval~~ OCTOBER 1, 1983.

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~~(j) (H) the amount and type of any state taxes withheld~~
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~~(k) (I) the net value of the product produced~~
~~PRODUCTION; and~~

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~~(m) (J) the percentage of royalty interest; and~~

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-End-
-4-

HOUSE NATURAL RESOURCES COMMITTEE AMENDMENTS TO SB 441
March 23, 1983

1. Title, line 12.

Strike: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 16.

Strike: "regularly"

3. Page 2, line 12.

Following: "of"

Insert: "all"

4. Page 2, lines 18 and 19.

Strike: "the" on line 18 through "percentage" on line 19

Insert: "the royalty owner's net value"

5. Page 4, lines 24 and 25.

Strike: these lines in their entirety

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1 occurred for which payment is being made;
 2 (e) any number used to identify the lease under which
 3 production occurred;
 4 (f) the type of product produced;
 5 ~~{g}--the-type-of-interest-for-which-the-check--draft--~~
 6 ~~or-order-was-paid;~~
 7 ~~{h}--the-mineral--formation-from-which-the-product-was~~
 8 ~~taken;~~
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 11 PAYMENT IS MADE;
 12 ~~{j}(1)~~ the amount and type of ALL any-state taxes
 13 withheld ~~based-on-the-value-of-the-product;~~
 14 ~~{k}(1)~~ the net value of the---product---produced
 15 PRODUCTION; and
 16 ~~{l}--as-to-the-royalty-owner-to-whom-the-check--draft--~~
 17 ~~or-order-is-issued;~~
 18 ~~{i}(1)~~ the-percentage-of-royalty-interest; and
 19 ~~{i}--the-net--value--of--that--percentage~~ THE ROYALTY
 20 OWNER'S NET VALUE.
 21 (2) Any person PURPOSELY AND KNOWINGLY violating the
 22 provisions of subsection (1) is guilty of a misdemeanor and
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Section 1 is intended to be codified as an integral part of Title 82, chapter 10, part 1.

~~NEW SECTION. Section 5. Effective date. This act is~~

SP 0441/03

1 effective-on-passage-and-approval 0610058-1x-1283v

-End-