

LEGISLATIVE REFERENCE BUREAU

L.R.B. Form No. 4 (Rev. 1/11/17)

No. _____

Legislative Reference Bureau

An Act amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated Statutes, in development, further providing for hydraulic fracturing chemical disclosure requirements.

INTRODUCED _____

By McNeill, Jeanne District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on

Date _____

Reported _____

As Committed-Amended

Recomendation

By Hon. _____

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in development, further providing for hydraulic
3 fracturing chemical disclosure requirements.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 3222.1 of Title 58 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 3222.1. Hydraulic fracturing chemical disclosure
9 requirements.

10 (a) Applicability.--This section applies to hydraulic
11 fracturing of unconventional wells performed on or after the
12 effective date of this section.

13 (b) Required disclosures.--

14 (1) [Except as provided under subsection (d), a] A
15 service provider who performs any part of a hydraulic
16 fracturing treatment and a vendor who provides hydraulic
17 fracturing additives directly to the operator for a hydraulic
18 fracturing treatment shall furnish the operator with the

1 information required under paragraph (2) [not later than 60
2 days after the commencement of the hydraulic fracturing].

3 (2) [Within 60 days following the conclusion of
4 hydraulic fracturing, the] The operator of the well shall
5 complete the chemical disclosure registry form and post the
6 form on the chemical disclosure registry in accordance with
7 regulations promulgated under this chapter in a format that
8 does not link chemicals to their respective hydraulic
9 fracturing additive at least 14 days prior to the usage in
10 each stage of the unconventional oil and gas process,
11 including drilling.

12 [(3) If the vendor, service provider or operator claims
13 that the specific identity of a chemical or the concentration
14 of a chemical, or both, are a trade secret or confidential
15 proprietary information, the operator of the well must
16 indicate that on the chemical disclosure registry form, and
17 the vendor, service provider or operator shall submit a
18 signed written statement that the record contains a trade
19 secret or confidential proprietary information. If a chemical
20 is a trade secret, the operator shall include in the chemical
21 registry disclosure form the chemical family or similar
22 description associated with the chemical.

23 (4) At the time of claiming that any of the following
24 are entitled to protection under paragraph (3), a vendor,
25 service provider or operator shall file a signed written
26 statement that the record contains a trade secret or
27 confidential proprietary information:

- 28 (i) A hydraulic fracturing additive.
- 29 (ii) A chemical.
- 30 (iii) A concentration.

1 (iv) Any combination of subparagraphs (i), (ii) and
2 (iii).]

3 (5) [Unless the information is entitled to protection as
4 a trade secret or confidential proprietary information,
5 information] Information submitted to the department or
6 posted to the chemical disclosure registry shall be a public
7 record.

8 (6) By January 1, 2013, the department shall determine
9 whether the chemical disclosure registry allows the
10 department and the public to search and sort Pennsylvania
11 chemical disclosure information by geographic area, chemical
12 ingredient, chemical abstract service number, time period and
13 operator. If the department determines that there is no
14 reasonable assurance that the registry will allow for
15 searches by geographic area, chemical ingredient, chemical
16 abstract service number, time period and operator, at a date
17 acceptable to the department, the department shall
18 investigate the feasibility of making the information under
19 paragraph (2) available on the department's Internet website
20 in a manner that will allow the department and the public to
21 search and sort the information by geographic area, chemical
22 ingredient, chemical abstract service number, time period and
23 operator and shall report to the General Assembly whether
24 additional resources may be needed to implement the searches
25 and sorting.

26 (7) A vendor shall not be responsible for any inaccuracy
27 in information that is provided to the vendor by a third-
28 party manufacturer.

29 (8) A service provider shall not be responsible for any
30 inaccuracy in information that is provided to the service

1 provider by the vendor.

2 (9) An operator shall not be responsible for any
3 inaccuracy in information provided to the operator by the
4 vendor or service provider or manufacturer.

