

Calendar No. 120

110TH CONGRESS
2D SESSION**S. 3646**

To authorize and expedite lease sales within the outer Continental Shelf,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27 (legislative day, SEPTEMBER 17), 2008

Mr. DEMINT introduced the following bill; which was read the first time

NOVEMBER 18, 2008

Read the second time and placed on the calendar under authority of the order
of the Senate of November 17 (legislative day, September 17), 2008

A BILL

To authorize and expedite lease sales within the outer
Continental Shelf, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drill Now Act of
5 2008”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) OPENED AREA.—The term “opened area”
 2 means any area of the outer Continental shelf
 3 that—

4 (A) before the date of enactment of this
 5 Act, was closed to oil or gas leasing; and

6 (B) as of the date of enactment of this
 7 Act, is made available for leasing pursuant to
 8 section 3(a) and the amendments made by that
 9 section.

10 (2) SECRETARY.—The term “Secretary” means
 11 the Secretary of the Interior.

12 **SEC. 3. LEASING ON OUTER CONTINENTAL SHELF.**

13 (a) OPENING NEW OFFSHORE AREAS TO OIL AND
 14 GAS DEVELOPMENT.—

15 (1) IN GENERAL.—Sections 104 and 105 of the
 16 Department of the Interior, Environment, and Re-
 17 lated Agencies Appropriations Act, 2008 (Public
 18 Law 110–161; 121 Stat. 2118) are repealed.

19 (2) EASTERN GULF OF MEXICO.—Section 104
 20 of the Gulf of Mexico Energy Security Act of 2006
 21 (43 U.S.C. 1331 note; Public Law 109–432) is
 22 amended to read as follows:

23 **“SEC. 104. DESIGNATION OF NATIONAL DEFENSE AREAS.**

24 “The United States reserves the right to designate
 25 by and through the Secretary of Defense, with the ap-

1 proval of the President, national defense areas on the
2 outer Continental Shelf pursuant to section 12(d) of the
3 Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).”.

4 (b) EXPEDITED LEASING.—The Secretary may con-
5 duct leasing, preleasing, and related activities for any
6 opened area before June 30, 2012, notwithstanding the
7 omission of the opened area from the Outer Continental
8 Shelf leasing program developed pursuant to section 18
9 of the Outer Continental Shelf Lands Act (43 U.S.C.
10 1344) for the period ending June 30, 2012.

11 (c) NO SURFACE OCCUPANCY.—Any lease issued by
12 the Secretary pursuant to section 8 of the Outer Conti-
13 nental Shelf Lands Act (43 U.S.C. 1337) for any sub-
14 merged land of the outer Continental Shelf in any opened
15 area lying within 25 miles of the coastline of any State
16 shall include a provision prohibiting permanent surface oc-
17 cupancy under that lease within that 25-mile area.

18 (d) DISPOSITION OF REVENUES FROM OUTER CON-
19 TINENTAL SHELF AREAS OPENED UNDER THIS SEC-
20 TION.—

21 (1) IN GENERAL.—Notwithstanding section 9 of
22 the Outer Continental Shelf Lands Act (43 U.S.C.
23 1338) and subject to the other provisions of this sec-
24 tion, the Secretary of the Treasury shall deposit
25 rentals, royalties, bonus bids, and other sums due

1 and payable from any leased tract within an opened
 2 area, and from all other leased tracts in any other
 3 area for which leases are entered into after the date
 4 of enactment of this Act, as follows:

5 (A) 50 percent in the general fund of the
 6 Treasury.

7 (B) 50 in a special account in the Treas-
 8 ury, for allocation by the Secretary among the
 9 States in accordance with paragraph (2).

10 (2) ALLOCATION.—

11 (A) IN GENERAL.—For fiscal year 2009
 12 and each fiscal year thereafter, the amount
 13 made available under paragraph (1)(B) shall be
 14 allocated among States in amounts (based on a
 15 formula established by the Secretary by regula-
 16 tion) that are inversely proportional to the re-
 17 spective distances between—

18 (i) the point on the coastline of each
 19 State that is closest to the geographical
 20 center of the applicable leased tract; and

21 (ii) the geographical center of the
 22 leased tract.

23 (B) PROHIBITION ON RECEIPT OF
 24 AMOUNTS.—No State shall receive any amount
 25 under this paragraph from a leased tract if the

1 geographical center of that leased tract is more
2 than 200 nautical miles from the coastline of
3 that State.

4 (3) ADMINISTRATION.—Amounts made avail-
5 able under paragraph (1)(B) shall—

6 (A) be made available, without further ap-
7 propriation, in accordance with this section;

8 (B) remain available until expended; and

9 (C) be in addition to any amounts appro-
10 priated under—

11 (i) the Outer Continental Shelf Lands
12 Act (43 U.S.C. 1331 et seq.);

13 (ii) the Land and Water Conservation
14 Fund Act of 1965 (16 U.S.C. 4601–4 et
15 seq.); or

16 (iii) any other provision of law.

17 (e) JUDICIAL REVIEW.—

18 (1) FILING OF COMPLAINT.—

19 (A) DEADLINE.—Subject to subparagraph
20 (B), any complaint seeking judicial review of
21 any provision of this section or any action of
22 the Secretary under this section or relating to
23 areas opened under the amendments made by
24 subsection (a) shall be filed in any appropriate
25 United States district court—

1 (i) except as provided in clause (ii),
2 not later than the end of the 90-day period
3 beginning on the date of the action being
4 challenged; or

5 (ii) in the case of a complaint based
6 solely on grounds arising after that period,
7 not later than 90 days after the date on
8 which the complainant knew or reasonably
9 should have known of the grounds for the
10 complaint.

11 (B) VENUE.—Any complaint seeking judi-
12 cial review of an action of the Secretary under
13 this section or relating to areas opened under
14 subsection (a) may be filed only in the United
15 States Court of Appeals for the District of Co-
16 lumbia.

17 (C) LIMITATION ON SCOPE OF CERTAIN
18 REVIEW.—

19 (i) IN GENERAL.—Judicial review of a
20 decision of the Secretary to conduct a lease
21 sale for areas opened under the amend-
22 ments made by subsection (a), including
23 the environmental analysis relating to such
24 a decision, shall be—

1 (I) limited to whether the Sec-
 2 retary has complied with the terms of
 3 this section and the Outer Continental
 4 Shelf Lands Act (43 U.S.C. 1331 et
 5 seq.); and

6 (II) based upon the administra-
 7 tive record of that decision.

8 (ii) PRESUMPTION.—In any judicial
 9 review described in clause (i), the identi-
 10 fication by the Secretary of a preferred
 11 course of action to enable leasing to pro-
 12 ceed, and the analysis of the Secretary of
 13 any environmental effects of that course of
 14 action, shall be presumed to be correct un-
 15 less shown otherwise by clear and con-
 16 vincing evidence to the contrary.

17 (2) LIMITATION ON OTHER REVIEW.—Actions
 18 of the Secretary with respect to which review could
 19 have been obtained under this section shall not be
 20 subject to judicial review in any civil or criminal pro-
 21 ceeding for enforcement.

22 (f) REPEAL OF RESTRICTION ON OIL SHALE LEAS-
 23 ING.—Section 433 of the Department of the Interior, En-
 24 vironment, and Related Agencies Appropriations Act,
 25 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

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