

2018 -- H 7250

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO WATERS AND NAVIGATION -- THE OFFSHORE OIL AND GAS
DRILLING AND EXPLORATION ACTIVITIES CONTROL ACT

Introduced By: Representatives Carson, Ruggiero, Regunberg, Donovan, and Fogarty

Date Introduced: January 19, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 46 of the General Laws entitled "WATERS AND NAVIGATION" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 5.2

4 THE OFFSHORE OIL AND GAS DRILLING AND EXPLORATION ACTIVITIES CONTROL

5 ACT

6 **46-5.2-1. Legislative findings.**

7 The general assembly hereby makes the following findings:

8 (1) The federal government by and through the executive authority of the President has
9 proposed a program to vastly expand offshore drilling, including off the east coast ocean waters
10 of which expansion has the very real potential to significantly damage Rhode Island's coastline
11 and negatively impact the state's coastal resources;

12 (2)The state of Rhode Island, nicknamed the Ocean State, wraps around Narragansett Bay
13 and encompasses one of New England's deepwater ports;

14 (3) Rhode Island's waterways and coastline are critically linked to the health of its
15 economy, and its communities, businesses, and industries are dependent upon the preservation
16 and protection of its ocean and coast;

17 (4) Offshore oil and gas drilling and exploration places the state's coastal communities at
18 economic and ecological risk from oil spills and the pollution brought by routine drilling

1 operations and onshore industrialization, and threatens the quality of life and livelihoods of
2 Rhode Island citizens and important industries, such as tourism and recreation, commercial and
3 recreational fishing, and small businesses that rely on a clean and healthy ocean and beaches;

4 (5) Offshore drilling usually requires construction of significant onshore infrastructure,
5 such as pipelines or refineries, which would harm the character of Rhode Island's coastline and
6 could exacerbate wetlands loss, storm surge and sea level rise impacts;

7 (6) The harmful impacts from offshore oil and gas drilling and exploration anywhere
8 along the Atlantic ocean coastline may extend far beyond immediately surrounding areas and
9 severely impact communities that rely on the robust economy of the marine industry, the
10 commercial fishing and seafood industry with total sales of one hundred fifty million four
11 hundred thousand dollars (\$150,400,000), total income of one million six hundred forty thousand
12 dollars (\$1,640,000), and total employment of approximately five thousand (5,000), and the travel
13 and tourism industry, resulting in a total economic impact of two billion three hundred seventy
14 million dollars (\$2,370,000,000) (five percent (5%) of RI gross state product), more than forty-
15 two thousand (42,000) jobs (nine and three-tenths percent (9.3%) of total employment) and
16 tourism generating nine hundred thirty million dollars (\$930,000,000) in federal, state and local
17 government taxes (making up eight and four-tenths percent (8.4%) of Rhode Island state
18 revenue);

19 (7) Offshore drilling and exploration perpetuates ties to dirty carbon pollution and
20 contributes to climate change, the resulting sea level rise and extreme weather;

21 (8) The federal government has expressed interest in opening the Atlantic Ocean to
22 offshore oil and gas drilling and exploration, including the use of seismic airguns, which fire
23 intense blasts of compressed air that rank just behind military explosives as the loudest source of
24 noise in the ocean, every ten (10) to twelve (12) seconds, twenty-four (24) hours a day, for
25 months on end;

26 (9) Seismic airgun blasting to explore for oil and gas deposits has been proven to disrupt
27 and displace marine life, such as whales which rely on sound to find food and mate, and can
28 impair the health of many fish and shellfish species, including those of commercial importance
29 like squid, lobster, and scallops; and

30 (10) The general assembly of the state of Rhode Island hereby finds that offshore oil and
31 gas drilling and exploration unnecessarily risks the state's economic and ecological health and
32 hereby enacts legislation which controls within the waters of the state any impacts on the citizens
33 of Rhode Island that may result from oil and gas development and exploration offshore.

34 **46-5.2-2. Short title.**

1 This act shall be known and may be cited as "The Offshore Oil and Gas Drilling and
2 Exploration Activities Control Act."

3 **46-5.2-3. Prohibition against construction of gas and oil storage facilities and**
4 **transmission pipelines.**

5 (a) No individual, trust, firm, joint stock company, corporation (including a quasi-
6 government corporation), municipality, municipal or state agency, nonprofit agency or country
7 shall construct any pipelines, piers, wharves or other infrastructure passing through state waters
8 for the purpose of transporting any oil or gas generated by any offshore drilling program into this
9 state.

