

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S2/12/07 S3/5/07

A Bill

SENATE BILL 206

5 By: Senator G. Jeffress
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For An Act To Be Entitled

9 AN ACT TO REGULATE OIL PRODUCTION; TO LIMIT
10 COMPENSATION FOR SPILL DAMAGES TO THE SURFACE
11 ESTATE; AND FOR OTHER PURPOSES.
12

Subtitle

13 TO REGULATE OIL PRODUCTION AND TO LIMIT
14 COMPENSATION FOR SPILL DAMAGES TO THE
15 SURFACE ESTATE.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 15, Chapter 72, Subchapter 2 is amended
22 to add an additional section to read as follows:

23 15-72-219. Compensation of surface owners and surface tenants for
24 damages – Restoration of land.

25 (a) A surface owner or surface tenant is entitled to reasonable
26 compensation where a spill of crude oil or produced water has occurred and
27 has caused damages to real property, growing crops, trees, shrubs, fences,
28 roads, structures, improvements, livestock, personal property or measurable
29 damage to the productive capacity of the soil.

30 (b) In addition to any compensation or damages paid by the operator
31 under subsection (a) of this section, the operator shall restore the damaged
32 land in accordance with all applicable rules and regulations of the:

33 (1) Arkansas Department of Environmental Quality; or

34 (2) Oil and Gas Commission.

35 (c) Any rules or regulations adopted by the Arkansas Department of
36 Environmental Quality or the Oil and Gas Commission pertaining to spills of



1 crude oil or produced water shall:

2 (1) Provide, as nearly as practicable, for remediation of any
3 spill of crude oil or produced water to the condition of the real property
4 before the spill; and

5 (2) Specify a reasonable time frame for commencing and
6 completing remediation of any spill of crude oil or produced water to the
7 condition of the real property before the spill.

8 (d) If the party responsible for damage to real property caused by a
9 spill of crude oil or produced water fails to restore the real property in
10 accordance with applicable rules and regulations, then the surface owner or
11 surface tenant may bring an action for restoration or remediation:

12 (1) In that action, if the surface owner or surface tenant
13 proves by a preponderance of the evidence that the party responsible for the
14 damage has failed to restore and remediate the real property, then the
15 surface owner or surface tenant is entitled to an order requiring restoration
16 or remediation to appropriate standards of the applicable agency; and

17 (2) In addition to the relief provided in subdivision (d)(1) of
18 this section, the surface owner or surface tenant may be allowed a reasonable
19 attorney's fee together with costs associated with maintaining an action for
20 restoration or remediation.

21 (e) The provisions of this act shall only take effect upon the final
22 adoption of rules and regulations governing the remediation of spills of
23 crude oil or produced water and are applicable to spills of crude oil and
24 produced water that occur after the effective date thereof.

25 (f) Nothing contained herein is intended to limit or restrict the
26 rights of any surface owner or surface tenant to maintain a cause of action
27 for any damage to real property that is not addressed by the rules and
28 regulations adopted by the Arkansas Department of Environmental Quality or
29 the Oil and Gas Commission pertaining to spills of crude oil or produced
30 water.

31 (g) Nothing contained herein shall alter, affect or modify the terms
32 of any oil lease pertaining to restoration or remediation of damaged real
33 property that are more stringent than the provisions of this section.

34 (h) The provisions of this act are remedial in nature.

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36 /s/ G. Jeffress