

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 07-0503.03 Thomas Morris

HOUSE BILL 07-1298

HOUSE SPONSORSHIP

Gibbs,

SENATE SPONSORSHIP

Tochtrop,

House Committees

Agriculture, Livestock, & Natural Resources
Appropriations

Senate Committees

Agriculture, Natural Resources & Energy
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE CONSERVATION OF WILDLIFE HABITAT IN**
102 **CONNECTION WITH THE DEVELOPMENT OF OIL AND GAS, AND**
103 **MAKING AN APPROPRIATION THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires the Colorado oil and gas conservation commission (commission) to administer the oil and gas conservation law so as to minimize adverse impacts to wildlife resources affected by oil and gas operations. Directs the commission to:

Consult with the wildlife commission and division of wildlife on decision-making that impacts wildlife

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
March 28, 2007

HOUSE
Amended 2nd Reading
March 26, 2007

resources;
Implement, to the maximum extent practicable, best management practices and other reasonable measures to conserve wildlife resources; and
Promulgate rules by July 1, 2008, in consultation with the wildlife commission, to establish standards for minimizing adverse impacts to wildlife resources affected by oil and gas operations and to ensure the proper reclamation of wildlife habitat during and following such operations. Specifies elements to be addressed in the rules.

Makes a legislative declaration.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 34-60-102 (1), Colorado Revised Statutes, is
3 amended to read:

4 **34-60-102. Legislative declaration.** (1) (a) It is declared to be
5 in the public interest to:

6 (I) Foster, encourage, and promote the development, production,
7 and utilization of the natural resources of oil and gas in the state of
8 Colorado in a manner consistent with protection of public health, safety,
9 and welfare; to

10 (II) Protect the public and private interests against the evils of
11 waste in the production and utilization of oil and gas by prohibiting
12 waste; to

13 (III) Safeguard, protect, and enforce the coequal and correlative
14 rights of owners and producers in a common source or pool of oil and gas
15 to the end that each such owner and producer in a common pool or source
16 of supply of oil and gas may obtain a just and equitable share of
17 production therefrom; AND

18 (IV) PLAN AND MANAGE OIL AND GAS OPERATIONS IN A MANNER
19 THAT BALANCES DEVELOPMENT WITH WILDLIFE CONSERVATION IN

1 RECOGNITION OF THE STATE'S OBLIGATION TO PROTECT WILDLIFE
2 RESOURCES AND THE HUNTING, FISHING, AND RECREATION TRADITIONS
3 THEY SUPPORT, WHICH ARE AN IMPORTANT PART OF COLORADO'S
4 ECONOMY AND CULTURE. PURSUANT TO SECTION 33-1-101, C.R.S., IT IS
5 THE POLICY OF THE STATE OF COLORADO THAT WILDLIFE AND THEIR
6 ENVIRONMENT ARE TO BE PROTECTED, PRESERVED, ENHANCED, AND
7 MANAGED FOR THE USE, BENEFIT, AND ENJOYMENT OF THE PEOPLE OF THIS
8 STATE AND ITS VISITORS.

9 (b) It is not the intent nor the purpose of this article to require or
10 permit the proration or distribution of the production of oil and gas among
11 the fields and pools of Colorado on the basis of market demand. It is the
12 intent and purpose of this article to permit each oil and gas pool in
13 Colorado to produce up to its maximum efficient rate of production,
14 subject to the prohibition of waste, and subject further to the enforcement
15 and protection of the coequal and correlative rights of the owners and
16 producers of a common source of oil and gas, so that each common owner
17 and producer may obtain a just and equitable share of production
18 therefrom.

19 **SECTION 2.** 34-60-103, Colorado Revised Statutes, is amended
20 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
21 read:

22 **34-60-103. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (4.3) "DIVISION OF WILDLIFE" MEANS THE DIVISION OF WILDLIFE
25 IDENTIFIED IN ARTICLE 1 OF TITLE 33, C.R.S.

26 (5.5) "MINIMIZE ADVERSE IMPACTS" MEANS TO, WHEREVER
27 REASONABLY PRACTICABLE:

1 (a) AVOID ADVERSE IMPACTS FROM OIL AND GAS OPERATIONS ON
2 WILDLIFE RESOURCES;

3 (b) MINIMIZE THE EXTENT AND SEVERITY OF THOSE IMPACTS THAT
4 CANNOT BE AVOIDED;

5 (c) MITIGATE THE EFFECTS OF UNAVOIDABLE REMAINING IMPACTS;
6 AND

7 (d) TAKE INTO CONSIDERATION COST-EFFECTIVENESS AND
8 TECHNICAL FEASIBILITY WITH REGARD TO ACTIONS AND DECISIONS TAKEN
9 TO MINIMIZE ADVERSE IMPACTS TO WILDLIFE RESOURCES.

10 (14) "WILDLIFE COMMISSION" MEANS THE WILDLIFE COMMISSION
11 CREATED IN SECTION 33-1-103, C.R.S.

