

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 526

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO OIL AND GAS; AMENDING SECTION 47-325, IDAHO CODE, AS AMENDED IN SECTION 3 OF HOUSE BILL NO. 463, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO PROVIDE THAT CERTAIN VIOLATIONS MAY BE PUNISHABLE BY OTHER LIKE CIVIL PENALTIES AS DETERMINED BY THE OIL AND GAS CONSERVATION COMMISSION, TO PROVIDE THAT CERTAIN CIVIL PENALTIES SHALL BEGIN TO ACCRUE NO EARLIER THAN THE DATE NOTICE OF VIOLATION AND OPPORTUNITY FOR A HEARING ARE GIVEN AND TO PROVIDE THAT ANY PERSON WHO KNOWINGLY FAILS OR REFUSES TO COMPLY WITH CERTAIN SPECIFIED REQUIREMENTS OR WHO KNOWINGLY INTERFERES WITH THE COMMISSION, ITS AGENTS, DESIGNEES OR EMPLOYEES IN THE EXECUTION OR ON ACCOUNT OF THE EXECUTION OF CERTAIN DUTIES SHALL BE GUILTY OF A MISDEMEANOR AND SUBJECT TO SPECIFIED PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 47-325, Idaho Code, as amended in Section 3 of House Bill No. 463, as enacted by the Second Regular Session of the Sixty-first Idaho Legislature, be, and the same is hereby amended to read as follows:

47-325. POWERS OF COMMISSION -- WITNESSES -- PENALTY. (a) The commission shall have the power to summon witnesses, to administer oaths, and to require the production of records, books, and documents for examination at any hearing or investigation conducted by it.

(b) In case of failure or refusal on the part of any person to comply with a subpoena issued by the commission, or in case of refusal of any witness to testify as to any matter regarding which he may be interrogated, any district court in the state, upon the application of the commission, may issue an attachment for such person and compel him to comply with such subpoena, and to attend before the commission and produce such records, books, and documents for examination, and to give his testimony. Such court shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

(c) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the commission or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each violation and shall be liable for reasonable attorney's fees. Each day the violation continues shall constitute a separate and additional violation, punishable by separate and additional civil penalties in like amount or other like civil penalties as determined by the commission; provided that the civil penalties do not begin to accrue until the date notice of violation and opportunity to be heard are given.

1 (1) Assessment of a civil penalty may be made in conjunction with any
2 other commission administrative action.

3 (2) No civil penalty may be assessed unless the person charged was given
4 notice and opportunity for a hearing pursuant to chapter 52, title 67,
5 Idaho Code, which civil penalty begins to accrue no earlier than the
6 date notice of violation and opportunity for a hearing are given.

7 (3) If the commission is unable to collect such penalty or if any person
8 fails to pay all or a set portion of the civil penalty as determined by
9 the commission, it may recover such amount by action in the appropriate
10 district court.

11 (4) Any person against whom the commission has assessed a civil penalty
12 under the provisions of this section may, within twenty-eight (28) days
13 of the final action by the agency making the assessment, appeal the as-
14 sessment to the district court of the county in which the violation is
15 alleged by the commission to have occurred pursuant to chapter 52, title
16 67, Idaho Code.

17 (5) All civil penalties collected pursuant to this section shall be re-
18 mitted to the oil and gas conservation fund.

19 (d) Whenever it shall appear that any person is violating or threaten-
20 ing to violate any provision of this act or any rule, regulation, or order
21 made hereunder, the commission may bring a civil action in the name of the
22 state against such person in the district court in the county of the resi-
23 dence of the defendant, or in the county of the residence of any defendant, if
24 there be more than one (1) defendant, or in the county where the violation is
25 alleged to have occurred, to restrain such person from continuing such vio-
26 lation or from carrying out the threat of violation. In such suit, the court
27 may grant injunctions, prohibitory and mandatory, including temporary re-
28 straining orders and temporary injunctions. In such suit, the commission
29 may seek damages to recover costs caused by such violation including, but not
30 limited to, costs of well control, spill response and cleanup, restoration
31 of fresh waters, well plugging and abandonment, and reclamation of surface
32 disturbance.

33 (e) Nothing in this act, and no suit by or against the commission, and
34 no violation charged or asserted against any person under any provisions of
35 this act, or any rule, regulation or order issued hereunder, shall impair or
36 abridge or delay any cause of action for damages which any person may have or
37 assert against any person violating any provision of this act, or any rule,
38 regulation, or order issued thereunder. Any person so damaged by the viola-
39 tion may sue for and recover such damages as he otherwise may be entitled to
40 receive. In the event the commission shall fail to bring suit to enjoin any
41 actual or threatened violation of this act, or of any rule, regulation or or-
42 der made hereunder, then any person or party in interest adversely affected
43 and who has, ten (10) days or more prior thereto, notified the commission in
44 writing of such violation or threat thereof and has requested the commission
45 to sue, may, to prevent any or further violation, bring suit for that pur-
46 pose in the district court of any county in which the commission could have
47 brought suit.

48 (f) Any person who knowingly violates any provision of this chapter,
49 or any of the rules promulgated hereunder for carrying out the provisions of
50 this chapter, or who knowingly fails or refuses to comply with any require-

1 ments herein specified, or who knowingly interferes with the commission, its
2 agents, designees or employees in the execution or on account of the execu-
3 tion of its or their duties under this chapter or rules promulgated here-
4 under, shall be guilty of a misdemeanor and upon conviction thereof, shall
5 be fined not more than five thousand dollars (\$5,000) or be imprisoned in a
6 county jail for not more than twelve (12) months, or be subject to both such
7 fine and imprisonment.

8 (g) Nothing in this chapter shall be construed as requiring the com-
9 mission to report minor violations for prosecution when it believes that the
10 public interest will be best served by suitable warnings or other adminis-
11 trative action.