

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 537

Representative Hagan, R.

**Cosponsors: Representatives Lundy, Foley, Fende, Antonio, Fedor, Yuko,
Goyal**

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A BILL

To amend sections 1509.02 and 1509.021 and to enact 1
section 1509.39 of the Revised Code to authorize a 2
political subdivision to enact and enforce health 3
and safety standards for oil and gas drilling and 4
exploration, and to revise the setback 5
requirements in the Oil and Gas Law. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.02 and 1509.021 be amended and 7
section 1509.39 of the Revised Code be enacted to read as follows: 8

Sec. 1509.02. There is hereby created in the department of 9
natural resources the division of oil and gas resources 10
management, which shall be administered by the chief of the 11
division of oil and gas resources management. The division has 12
~~sole and exclusive~~ authority to regulate the permitting, location, 13
~~and spacing, installation, operation, maintenance, abandonment,~~ 14
~~plugging, and site restoration of, disposal of waste from, and all~~ 15
~~matters related to~~ oil and gas wells and production operations 16
within the state that are necessary to protect the health and 17
safety of the public, property, and the environment, excepting 18

~~only those activities regulated under federal laws for which~~ 19
~~oversight has been delegated to the environmental protection~~ 20
~~agency and activities regulated under sections 6111.02 to 6111.029~~ 21
~~of the Revised Code. The regulation of oil and gas activities is a~~ 22
~~matter of general statewide interest that requires uniform~~ 23
~~statewide regulation, and this chapter and rules adopted under it~~ 24
~~constitute a comprehensive plan with respect to all aspects of the~~ 25
~~locating, drilling, well stimulation, completing, and operating of~~ 26
~~oil and gas wells within this state, including site construction~~ 27
~~and restoration, permitting related to those activities, and the~~ 28
~~disposal of wastes from those wells. Nothing in this section~~ 29
affects the authority granted to the director of transportation 30
and local authorities in section 723.01 or 4513.34 of the Revised 31
Code, ~~provided that the authority granted under those sections~~ 32
~~shall not be exercised in a manner that discriminates against,~~ 33
~~unfairly impedes, or obstructs oil and gas activities and~~ 34
~~operations regulated under this chapter.~~ 35

The chief shall not hold any other public office, nor shall 36
the chief be engaged in any occupation or business that might 37
interfere with or be inconsistent with the duties as chief. 38

All moneys collected by the chief pursuant to sections 39
1509.06, 1509.061, 1509.062, 1509.071, 1509.13, 1509.22, 1509.221, 40
1509.222, 1509.34, and 1509.50 of the Revised Code, ninety per 41
cent of moneys received by the treasurer of state from the tax 42
levied in divisions (A)(5) and (6) of section 5749.02 of the 43
Revised Code, all civil penalties paid under section 1509.33 of 44
the Revised Code, and, notwithstanding any section of the Revised 45
Code relating to the distribution or crediting of fines for 46
violations of the Revised Code, all fines imposed under divisions 47
(A) and (B) of section 1509.99 of the Revised Code and fines 48
imposed under divisions (C) and (D) of section 1509.99 of the 49
Revised Code for all violations prosecuted by the attorney general 50

and for violations prosecuted by prosecuting attorneys that do not
involve the transportation of brine by vehicle shall be deposited
into the state treasury to the credit of the oil and gas well
fund, which is hereby created. Fines imposed under divisions (C)
and (D) of section 1509.99 of the Revised Code for violations
prosecuted by prosecuting attorneys that involve the
transportation of brine by vehicle and penalties associated with a
compliance agreement entered into pursuant to this chapter shall
be paid to the county treasury of the county where the violation
occurred.

The fund shall be used solely and exclusively for the
purposes enumerated in division (B) of section 1509.071 of the
Revised Code, for the expenses of the division associated with the
administration of this chapter and Chapter 1571. of the Revised
Code and rules adopted under them, and for expenses that are
critical and necessary for the protection of human health and
safety and the environment related to oil and gas production in
this state. The expenses of the division in excess of the moneys
available in the fund shall be paid from general revenue fund
appropriations to the department.

