

# VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

## CHAPTER 451

*An Act to amend and reenact §§ 28.2-1208 and 67-300 of the Code of Virginia and to repeal § 67-301 of the Code of Virginia, relating to offshore oil and gas drilling; policy.*

[H 706]

Approved March 25, 2020

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28.2-1208 and 67-300 of the Code of Virginia are amended and reenacted as follows:**

**§ 28.2-1208. Granting easements in, permitting the use of, or leasing the beds of certain waters.**

A. The ~~Marine Resources~~ Commission may, with the approval of the Attorney General and the Governor, grant easements over or under or lease the beds of the waters of the Commonwealth outside of the Baylor Survey. Every easement or lease executed pursuant to this section shall be for a period not to exceed five years, except in the case of offshore renewable energy leases described in clause (ii), in which case the period shall not exceed 30 years, and shall specify the rent and such other terms deemed expedient and proper. Such easements and leases may include the right to renew the same for an additional period not to exceed five years. Any lease that authorizes grantees or lessees to (i) prospect for and take from the bottoms covered thereby, ~~oil, gas, and other~~ specified minerals and mineral substances; or (ii) generate electrical energy from wave or tidal action, currents, offshore winds, or thermal or salinity gradients, and transmit energy from such sources to shore shall require a royalty. Except for offshore renewable energy leases, purchase payment for any easement granted to a public service corporation, certificated telephone company, interstate natural gas company or provider of cable television or other multichannel video programming service shall be \$100 and shall be for a period of 40 years. However, no easement or lease shall in any way affect or interfere with the rights vouchsafed to the people of the Commonwealth concerning fishing, fowling, and the catching and taking of oysters and other shellfish in and from the leased bottoms or the waters above.

B. All easements granted and leases made pursuant to this section shall be executed for, and in the name and on behalf of, the Commonwealth by the Attorney General and shall be countersigned by the Governor.

C. All ~~oil, gas and other minerals~~ *mineral* royalties collected from such easements or leases on and after July 1, 2000, shall be paid into the state treasury to the credit of the Marine Habitat and Waterways Improvement Fund. All royalties collected as a result of the generation or transmission of electrical or compressed air energy from offshore renewable sources including wave or tidal action, currents, offshore winds, and thermal or salinity gradients shall be paid into the state treasury and appropriated to the Virginia Coastal Energy Research Consortium established pursuant to § 67-600.

D. Prior to December 1 of each year, the Commissioner and the Attorney General shall make reports to the General Assembly on all easements and leases executed pursuant to this section during the preceding 12 months.

E. The Commission shall, in cooperation with the Division of Geology and Mineral Resources of the Department of Mines, Minerals and Energy and with the assistance of affected state agencies, departments and institutions, including the Virginia Coastal Energy Research Consortium, maintain a State Subaqueous Minerals and Coastal Energy Management Plan that shall supplement the State Minerals Management Plan set forth in § 2.2-1157 and the Virginia Energy Plan (§ 67-200 et seq.). The State Subaqueous Minerals and Coastal Energy Management Plan shall include provisions for (i) the holding of public hearings, (ii) public advertising for competitive bids or proposals for mineral and renewable energy leasing and extraction activities, (iii) preparation of environmental impact reports to be reviewed by the appropriate agency of the Commonwealth, and (iv) review and approval of leases by the Attorney General and the Governor as required by subsection A. The environmental impact reports shall address, but not be limited to:

1. The environmental impact of the proposed activity;
2. Any adverse environmental effects that cannot be avoided if the proposed activity is undertaken;
3. Measures proposed to minimize the impact of the proposed activity;
4. Any alternative to the proposed activity; and
5. Any irreversible environmental changes which would be involved in the proposed activity.

For the purposes of subdivision 4 of this subsection, the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why alternatives were not considered.

*F. Neither the Commission nor the Department of Mines, Minerals and Energy shall grant any lease, easement, or permit allowing on the beds of any of the coastal waters of the Commonwealth any infrastructure for conveying to shore oil or gas produced from an offshore oil or gas lease in the*

*portion of the Atlantic Ocean identified as the Outer Continental Shelf (OCS) Planning Area by the U.S. Bureau of Ocean Energy Management. For purposes of this section, the term "infrastructure" includes pipelines, gathering systems, processing facilities, and storage facilities.*

**§ 67-300. Offshore wind energy resources.**

A. In recognition of the need for energy independence, it shall be the policy of the Commonwealth to support federal efforts to:

1. Determine the extent of oil and natural gas resources 50 miles or more off the Atlantic shoreline, including appropriate federal funding for such an investigation; and

2. Permit the production and development of oil and natural gas resources 50 miles or more off the Atlantic shoreline taking into account the impact on affected localities, the armed forces of the United States of America, and the mid-Atlantic regional spaceport.

B. The policy of the Commonwealth shall further support the inclusion of the Atlantic Planning Areas in the Minerals Management Service's draft environmental impact statement with respect to oil and natural gas exploration, production, and development 50 miles or more off the Atlantic shoreline.

C. It shall be ~~is~~ the policy of the Commonwealth to support federal efforts to examine the feasibility of offshore wind energy being utilized in an environmentally responsible fashion.

**2. That § 67-301 of the Code of Virginia is repealed.**

**3. That the provisions of subsection F of § 28.2-1208 of the Code of Virginia, as amended by this act, shall not apply to any infrastructure, as defined in subsection F of § 28.2-1208 of the Code of Virginia, as amended by this act, in existence as of the effective date of this act.**