

HB3386



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3386

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

See Index

Amends the Hydraulic Fracturing Regulatory Act. Provides that no person shall conduct high volume horizontal hydraulic fracturing operations in Illinois and that any high volume horizontal hydraulic fracturing permit issued before the effective date of the amendatory Act is revoked. Repeals the other substantive provisions of the Act. Repeals the Illinois Hydraulic Fracturing Tax Act and the State Finance Act provisions listing the Oil and Gas Resource Management Fund as a special fund.

LRB101 09810 JRG 54912 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 (30 ILCS 105/5.832 rep.)

5 Section 5. The State Finance Act is amended by repealing
6 Section 5.832.

7 (35 ILCS 450/Act rep.)

8 Section 10. The Illinois Hydraulic Fracturing Tax Act is
9 repealed.

10 Section 15. The Hydraulic Fracturing Regulatory Act is
11 amended by changing Section 1-5 as follows:

12 (225 ILCS 732/1-5)

13 Sec. 1-5. Moratorium Definitions. No person shall conduct
14 high volume horizontal hydraulic fracturing operations in
15 Illinois. Any high volume horizontal hydraulic fracturing
16 permit issued before the effective date of this amendatory Act
17 of the 101st General Assembly is revoked.

18 As used in ~~For the purposes of this Act, unless the context~~
19 ~~otherwise requires:~~

20 ~~"Agency" means the Illinois Environmental Protection~~
21 ~~Agency.~~

1 ~~"Aquatic life" means all fish, reptiles, amphibians,~~
2 ~~crayfish, and mussels.~~

3 ~~"Aquifer" means saturated (with groundwater) soils and~~
4 ~~geologic materials that are sufficiently permeable to readily~~
5 ~~yield economically useful quantities (at least 70 gallons per~~
6 ~~minute) of fresh water to wells, springs, or streams under~~
7 ~~ordinary hydraulic gradients. "Aquifer" is limited to aquifers~~
8 ~~identified as major sand and gravel aquifers in the Illinois~~
9 ~~State Water Survey's Illinois Community Water Supply Wells map,~~
10 ~~Map Series 2006-01.~~

11 ~~"Base fluid" means the continuous phase fluid type,~~
12 ~~including, but not limited to, water used in a high volume~~
13 ~~horizontal hydraulic fracturing operation.~~

14 ~~"BTEX" means benzene, toluene, ethylbenzene, and xylene.~~

15 ~~"Chemical" means any element, chemical compound, or~~
16 ~~mixture of elements or compounds that has its own specific name~~
17 ~~or identity, such as a Chemical Abstracts Service number,~~
18 ~~regardless of whether the chemical is subject to the~~
19 ~~requirements of paragraph (2) of subsection (g) of 29 Code of~~
20 ~~Federal Regulations §1910.1200.~~

21 ~~"Chemical Abstracts Service" means the division of the~~
22 ~~American Chemical Society that is the globally recognized~~
23 ~~authority for information on chemical substances.~~

24 ~~"Chemical Abstracts Service number" or "CAS number" means~~
25 ~~the unique identification number assigned to a chemical by the~~
26 ~~Chemical Abstracts Service.~~

1 ~~"Completion combustion device" means any ignition device,~~
2 ~~installed horizontally or vertically, used in exploration and~~
3 ~~production operations to combust otherwise vented emissions.~~

4 ~~"Delineation well" means a well drilled in order to~~
5 ~~determine the boundary of a field or producing reservoir.~~

6 ~~"Department" means the Illinois Department of Natural~~
7 ~~Resources.~~

8 ~~"Diesel" means a substance having any one of the following~~
9 ~~Chemical Abstracts Service Registry numbers: 68334 30 5;~~
10 ~~68476 34 6; 68476 30 2; 68476 31 3; 8008 20 6; or 68410 00 4.~~

11 ~~"Diesel" includes any additional substances regulated by the~~
12 ~~United States Environmental Protection Agency as diesel fuel~~
13 ~~used in hydraulic fracturing activities under the federal Safe~~
14 ~~Drinking Water Act.~~

15 ~~"Director" means the Director of Natural Resources.~~

16 ~~"Enhanced oil recovery operation" means any secondary or~~
17 ~~tertiary recovery method used in an effort to recover~~
18 ~~hydrocarbons from a pool by injection of fluids, gases or other~~
19 ~~substances to maintain, restore, or augment natural reservoir~~
20 ~~energy, or by introducing gases, chemicals, other substances,~~
21 ~~or heat, or by in-situ combustion, or by any combination~~
22 ~~thereof.~~