Sec. 1509.021. On and after ~~June 30, 2010~~ the effective date
of this amendment, all of the following apply:

(A) The surface location of a new well or a tank battery of a
well shall not be within one ~~hundred-fifty thousand~~ thousand feet of an
occupied dwelling that is located in an urbanized area unless the
owner of the land on which the occupied dwelling is located
consents in writing to the surface location of the well or tank
battery of a well less than one ~~hundred-fifty thousand~~ thousand feet from
the occupied dwelling and the chief of the division of oil and gas
resources management approves the written consent of that owner.
However, the chief shall not approve the written consent of such

an owner when the surface location of a new well or a tank battery 82
of a well will be within one hundred feet of an occupied dwelling 83
that is located in an urbanized area. 84

(B) The surface location of a new well shall not be within 85
one ~~hundred-fifty~~ thousand feet from the property line of a parcel 86
of land that is not in the drilling unit of the well if the parcel 87
of land is located in an urbanized area and directional drilling 88
will be used to drill the new well unless the owner of the parcel 89
of land consents in writing to the surface location of the well 90
less than one ~~hundred-fifty~~ thousand feet from the property line 91
of the parcel of land and the chief approves the written consent 92
of that owner. However, the chief shall not approve the written 93
consent of such an owner when the surface location of a new well 94
will be less than one hundred feet from the property line of the 95
owner's parcel of land that is not in the drilling unit of the 96
well if the parcel of land is located in an urbanized area and 97
directional drilling will be used. 98

(C) The surface location of a new well shall not be within 99
~~two hundred~~ one thousand feet of an occupied dwelling that is 100
located in an urbanized area and that is located on land that has 101
become part of the drilling unit of the well pursuant to a 102
mandatory pooling order issued under section 1509.27 of the 103
Revised Code unless the owner of the land on which the occupied 104
dwelling is located consents in writing to the surface location of 105
the well at a distance that is less than ~~two hundred~~ one thousand 106
feet from the occupied dwelling. However, if the owner of the land 107
on which the occupied dwelling is located provides such written 108
consent, the surface location of the well shall not be within one 109
hundred feet of the occupied dwelling. 110

If an applicant cannot identify an owner of land or if an 111
owner of land is not responsive to attempts by the applicant to 112
contact the owner, the applicant may submit an affidavit to the 113

chief attesting to such an unidentifiable owner or to such 114
unresponsiveness of an owner and attempts by the applicant to 115
contact the owner and include a written request to reduce the 116
distance of the location of the well from the occupied dwelling to 117
less than ~~two hundred~~ one thousand feet. If the chief receives 118
such an affidavit and written request, the chief shall reduce the 119
distance of the location of the well from the occupied dwelling to 120
a distance of not less than one hundred feet. 121

(D) Except as otherwise provided in division (L) of this 122
section, the surface location of a new well shall not be within 123
one ~~hundred fifty thousand~~ thousand feet of the property line of a parcel 124
of land that is located in an urbanized area and that has become 125
part of the drilling unit of the well pursuant to a mandatory 126
pooling order issued under section 1509.27 of the Revised Code 127
unless the owner of the land consents in writing to the surface 128
location of the well at a distance that is less than one ~~hundred~~ 129
~~fifty thousand~~ thousand feet from the owner's property line. However, if 130
the owner of the land provides such written consent, the surface 131
location of the well shall not be within seventy-five feet of the 132
property line of the owner's parcel of land. 133

If an applicant cannot identify an owner of land or if an 134
owner of land is not responsive to attempts by the applicant to 135
contact the owner, the applicant may submit an affidavit to the 136
chief attesting to such an unidentifiable owner or to such 137
unresponsiveness of an owner and attempts by the applicant to 138
contact the owner and include a written request to reduce the 139
distance of the location of the well from the property line of the 140
owner's parcel of land to less than one ~~hundred fifty thousand~~ 141
thousand feet. If the chief receives such an affidavit and written request, 142
the chief shall reduce the distance of the location of the well 143
from the property line to a distance of not less than seventy-five 144
feet. 145