10 (b) Similarly, none of the entities set forth in subsection (a) of this section, shall construct
11 onshore oil or gas terminals, pipelines and other oil or gas equipment in this state relating to any
12 offshore drilling program.

13 **46-5.2-4. Prohibition against offshore oil and gas drilling.**

14 None of the entities set forth in § 46-5.2-3(a) shall engage in any drilling or exploration
15 activities relating to discovery of oil and gas within the waters of the state up to three (3) miles
16 distance from the shores of the state or any of its islands.

17 **46-5.2-5. Powers and duties of the director.**

18 (a) In addition to the other powers granted the director of the department of
19 environmental management, the director shall have and may exercise these powers and duties:

20 (1) To exercise general supervision of the administration and enforcement of this chapter
21 and all rules and regulations and orders promulgated hereunder;

22 (2) To promulgate rules and regulations for the assessment of penalties and recovery of
23 costs and of damages as set forth in this chapter; and for any other procedures necessary for the
24 implementation of this chapter; and

25 (3) To exercise all incidental powers necessary to carry out the purposes of this chapter;

26 (b) Nothing in this chapter shall be construed to abridge the powers and duties of the
27 director over water pollution, including the discharge of oil, as established in this title, or in
28 chapter 17.1 of title 42, or in title 23.

29 **46-5.2-6. Damages.**

30 (a) In addition to penalties established in this chapter, any person who violates or causes
31 or permits to be violated a provision of this chapter or rule, regulation, or order pursuant thereto,
32 shall be strictly liable to the state for these costs and expenses:

33 (1) Compensation for any adverse environmental effects caused by the violation, which
34 the court shall determine according to the toxicity, degradability, and dispersal characteristics of

1 the substance discharged, the nature and sensitivity of the receiving environment, and the degree
2 to which the discharge degrades existing environmental quality;

3 (2) Costs that the state has incurred in detection, investigation, and correction of the
4 violation; and

5 (3) The economic advantage that the person realized in not complying with the
6 requirements and provisions of this chapter.

7 (b) Liability for damages under subsection (a) of this section includes an amount equal to
8 the sum of money required to restock injured land or waters, to replenish a damaged or degraded
9 resource, or to otherwise restore the environment of the state to its condition before the injury.

10 (c) Nothing in this section shall preclude the state or any private party from seeking
11 additional damages and/or penalties in a civil action brought pursuant to any other provision of
12 the general laws or pursuant to common law, or to limit the damages which can be awarded in
13 such an action.

14 **46-5.2-7. Proceedings for enforcement.**

15 The superior court shall have the jurisdiction to enforce the provisions of this chapter and
16 any rule, regulation, or order issued pursuant thereto. Proceedings for enforcement may be
17 instituted by the attorney general or the director, and in any proceedings in which the attorney
18 general or the director seeks injunctive relief, it shall not be necessary to show that without the
19 relief, the injury that will result will be irreparable or that the remedy at law is inadequate.
20 Proceedings provided in this section shall be in addition to other administrative or judicial
21 proceedings authorized by this chapter or pursuant to any other provision of the general laws or
22 common law.

23 **46-5.2-8. Criminal penalties.**

24 (a) Except as provided in subsection (c) of this section, a person who willfully or with
25 criminal negligence violates a provision of this chapter, or of a rule or regulation promulgated
26 under this chapter or order of the director issued under this chapter shall be punished by a fine of
27 not more than twenty-five thousand dollars (\$25,000), or by imprisonment for not more than five
28 (5) years, or by both such a fine and imprisonment; and every person shall be deemed guilty of a
29 separate and distinct offense for each day during which the violations shall be repeated or
30 continued.

31 (b) Any person who knowingly makes any false statement, representation, or certification
32 in any application, record, report, plan, or other document filed or required to be maintained
33 under this chapter or by any permit, rule, regulation, or order issued under this chapter or who
34 falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method

1 required to be maintained under this chapter, shall, upon conviction, be punished by a fine of not
2 more than twenty-five thousand dollars (\$25,000) for each instance of violation, or by
3 imprisonment for not more than five (5) years, or by both a fine and imprisonment.

4 **46-5.2-9. Emergency powers.**

5 The director shall have all emergency powers and procedures set forth in § 46-12-10.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO WATERS AND NAVIGATION -- THE OFFSHORE OIL AND GAS
DRILLING AND EXPLORATION ACTIVITIES CONTROL ACT

1 This act would regulate activities related to any offshore oil and gas drilling, including
2 exploration in federal waters of the Atlantic Ocean in an effort to minimize any adverse effects
3 resulting therefrom within the territorial waters and coastline of the state.

4 This act would take effect upon passage.

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