

OPINION
53-89

April 22, 1953 (OPINION)

OIL AND GAS

RE: Broker's License

We have your request of April 21, 1953, for an opinion as to the application of Senate Bill No. 35 of the 1953 Legislative Assembly to the following questions.

A certain party has asked you if he comes within the provisions of said Senate Bill No. 35 under the following facts:

"I might say that I have bought some minerals and if I get a right price I will sell them or rather part of them. Also quite a few people come in and ask where they can sell minerals. I sometimes find them buyer but I do not purchase nor do they go thru my name."

Your second question is: How would this law apply to the regularly employed men of major oil companies? It appears that such men are usually employed on a salary basis by the major oil companies and they purchase oil and gas leases, mineral rights, royalties and other interests in oil and gas properties for the companies by which they are employed, but they do not, it seems to me, buy such properties for resale.

Section 1 of Senate Bill No. 35, when it is analyzed, defines an "oil and gas broker" as "any person" * * * engaged in the business of buying for resale * * * whether for himself or as agent of others."

It will be noted that the bill specifically refers to persons, first, who are in the business of buying oil or gas leases; second, it must be for resale. If they are in such business "for resale", they come within the provisions of Senate Bill No. 35, whether they buy for themselves or as agents or employees of others.

Answering your first inquiry, it is our opinion that the answer to that question is that such a person who buys mineral rights or leases primarily for himself, but who is not in the business of "buying for resale" need not comply with the provisions of Senate Bill No. 35. The fact that such person might at a later date sell either part or all of such rights does not constitute such person as a broker.

The second part of that first question must be answered by qualifying the same to the extent that if this party, in directing others to those who may sell and from whom they may buy, receives any remuneration for such service, he would then be classified as an agent or as a broker. If he merely gives directions as to where they may buy mineral rights, he would not come within the provisions of Senate Bill No. 35.

Answering your further questions as to the employees of major oil

companies, it is the opinion of this office that such employees are not brokers and do not come within the provisions of Senate Bill No. 35, provided that such major oil company does not buy for resale, but buys for development by this company itself. If, however, such major oil company buys minerals, gas or oil leases for the purpose of resale, the fact that such employee is paid as salary does not remove such employee from the provisions of Senate Bill No. 35. He must then apply for a license but his employer may furnish the bond provided that such employee has the credentials to indicate that he is a regular employee of such company.

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