23 ~~"Flare" means a thermal oxidation system using an open,~~
24 ~~enclosed, or semi-enclosed flame. "Flare" does not include~~
25 ~~completion combustion devices as defined in this Section.~~

26 ~~"Flowback period" means the process of allowing fluids to~~

1 ~~flow from a well following a treatment, either in preparation~~
2 ~~for a subsequent phase of treatment or in preparation for~~
3 ~~cleanup and returning the well to production. "Flowback period"~~
4 ~~begins when the material the hydraulic fracturing fluid returns~~
5 ~~to the surface following hydraulic fracturing or~~
6 ~~re fracturing. "Flowback period" ends with either well shut in~~
7 ~~or when the well is producing continuously to the flow line or~~
8 ~~to a storage vessel for collection, whichever occurs first.~~

9 ~~"Fresh water" means surface and subsurface water in its~~
10 ~~natural state that is suitable for drinking water for human~~
11 ~~consumption, domestic livestock, irrigation, industrial,~~
12 ~~municipal and recreational purposes, that is capable of~~
13 ~~supporting aquatic life, and contains less than 10,000 ppm~~
14 ~~total dissolved solids.~~

15 ~~"Gas" means all natural gas, including casinghead gas, and~~
16 ~~all other natural hydrocarbons not defined as oil.~~

17 ~~"Groundwater" means any water below the land surface that~~
18 ~~is within the saturated zone or geologic materials where the~~
19 ~~fluid pressure in the pore space is equal to or greater than~~
20 ~~atmospheric pressure.~~

21 ~~"Health professional" means a physician, physician~~
22 ~~assistant, nurse practitioner, a registered professional~~
23 ~~nurse, emergency medical technician, or other individual~~
24 ~~appropriately licensed or registered to provide health care~~
25 ~~services.~~

26 ~~"High volume horizontal hydraulic fracturing operations"~~

1 means all procedures used and any and all states of the
2 treatment or operation of any and all horizontal wells by the
3 pressurized application of more than 80,000 gallons of water or
4 mixtures of water, sand, and chemicals, or any combination
5 thereof, or use of more than 80,000 gallons of hydraulic
6 fracturing fluid per treatment stage to initiate or propagate
7 fractures, fissures, or other openings in shale to enhance the
8 ~~stages of a stimulation treatment of a horizontal well as~~
9 ~~defined by this Act by the pressurized application of more than~~
10 ~~80,000 gallons per stage or more than 300,000 gallons total of~~
11 ~~hydraulic fracturing fluid and proppant to initiate or~~
12 ~~propagate fractures in a geologic formation to enhance~~
13 extraction or production of oil or gas.

14 "High volume horizontal hydraulic fracturing permit" means
15 the permit ~~issued by the Department under this Act~~ allowing
16 high volume horizontal hydraulic fracturing operations to
17 occur at a well site.

18 ~~"High volume horizontal hydraulic fracturing treatment"~~
19 ~~shall have the same definition as "High volume horizontal~~
20 ~~hydraulic fracturing operations".~~

21 "Horizontal well" means a well with a wellbore drilled
22 laterally at an angle of at least 80 degrees to the vertical
23 and with a horizontal projection exceeding 100 feet measured
24 from the initial point of penetration into the productive
25 formation through the terminus of the lateral in the same
26 common source of hydrocarbon supply.

1 ~~"Hydraulic fracturing additive" means any chemical~~
2 ~~substance or combination of chemicals, including, but not~~
3 ~~limited to, any chemical or proppant that is added to a base~~
4 ~~fluid for the purposes of preparing a hydraulic fracturing~~
5 ~~fluid for a high volume horizontal hydraulic fracturing~~
6 ~~operation.~~

7 ~~"Hydraulic fracturing flowback" means all hydraulic~~
8 ~~fracturing fluid and other fluids that return to the surface~~
9 ~~after a stage of high volume horizontal hydraulic fracturing~~
10 ~~operations has been completed and prior to the well being~~
11 ~~placed in production.~~

12 "Hydraulic fracturing fluid" means the fluid, including
13 the applicable base fluid and all hydraulic fracturing
14 additives, steam, hot water, sand, or any other substance
15 ~~mixture of the base fluid and all the hydraulic fracturing~~
16 ~~additives,~~ used to perform high volume horizontal hydraulic
17 fracturing.

