



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5853

Introduced 2/16/2012, by Rep. Dave Winters

#### SYNOPSIS AS INTRODUCED:

225 ILCS 725/6.8 new

Amends the Illinois Oil and Gas Act. Creates a new provision concerning the extraction of hydrocarbons from shale using hydraulic fracturing. Provides the Department of Natural Resources shall, by rule, require an operator of a well on which a hydraulic fracturing treatment is performed to (i) complete specified forms that includes the total volume of water used and each chemical ingredient, subject to certain federal requirements, (ii) post the form on a specified website, (iii) submit the form to the Department, and (iv) provide the Department a list of all other chemical ingredients not previously listed. Provides that the Department, shall, by rule, require a service company that performs hydraulic fracturing treatments to (i) provide the operator of the well certain information, (ii) prescribe a process by which an entity may withhold and declare certain information as a trade secret but still comply with the disclosure requirements, (iii) require a person challenging a claim of entitlement to a trade secret to file the challenge by a specified date, (iv) limit the persons who may challenge a claim of entitlement to a trade secret, (vi) require, when a trade secret challenge occurs, that the Department promptly notify the service company performing the hydraulic fracturing treatment on the relevant well, and (v) prescribe a process, consistent with federal rules, that permits a health professional or emergency responder to obtain trade secret information. Provides that the protection and challenge of trade secrets under the provision is also governed by the State's Freedom of Information Act.

LRB097 18781 CEL 64017 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Oil and Gas Act is amended by  
5 adding Section 6.8 as follows:

6 (225 ILCS 725/6.8 new)

7 Sec. 6.8. Extraction of hydrocarbons from shale using  
8 hydraulic fracturing.

9 (a) The Department, by rule, shall:

10 (1) require an operator of a well on which a hydraulic  
11 fracturing treatment is performed to:

12 (A) complete the form posted on the hydraulic  
13 fracturing chemical registry Internet website of the  
14 Ground Water Protection Council and the Interstate Oil  
15 and Gas Compact Commission with regard to the well;

16 (B) include in the form completed under  
17 subparagraph (A):

18 (i) the total volume of water used in the  
19 hydraulic fracturing treatment; and

20 (ii) each chemical ingredient that is subject  
21 to the requirements of 29 C.F.R. 1910.1200(g)(2),  
22 as provided by a service company, chemical  
23 supplier, or by the operator, if the operator

1 provides its own chemical ingredients;

2 (C) post the completed form described by  
3 subparagraph (A) on the website described by that  
4 subparagraph or, if the website is discontinued or  
5 permanently inoperable, post the completed form on  
6 another publicly accessible Internet website specified  
7 by the Department;

8 (D) submit the completed form described by  
9 subparagraph (A) to the Department with the well  
10 completion report for the well; and

11 (E) in addition to the completed form specified in  
12 subparagraph (D), provide to the Department a list, to  
13 be made available on the Internet website of the Ground  
14 Water Protection Council and the Interstate Oil and Gas  
15 Compact Commission or, if necessary, another publicly  
16 accessible website, of all other chemical ingredients  
17 not listed on the completed form that were  
18 intentionally included and used for the purpose of  
19 creating a hydraulic fracturing treatment for the  
20 well; the Department, by rule, shall ensure that an  
21 operator, service company, or supplier is not  
22 responsible for disclosing ingredients that:

23 (i) were not purposely added to the hydraulic  
24 fracturing treatment;

25 (ii) occur incidentally or are otherwise  
26 unintentionally present in the treatment; or

1           (iii) in the case of the operator, are not  
2           disclosed to the operator by a service company or  
3           supplier; the rule shall not require that the  
4           ingredients be identified based on the additive in  
5           which they are found or that the concentration of  
6           such ingredients be provided;

7           (2) require a service company that performs a hydraulic  
8           fracturing treatment on a well or a supplier of an additive  
9           used in a hydraulic fracturing treatment on a well to  
10           provide the operator of the well with the information  
11           necessary for the operator to comply with paragraph (1);

12           (3) prescribe a process by which an entity required to  
13           comply with paragraph (1) or (2) may withhold and declare  
14           certain information as a trade secret, including, but not  
15           limited to, the identity and amount of the chemical  
16           ingredient used in a hydraulic fracturing treatment;

17           (4) require a person who desires to challenge a claim  
18           of entitlement to trade secret protection under paragraph  
19           (3) to file the challenge not later than the second  
20           anniversary of the date the relevant well completion report  
21           is filed with the Department;

22           (5) limit the persons who may challenge a claim of  
23           entitlement to trade secret protection under paragraph (3)  
24           to:

25           (A) the landowner on whose property the relevant  
26           well is located;

1           (B) a landowner who owns property adjacent to  
2           property described by subparagraph (A); or

3           (C) a department or agency of this State with  
4           jurisdiction over a matter to which the claimed trade  
5           secret is relevant;

6           (6) require, in the event of a trade secret challenge,  
7           that the Department promptly notify the service company  
8           performing the hydraulic fracturing treatment on the  
9           relevant well, the supplier of the additive or chemical  
10           ingredient for which the trade secret claim is made, or any  
11           other owner of the trade secret being challenged and  
12           provide the owner an opportunity to substantiate its trade  
13           secret claim; and

14           (7) prescribe a process, consistent with 29 C.F.R.  
15           1910.1200, for an entity described by paragraph (1) or (2)  
16           to provide information, including information that is a  
17           trade secret as defined by Appendix D to 29 C.F.R.  
18           1910.1200, to a health professional or emergency responder  
19           who needs the information in accordance with subsection (i)  
20           of that section of 29 C.F.R. 1910.1200.

21           (b) The protection and challenge of trade secrets under  
22           this Section is governed by subsection (g) of Section 7 of the  
23           Freedom of Information Act.

24           (c) This Section applies only to the extraction of  
25           hydrocarbons from shale.