(E) The surface location of a new tank battery of a well 146
shall not be within one ~~hundred fifty~~ thousand feet of an occupied 147
dwelling that is located in an urbanized area and that is located 148
on land that has become part of the drilling unit of the well 149
pursuant to a mandatory pooling order issued under section 1509.27 150
of the Revised Code unless the owner of the land on which the 151
occupied dwelling is located consents in writing to the location 152
of the tank battery at a distance that is less than one ~~hundred~~ 153
~~fifty~~ thousand feet from the occupied dwelling. However, if the 154
owner of the land on which the occupied dwelling is located 155
provides such written consent, the location of the tank battery 156
shall not be within one hundred feet of the occupied dwelling. 157

If an applicant cannot identify an owner of land or if an 158
owner of land is not responsive to attempts by the applicant to 159
contact the owner, the applicant may submit an affidavit to the 160
chief attesting to such an unidentifiable owner or to such 161
unresponsiveness of an owner and attempts by the applicant to 162
contact the owner and include a written request to reduce the 163
distance of the location of the tank battery from the occupied 164
dwelling to less than one ~~hundred fifty~~ thousand feet. If the 165
chief receives such an affidavit and written request, the chief 166
shall reduce the distance of the location of the tank battery from 167
the occupied dwelling to a distance of not less than one hundred 168
feet. 169

(F) Except as otherwise provided in division (L) of this 170
section, the location of a new tank battery of a well shall not be 171
within ~~seventy-five~~ one thousand feet of the property line of a 172
parcel of land that is located in an urbanized area and that has 173
become part of the drilling unit of the well pursuant to a 174
mandatory pooling order issued under section 1509.27 of the 175
Revised Code unless the owner of the land consents in writing to 176
the location of the tank battery at a distance that is less than 177

~~seventy-five~~ one thousand feet from the owner's property line. 178
However, if the owner of the land provides such written consent, 179
the location of the tank battery shall not be within the property 180
line of the owner's parcel of land. 181

If an applicant cannot identify an owner of land or if an 182
owner of land is not responsive to attempts by the applicant to 183
contact the owner, the applicant may submit an affidavit to the 184
chief attesting to such an unidentifiable owner or to such 185
unresponsiveness of an owner and attempts by the applicant to 186
contact the owner and include a written request to reduce the 187
distance of the location of the tank battery from the property 188
line of the owner's parcel of land to less than ~~seventy-five~~ one 189
thousand feet. If the chief receives such an affidavit and written 190
request, the chief shall reduce the distance of the location of 191
the tank battery from the property line, provided that the tank 192
battery shall not be within the property line of the owner's 193
parcel of land. 194

(G) For purposes of divisions (C) to (F) of this section, 195
written consent of an owner of land may be provided by any of the 196
following: 197

(1) A copy of an original lease agreement as recorded in the 198
office of the county recorder of the county in which the occupied 199
dwelling or property is located that expressly provides for the 200
reduction of the distance of the location of a well or a tank 201
battery, as applicable, from an occupied dwelling or a property 202
line; 203

(2) A copy of a deed severing the oil or gas mineral rights, 204
as applicable, from the owner's parcel of land as recorded in the 205
office of the county recorder of the county in which the property 206
is located that expressly provides for the reduction of the 207
distance of the location of a well or a tank battery, as 208
applicable, from an occupied dwelling or a property line; 209

(3) A written statement that consents to the proposed 210
location of a well or a tank battery, as applicable, and that is 211
approved by the chief. For purposes of division (G)(3) of this 212
section, an applicant shall submit a copy of a written statement 213
to the chief. 214