18 "Shale" means a fine-grained sedimentary rock formed by the
19 consolidation of clay, silt, or mud that is representative of,
20 but not limited to, the New Albany Shale and Maquoketa Shale
21 groups as defined in the Illinois Bulletin 95 Handbook of
22 Stratigraphy.

23 ~~"Hydraulic fracturing string" means any pipe or casing~~
24 ~~string used for the transport of hydraulic fracturing fluids~~
25 ~~during the conduct of the high volume horizontal hydraulic~~
26 ~~fracturing operations.~~

1 ~~"Intake" means a pipe or other means to withdraw raw water~~
2 ~~from a water source.~~

3 ~~"Landowner" means the legal title holder or owner of real~~
4 ~~property and includes an owner of an undivided interest, a life~~
5 ~~tenant, a remainderman, a public or private corporation, a~~
6 ~~trustee under an active trust, and the holder of the beneficial~~
7 ~~interest under a land trust. "Landowner" does not include a~~
8 ~~mortgagee, a trustee under a trust deed in the nature of a~~
9 ~~mortgage, a lien holder, or a lessee.~~

10 ~~"Low pressure well" means a well with reservoir pressure~~
11 ~~and vertical well depth such that 0.445 times the reservoir~~
12 ~~pressure (in psia) minus 0.038 times the vertical well depth~~
13 ~~(in feet) minus 67.578 psia is less than the flow line pressure~~
14 ~~at the sales meter.~~

15 ~~"Nature preserve" shall have the same meaning as provided~~
16 ~~in Section 3.11 of the Illinois Natural Areas Preservation Act.~~

17 ~~"Oil" means natural crude oil or petroleum and other~~
18 ~~hydrocarbons, regardless of gravity, which are produced at the~~
19 ~~well in liquid form by ordinary production methods or by the~~
20 ~~use of an oil and gas separator and which are not the result of~~
21 ~~condensation of gas after it leaves the underground reservoir.~~

22 ~~"Operator" means the individual or entity controlling the~~
23 ~~right to drill or produce a horizontal well in accordance with~~
24 ~~the requirements of the Illinois Oil and Gas Act.~~

25 ~~"Owner" shall have the same meaning as provided in Section~~
26 ~~1 of the Illinois Oil and Gas Act.~~

1 ~~"Perennial stream" means a stream that has continuous flow~~
2 ~~in its stream bed during all of the calendar year.~~

3 ~~"Permit" means a high volume horizontal hydraulic~~
4 ~~fracturing permit.~~

5 ~~"Permittee" means a person holding a high volume horizontal~~
6 ~~hydraulic fracturing permit under this Act.~~

7 ~~"Person" means any individual, partnership,~~
8 ~~co partnership, firm, company, limited liability company,~~
9 ~~corporation, association, joint stock company, trust, estate,~~
10 ~~political subdivision, state agency, or any other legal entity~~
11 ~~or their legal representative, agent, or assigns.~~

12 ~~"Pollution or diminution" means:~~

13 ~~(1) in groundwater, any of the following:~~

14 ~~(A) detection of benzene or any other carcinogen in~~
15 ~~any Class I, Class II, or Class III groundwater;~~

16 ~~(B) detection of any constituent in item (i) of~~
17 ~~subparagraph (A) of paragraph (3) of subsection (a) of~~
18 ~~35 Ill. Adm. Code 620.310 equal to or above the listed~~
19 ~~preventive response criteria in any Class I, Class II,~~
20 ~~or Class III groundwater;~~

21 ~~(C) detection of any constituent in 35 Ill. Adm.~~
22 ~~Code 620.410 (a), (b), (c), (d) or (e) equal to or~~
23 ~~above the listed standard in any Class I, Class II, or~~
24 ~~Class III groundwater;~~

25 ~~(D) detection of any constituent in Class III~~
26 ~~groundwater equal to or above a standard established~~

1 ~~under 35 Ill. Adm. Code 620.260; or~~

2 ~~(E) detection of any constituent in Class I, Class~~
3 ~~II, or Class III groundwater equal to or above a~~
4 ~~cleanup objective listed in 35 Ill. Adm. Code 742.~~

5 ~~(2) in surface water, exceeding any applicable numeric~~
6 ~~or narrative standard in 35 Ill. Adm. Code Part 302 or Part~~
7 ~~304.~~

