

SENATE BILL NO. 442

Introduced: 02/16/83

Referred to Committee on Natural Resources: 02/16/83

Hearing: 2/18/83

Report: 02/19/83, Do Not Pass. Report Adopted.

Bill Killed.

1 *Senate* BILL NO. *442*
 2 INTRODUCED BY *Timothy E. Smith*
 3 *Conover*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE MEASURING
 5 AND RECORDING OF AMOUNTS OF OIL AND GAS PRODUCED FROM WELLS
 6 WITHIN THE STATE; PROVIDING A PENALTY AND MAKING THAT
 7 PENALTY APPLICABLE TO CORPORATIONS; AMENDING SECTION
 8 45-2-311, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 NEW SECTION. Section 1. Measurement and record
 12 required of gas and oil production -- penalty. (1) No
 13 producer of gas or oil from a gas or oil well in this state
 14 may permit the gas or oil produced to pass beyond his
 15 possession or control to the possession or control of
 16 another person without first accurately measuring the amount
 17 of gas or oil passed and preserving an accurate record of
 18 that amount.

19 (2) For the purpose of this section, the words "gas",
 20 "oil", "person", and "producer" have the meanings given them
 21 in 82-11-101.

22 (3) Any person violating the provisions of subsection
 23 (1) is guilty of a misdemeanor and upon conviction shall be
 24 punished by a fine of not less than \$10,000 or imprisoned
 25 for not less than 6 months or by both such fine and

1 imprisonment.

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

3 "45-2-311. Criminal responsibility of corporations.

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

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

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

21 (2) A corporation's proof that the high managerial
 22 agent having supervisory responsibility over the conduct
 23 which is the subject matter of the offense exercised due
 24 diligence to prevent the commission of the offense is a
 25 defense to a prosecution for any offense to which subsection

1 (1)(a) refers, other than an offense for which absolute
2 liability is imposed. This subsection is inapplicable if the
3 legislative purpose of the statute defining the offense is
4 inconsistent with the provisions of this subsection.

5 (3) For the purposes of this section:

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

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

14 NEW SECTION. Section 3. Effective date. This act is
15 effective on passage and approval.

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