(H) For areas that are not urbanized areas, the surface 215
location of a new well shall not be within one ~~hundred~~ thousand 216
feet of an occupied private dwelling or of a public building that 217
may be used as a place of assembly, education, entertainment, 218
lodging, trade, manufacture, repair, storage, or occupancy by the 219
public. This division does not apply to a building or other 220
structure that is incidental to agricultural use of the land on 221
which the building or other structure is located unless the 222
building or other structure is used as an occupied private 223
dwelling or for retail trade. 224

(I) The surface location of a new well shall not be within 225
one ~~hundred~~ thousand feet of any other well. However, an applicant 226
may submit a written statement to request the chief to authorize a 227
new well to be located at a distance that is less than one ~~hundred~~ 228
thousand feet from another well. If the chief receives such a 229
written statement, the chief may authorize a new well to be 230
located within one hundred feet of another well if the chief 231
determines that the applicant satisfactorily has demonstrated that 232
the location of the new well at a distance that is less than one 233
~~hundred~~ thousand feet from another well is necessary to reduce 234
impacts to the owner of the land on which the well is to be 235
located or to the surface of the land on which the well is to be 236
located. 237

(J) For areas that are not urbanized areas, the location of a 238
new tank battery of a well shall not be within one ~~hundred~~ 239
thousand feet of an existing inhabited structure. 240

(K) The location of a new tank battery of a well shall not be 241

within ~~fifty~~ one thousand feet of any other well. 242

(L) The location of a new well or a new tank battery of a 243
well shall not be within ~~fifty~~ one thousand feet of a stream, 244
river, watercourse, water well, pond, lake, or other body of 245
water. However, the chief may authorize a new well or a new tank 246
battery of a well to be located at a distance that is less than 247
~~fifty~~ one thousand feet from a stream, river, watercourse, water 248
well, pond, lake, or other body of water if the chief determines 249
that the reduction in the distance is necessary to reduce impacts 250
to the owner of the land on which the well or tank battery of a 251
well is to be located or to protect public safety or the 252
environment. 253

(M) The surface location of a new well or a new tank battery 254
of a well shall not be within ~~fifty~~ one thousand feet of a 255
railroad track or of the traveled portion of a public street, 256
road, or highway. This division applies regardless of whether the 257
public street, road, or highway has become part of the drilling 258
unit of the well pursuant to a mandatory pooling order issued 259
under section 1509.27 of the Revised Code. 260

(N) A new oil tank shall not be within three feet of another 261
oil tank. 262

(O) The surface location of a mechanical separator shall not 263
be within any of the following: 264

(1) Fifty feet of a well; 265

(2) Ten feet of an oil tank; 266

(3) One ~~hundred~~ thousand feet of an existing inhabited 267
structure. 268

(P) A vessel that is equipped in such a manner that the 269
contents of the vessel may be heated shall not be within any of 270
the following: 271

(1) Fifty feet of an oil production tank;	272
(2) Fifty feet of a well;	273
(3) One hundred <u>thousand</u> feet of an existing inhabited structure;	274 275
(4) If the contents of the vessel are heated by a direct fire heater, fifty feet of a mechanical separator.	276 277
<u>Sec. 1509.39. This chapter and rules adopted under it shall not be construed to prevent a municipal corporation, county, or township from enacting and enforcing health and safety standards for the drilling and exploration for oil and gas, provided that those standards are not less restrictive than this chapter and rules adopted under it. A county or township shall not adopt or enforce any ordinances, resolutions, rules, or requirements relative to the minimum acreage requirements for drilling units; minimum distances from which a new well or related production facilities may be drilled or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, or other facilities or features specified in section 1509.021 or 1509.23 of the Revised Code; or the restoration or plugging of an oil or gas well. A county or township shall not require any permit or license for the drilling, operation, production, plugging, or abandonment of any oil or gas well or any fee, bond, other security, or insurance for any activity associated with the drilling, operation, production, plugging, or abandonment of a well, except for the permit provided for in section 4513.34 of the Revised Code and any bond or other security associated with it.</u>	278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298
Section 2. That existing sections 1509.02 and 1509.021 of the Revised Code are hereby repealed.	299 300