8 ~~"Produced water" means water, regardless of chloride and~~
9 ~~total dissolved solids content, that is produced in conjunction~~
10 ~~with oil or natural gas production or natural gas storage~~
11 ~~operations, but does not include hydraulic fracturing~~
12 ~~flowback.~~

13 ~~"Proppant" means sand or any natural or man-made material~~
14 ~~that is used during high volume horizontal hydraulic fracturing~~
15 ~~operations to prop open the artificially created or enhanced~~
16 ~~fractures.~~

17 ~~"Public water supply" means all mains, pipes, and~~
18 ~~structures through which water is obtained and distributed to~~
19 ~~the public, including wells and well structures, intakes and~~
20 ~~eribs, pumping stations, treatment plants, reservoirs, and~~
21 ~~storage tanks and appurtenances, collectively or severally,~~
22 ~~actually used or intended for use for the purpose of furnishing~~
23 ~~water for drinking or general domestic use, and which serves at~~
24 ~~least 15 service connections or which regularly serves at least~~
25 ~~25 persons at least 60 days per year.~~

26 ~~"Register of Land and Water Reserves" means the list of~~

1 ~~areas registered in accordance with Section 16 of the Illinois~~
2 ~~Natural Areas Preservation Act and Part 4010 of Title 17 of the~~
3 ~~Illinois Administrative Code.~~

4 ~~"Release" means any spilling, leaking, pumping, pouring,~~
5 ~~emitting, emptying, discharging, injecting, escaping,~~
6 ~~leaching, dumping, or disposing into the environment.~~

7 ~~"Serious violation" means any violation set forth in 62~~
8 ~~Ill. Adm. Code 240.140(e).~~

9 ~~"Service connection" means the opening, including all~~
10 ~~fittings and appurtenances, at the water main through which~~
11 ~~water is supplied to the user.~~

12 ~~"Surface water" means all water that is open to the~~
13 ~~atmosphere and subject to surface runoff.~~

14 ~~"Total water volume" means the total quantity of water from~~
15 ~~all sources used in the high volume horizontal hydraulic~~
16 ~~fracturing operations, including surface water, groundwater,~~
17 ~~produced water, or recycled water.~~

18 ~~"True vertical depth" or "TVD" means the vertical distance~~
19 ~~from a depth in a planned or existing wellbore or well to a~~
20 ~~point at the surface.~~

21 ~~"Water pollution" means any alteration of the physical,~~
22 ~~thermal, chemical, biological, or radioactive properties of~~
23 ~~any waters of the State, or the discharge of any contaminant~~
24 ~~into any water of the State, as will or is likely to create a~~
25 ~~nuisance or render the waters harmful, detrimental, or~~
26 ~~injurious to public health, safety, or welfare, or to domestic,~~

1 ~~commercial, industrial, agricultural, recreational, or other~~
2 ~~legitimate uses, or to livestock, wild animals, birds, or fish~~
3 ~~or other aquatic life.~~

4 ~~"Water source" means (1) any existing water well or~~
5 ~~developed spring used for human or domestic animal consumption,~~
6 ~~or (2) any river, perennial stream, aquifer, natural or~~
7 ~~artificial lake, pond, wetland listed on the Register of Land~~
8 ~~and Water Reserves, or reservoir.~~

9 ~~"Well" means any drill hole required to be permitted under~~
10 ~~the Illinois Oil and Gas Act.~~

11 ~~"Well site" means surface areas, including the well,~~
12 ~~occupied by all equipment or facilities necessary for or~~
13 ~~incidental to high volume horizontal hydraulic fracturing~~
14 ~~operations, drilling, production, or plugging a well.~~

15 ~~"Wildcat well" means a well outside known fields or the~~
16 ~~first well drilled in an oil or gas field where no other oil~~
17 ~~and gas production exists.~~

18 ~~"Wildlife" means any bird or mammal that are by nature wild~~
19 ~~by way of distinction from those that are naturally tame and~~
20 ~~are ordinarily living unconfined in a state of nature without~~
21 ~~the care of man.~~

22 (Source: P.A. 98-22, eff. 6-17-13.)

23 (225 ILCS 732/1-10 rep.)

24 (225 ILCS 732/1-15 rep.)

25 (225 ILCS 732/1-20 rep.)