12 (15) "WILDLIFE RESOURCES" MEANS FISH, WILDLIFE, AND THEIR
13 AQUATIC AND TERRESTRIAL HABITATS.

14 **SECTION 3.** Article 60 of title 34, Colorado Revised Statutes, is
15 amended BY THE ADDITION OF A NEW SECTION to read:

16 **34-60-127. Habitat stewardship - rules.** (1) THIS SECTION
17 SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO HABITAT
18 STEWARDSHIP ACT OF 2007".

19 (2) THE COMMISSION SHALL ADMINISTER THIS ARTICLE SO AS TO
20 MINIMIZE ADVERSE IMPACTS TO WILDLIFE RESOURCES AFFECTED BY OIL
21 AND GAS OPERATIONS.

22 (3) IN ORDER TO MINIMIZE ADVERSE IMPACTS TO WILDLIFE
23 RESOURCES, THE COMMISSION SHALL:

24 (a) ESTABLISH A TIMELY AND EFFICIENT PROCEDURE FOR
25 CONSULTATION WITH THE WILDLIFE COMMISSION AND DIVISION OF
26 WILDLIFE ON DECISION-MAKING THAT IMPACTS WILDLIFE RESOURCES;

27 (b) PROVIDE FOR COMMISSION CONSULTATION AND CONSENT OF

1 THE AFFECTED SURFACE OWNER, OR THE SURFACE OWNER'S APPOINTED
2 TENANT, ON PERMIT-SPECIFIC CONDITIONS FOR WILDLIFE HABITAT
3 PROTECTION. SUCH CONDITIONS SHALL BE DISCONTINUED WHEN FINAL
4 RECLAMATION HAS OCCURRED.

5 (c) IMPLEMENT, WHENEVER REASONABLY PRACTICABLE, BEST
6 MANAGEMENT PRACTICES AND OTHER REASONABLE MEASURES TO
7 CONSERVE WILDLIFE RESOURCES;

8 (d) PROMULGATE RULES BY JULY 1, 2008, IN CONSULTATION WITH
9 THE WILDLIFE COMMISSION, TO ESTABLISH STANDARDS FOR MINIMIZING
10 ADVERSE IMPACTS TO WILDLIFE RESOURCES AFFECTED BY OIL AND GAS
11 OPERATIONS AND TO ENSURE THE PROPER RECLAMATION OF WILDLIFE
12 HABITAT DURING AND FOLLOWING SUCH OPERATIONS. AT A MINIMUM, THE
13 RULES SHALL ADDRESS:

14 (I) DEVELOPING A TIMELY AND EFFICIENT CONSULTATION PROCESS
15 WITH THE DIVISION OF WILDLIFE GOVERNING NOTIFICATION AND
16 CONSULTATION ON MINIMIZING ADVERSE IMPACTS, AND OTHER ISSUES
17 RELATING TO WILDLIFE RESOURCES;

18 (II) ENCOURAGING OPERATORS TO UTILIZE COMPREHENSIVE
19 DRILLING PLANS AND GEOGRAPHIC AREA ANALYSIS STRATEGIES TO
20 PROVIDE FOR ORDERLY DEVELOPMENT OF OIL AND GAS FIELDS;

21 (III) MINIMIZING SURFACE DISTURBANCE AND FRAGMENTATION IN
22 IMPORTANT WILDLIFE HABITAT BY INCORPORATING APPROPRIATE
23 BEST MANAGEMENT PRACTICES:

24 (A) IN ORDERS OR RULES ESTABLISHING DRILLING UNITS OR
25 ALLOWING THE DRILLING OF ADDITIONAL WELLS IN DRILLING UNITS
26 PURSUANT TO SECTION 34-60-116;

27 (B) IN ORDERS APPROVING AGREEMENTS FOR DEVELOPMENT OR

1 UNIT OPERATIONS PURSUANT TO SECTION 34-60-118; AND

2 (C) ON A SITE-SPECIFIC BASIS, AS CONDITIONS OF APPROVAL TO A
3 PERMIT TO DRILL PURSUANT TO SECTION 34-60-106 (1) (f).

4 (4) NOTHING IN THIS SECTION SHALL ESTABLISH, ALTER, IMPAIR,
5 OR NEGATE THE AUTHORITY OF LOCAL AND COUNTY GOVERNMENTS TO
6 REGULATE LAND USE RELATED TO OIL AND GAS OPERATIONS.

7 **SECTION 4. Appropriation.** In addition to any other
8 appropriation, there is hereby appropriated, out of any moneys in the oil
9 and gas conservation and environmental response fund created in section
10 34-60-122 (5), Colorado Revised Statutes, not otherwise appropriated, to
11 the department of natural resources, for allocation to the oil and gas
12 conservation commission, for the fiscal year beginning July 1, 2007, the
13 sum of five thousand fifty dollars (\$5,050), or so much thereof as may be
14 necessary, for the implementation of this act.

15 **SECTION 5. Effective date - applicability.** This act shall take
16 effect July 1, 2007, and shall apply to acts of the Colorado oil and gas
17 conservation commission on or after said date.

18 **SECTION 6. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.