5 (10) A vendor, service company or operator shall
6 identify the specific identity and amount of any chemicals
7 [claimed to be a trade secret or confidential proprietary
8 information to any health professional who requests the
9 information in writing if the health professional executes a
10 confidentiality agreement and provides a written statement of
11 need for the information indicating all of the following:

12 (i) The information is needed for the purpose of
13 diagnosis or treatment of an individual.

14 (ii) The individual being diagnosed or treated may
15 have been exposed to a hazardous chemical.

16 (iii) Knowledge of information will assist in the
17 diagnosis or treatment of an individual.] within five
18 days of a written request by a health professional.

19 (11) If a health professional determines that a medical
20 emergency exists and the specific identity and amount of any
21 chemicals claimed to be a trade secret or confidential
22 proprietary information are necessary for emergency
23 treatment, the vendor, service provider or operator shall
24 immediately disclose the information to the health
25 professional. [upon a verbal acknowledgment by the health
26 professional that the information may not be used for
27 purposes other than the health needs asserted and that the
28 health professional shall maintain the information as
29 confidential. The vendor, service provider or operator may
30 request, and the health professional shall provide upon

1 request, a written statement of need and a confidentiality
2 agreement from the health professional as soon as
3 circumstances permit, in conformance with regulations
4 promulgated under this chapter.]

5 (c) Disclosures not required.--Notwithstanding any other
6 provision of this chapter, a vendor, service provider or
7 operator shall not be required to do any of the following:

8 (1) Disclose chemicals that are not disclosed to it by
9 the manufacturer, vendor or service provider.

10 (2) Disclose chemicals that were not intentionally added
11 to the stimulation fluid.

12 (3) Disclose chemicals that occur incidentally or are
13 otherwise unintentionally present in trace amounts, may be
14 the incidental result of a chemical reaction or chemical
15 process or may be constituents of naturally occurring
16 materials that become part of a stimulation fluid.

17 [(d) Trade secrets and confidential proprietary
18 information.--

19 (1) Notwithstanding any other provision of this chapter,
20 a vendor, service company or operator shall not be required
21 to disclose trade secrets or confidential proprietary
22 information to the chemical disclosure registry.

23 (2) The following shall apply:

24 (i) If the specific identity of a chemical, the
25 concentration of a chemical or both the specific identity
26 and concentration of a chemical are claimed to be a trade
27 secret or confidential proprietary information, the
28 vendor, service provider or operator may withhold the
29 specific identity, the concentration, or both the
30 specific identity and concentration, of the chemical from

1 the information provided to the chemical disclosure
2 registry.

3 (ii) Nothing under this paragraph shall prohibit any
4 of the following from obtaining from a vendor, service
5 provider or operator information that may be needed to
6 respond to a spill or release:

- 7 (A) The department.
- 8 (B) A public health official.
- 9 (C) An emergency manager.

10 (D) A responder to a spill, release or a
11 complaint from a person who may have been directly
12 and adversely affected or aggrieved by the spill or
13 release.

14 (iii) Upon receipt of a written statement of need
15 for the information under subparagraph (ii), the
16 information shall be disclosed by the vendor, service
17 provider or operator to the requesting official or entity
18 authorized under subparagraph (ii) and shall not be a
19 public record.

20 (e) Disclosure prevented.--The department shall prevent
21 disclosure of trade secrets or confidential proprietary
22 information under this section pursuant to the requirements of
23 the Right-to-Know Law or other applicable State law.]

24 (e.1) Emergency response reporting.--Notwithstanding any
25 other provision of law, a vendor, service provider or operator
26 shall immediately disclose all information necessary to respond
27 to a spill or release to the following:

- 28 (1) The department.
- 29 (2) A public health official.
- 30 (3) An emergency manager.

1 (4) A responder to a spill, release or complaint from a
2 person that may have been directly and adversely affected or
3 aggrieved by the spill or release.

4 (f) Well reporting.--Notwithstanding any other provision of
5 law, nothing in this section shall be construed to reduce or
6 modify the disclosure requirements for conventional well
7 operators contained in 25 Pa. Code Ch. 78 Subch. E (relating to
8 well reporting).

9 Section 2. This act shall take effect in 60 days.