- 1 (225 ILCS 732/1-25 rep.)
- 2 (225 ILCS 732/1-30 rep.)
- 3 (225 ILCS 732/1-35 rep.)
- 4 (225 ILCS 732/1-40 rep.)
- 5 (225 ILCS 732/1-45 rep.)
- 6 (225 ILCS 732/1-50 rep.)
- 7 (225 ILCS 732/1-53 rep.)
- 8 (225 ILCS 732/1-55 rep.)
- 9 (225 ILCS 732/1-60 rep.)
- 10 (225 ILCS 732/1-65 rep.)
- 11 (225 ILCS 732/1-70 rep.)
- 12 (225 ILCS 732/1-75 rep.)
- 13 (225 ILCS 732/1-77 rep.)
- 14 (225 ILCS 732/1-80 rep.)
- 15 (225 ILCS 732/1-83 rep.)
- 16 (225 ILCS 732/1-85 rep.)
- 17 (225 ILCS 732/1-87 rep.)
- 18 (225 ILCS 732/1-95 rep.)
- 19 (225 ILCS 732/1-96 rep.)
- 20 (225 ILCS 732/1-97 rep.)
- 21 (225 ILCS 732/1-98 rep.)
- 22 (225 ILCS 732/1-99 rep.)
- 23 (225 ILCS 732/1-100 rep.)
- 24 (225 ILCS 732/1-101 rep.)
- 25 (225 ILCS 732/1-102 rep.)
- 26 (225 ILCS 732/1-105 rep.)

1 (225 ILCS 732/1-110 rep.)

2 (225 ILCS 732/1-120 rep.)

3 (225 ILCS 732/1-123 rep.)

4 (225 ILCS 732/1-125 rep.)

5 (225 ILCS 732/1-130 rep.)

6 (225 ILCS 732/1-135 rep.)

7 (225 ILCS 732/1-140 rep.)

8 Section 20. The Hydraulic Fracturing Regulatory Act is
9 amended by repealing Sections 1-10, 1-15, 1-20, 1-25, 1-30,
10 1-35, 1-40, 1-45, 1-50, 1-53, 1-55, 1-60, 1-65, 1-70, 1-75,
11 1-77, 1-80, 1-83, 1-85, 1-87, 1-95, 1-96, 1-97, 1-98, 1-99,
12 1-100, 1-101, 1-102, 1-105, 1-110, 1-120, 1-123, 1-125, 1-130,
13 1-135, and 1-140.

1

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2

Statutes amended in order of appearance

3

30 ILCS 105/5.832 rep.

4

35 ILCS 450/Act rep.

5

225 ILCS 732/1-5

6

225 ILCS 732/1-10 rep.

7

225 ILCS 732/1-15 rep.

8

225 ILCS 732/1-20 rep.

9

225 ILCS 732/1-25 rep.

10

225 ILCS 732/1-30 rep.

11

225 ILCS 732/1-35 rep.

12

225 ILCS 732/1-40 rep.

13

225 ILCS 732/1-45 rep.

14

225 ILCS 732/1-50 rep.

15

225 ILCS 732/1-53 rep.

16

225 ILCS 732/1-55 rep.

17

225 ILCS 732/1-60 rep.

18

225 ILCS 732/1-65 rep.

19

225 ILCS 732/1-70 rep.

20

225 ILCS 732/1-75 rep.

21

225 ILCS 732/1-77 rep.

22

225 ILCS 732/1-80 rep.

23

225 ILCS 732/1-83 rep.

24

225 ILCS 732/1-85 rep.

25

225 ILCS 732/1-87 rep.

- 1 225 ILCS 732/1-95 rep.
- 2 225 ILCS 732/1-96 rep.
- 3 225 ILCS 732/1-97 rep.
- 4 225 ILCS 732/1-98 rep.
- 5 225 ILCS 732/1-99 rep.
- 6 225 ILCS 732/1-100 rep.
- 7 225 ILCS 732/1-101 rep.
- 8 225 ILCS 732/1-102 rep.
- 9 225 ILCS 732/1-105 rep.
- 10 225 ILCS 732/1-110 rep.
- 11 225 ILCS 732/1-120 rep.
- 12 225 ILCS 732/1-123 rep.
- 13 225 ILCS 732/1-125 rep.
- 14 225 ILCS 732/1-130 rep.
- 15 225 ILCS 732/1-135 rep.
- 16 225 ILCS 732/1-140 rep.