



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB6222

by Rep. Brad E. Halbrook

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, (v) require, when a trade secret challenge occurs, that the Department promptly notify the service company performing the hydraulic fracturing treatment on the relevant well, (vi) require, prior to such hydraulic fracturing, the owner or operator to perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods and (vii) require, during the well stimulation operation, that the owner or operator monitor and record the annulus pressure. Provides that the owner or operator shall provide information to the Director as to the amounts, handling, and, if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, or recovery from production facility vessels. Provides that the protection and challenge of trade secrets under the provision is also governed by the State's Freedom of Information Act. Provides that the Department shall adopt any other rules necessary to regulate hydraulic fracturing and corollary issues related to hydraulic fracturing.

LRB097 22283 CEL 71033 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 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 Chemical Abstract Service Number and amount
16 of the chemical ingredient used in a hydraulic fracturing
17 treatment;

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

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

26 (A) a surface fee title owner or his or her

1 agricultural farm tenant who has been directly and
2 substantially affected or aggrieved by the hydraulic
3 fracturing treatment; or

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

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

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

22 (8) require, prior to such hydraulic fracturing, the
23 owner or operator to perform a suitable mechanical
24 integrity test of the casing or of the casing-tubing
25 annulus or other mechanical integrity test methods using
26 procedures that are established by administrative rule;

1 and

2 (9) require, during the well stimulation operation,
3 that the owner or operator monitor and record the annulus
4 pressure using procedures that are established by
5 administrative rule.

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

9 (c) The owner or operator shall provide information to the
10 Department as to the amounts, handling, and, if necessary,
11 disposal at an identified appropriate disposal facility, or
12 reuse of the well stimulation fluid load recovered during flow
13 back, swabbing, or recovery from production facility vessels.
14 Storage of the well stimulation fluid load shall be protective
15 of an underground source of drinking water by the use of either
16 tanks or lined pits.

17 (d) This Section applies only to the extraction of
18 hydrocarbons from shale.

19 (e) The Department shall adopt any other rules necessary to
20 regulate hydraulic fracturing and corollary issues related to
21 hydraulic fracturing.