

No. 152. An act relating to hydraulic fracturing wells for natural gas and oil production.

(H.464)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. FINDINGS

The general assembly finds and declares that:

(1) The drilling practice of hydraulic fracturing for natural gas exploration and production uses a variety of chemicals that are pumped into natural gas or oil wells.

(2) During hydraulic fracturing, chemicals and waste fluid pumped into wells may be introduced into and contaminate drinking water aquifers.

(3) To ensure that the state's underground sources of drinking water remain free of contamination, the general assembly should prohibit hydraulic fracturing for the purpose of the recovery of oil or natural gas in order to:

(A) allow the state time to review, develop, and establish potential requirements for regulation of hydraulic fracturing; and

(B) allow the agency of natural resources to review the environmental impacts of hydraulic fracturing.

(4) When hydraulic fracturing can be conducted without risk of contamination to the groundwater of Vermont, the general assembly should repeal the prohibition on hydraulic fracturing for oil and natural gas recovery.

Sec. 2. 29 V.S.A. § 503 is amended to read:

§ 503. DEFINITIONS

As used in this chapter:

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(8) “Gas” means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casinghead gas, and all other fluid hydrocarbons not defined as oil.

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(15) “Oil” means crude petroleum, oil, and all hydrocarbons, regardless of specific gravity, that are in the liquid phase in the reservoir and are produced at the wellhead in liquid form.

(16) “Oil and gas” means both oil and gas, or either oil or gas, as the context may require to give effect to the purposes of this chapter.

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(29) “Fluid” means any material or substance which flows or moves whether in semi-solid, liquid, sludge, gas, or any other form or state.

(30) “Hydraulic fracturing” means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas.

Sec. 3. 29 V.S.A. chapter 14, subchapter 8 is added to read:

Subchapter 8. Hydraulic Fracturing for Oil or Gas Recovery

§ 571. HYDRAULIC FRACTURING; PROHIBITION

(a) No person may engage in hydraulic fracturing in the state.

(b) No person within the state may collect, store, or treat wastewater from hydraulic fracturing.

Sec. 4. 10 V.S.A. § 1259 is amended to read:

§ 1259. PROHIBITIONS

(a) No person shall discharge any waste, substance, or material into waters of the state, nor shall any person discharge any waste, substance, or material into an injection well or discharge into a publicly owned treatment works any waste which interferes with, passes through without treatment, or is otherwise incompatible with those works or would have a substantial adverse effect on those works or on water quality, without first obtaining a permit for that discharge from the secretary. This subsection shall not prohibit the proper application of fertilizer to fields and crops, nor reduce or affect the authority or policy declared in joint house resolution 7 of the 1971 session of the general assembly.

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(c) No person shall cause a direct discharge into Class A waters of any wastes that, prior to treatment, contained organisms pathogenic to human

beings. Except within a waste management zone, no person shall cause a direct discharge into Class B waters of any wastes that prior to treatment contained organisms pathogenic to human beings.

(d) No person shall cause a discharge of wastes into Class A waters, except for on-site disposal of sewage from systems with a capacity of 1,000 gallons per day (gpd), or less, that are either exempt from or comply with the environmental protection rules, or existing systems, which shall require a permit according to the provisions of subsection 1263(f) of this title.

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(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section 1571 of this title.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT; REGULATION
OF HYDRAULIC FRACTURING FOR OIL OR NATURAL GAS
RECOVERY

(a) On or before January 15, 2015, the secretary of natural resources shall submit to the senate and house committees on natural resources and energy and the house committee on fish, wildlife and water resources a report recommending how hydraulic fracturing should be regulated in the state. The report shall include:

(1) A recommendation of what state agency, board, or instrumentality should be authorized by the general assembly to regulate hydraulic fracturing in the state;

(2) A summary of how the agency recommends that hydraulic fracturing be regulated in the state, including how hydraulic fracturing should be permitted, where and how hydraulic fracturing should be sited, how waste from the hydraulic fracturing should be disposed of, how groundwater and surface water withdrawal for hydraulic fracturing should be regulated, and how to regulate land use practices and traffic associated with hydraulic fracturing; and

(3) Whether the agency of natural resources recommends that additional statutory or regulatory authority be enacted or adopted for the regulation of hydraulic fracturing and, if additional authority is recommended, a summary of the recommended authority.

(b) In preparing the report required by this section, the secretary of natural resources shall consult with interested parties, including representatives of: environmental groups, the oil and gas board, the oil and gas industry, and the U.S. Environmental Protection Agency.

Sec. 6. ANR REPORT ON SAFETY OF HYDRAULIC FRACTURING

On or before January 15, 2016, the secretary of natural resources shall report to the senate and house committees on natural resources and energy and

the house committee on fish, wildlife and water resources regarding the environmental impacts of hydraulic fracturing and the potential impact of the practice on the public health and environment of Vermont. The report shall include:

(1) A summary of the findings of the U.S. Environmental Protection Agency studies of the environmental impacts of hydraulic fracturing, including the effects of hydraulic fracturing on groundwater and air quality;

(2) A summary of additional relevant peer review studies related to the environmental impacts of hydraulic fracturing when, in the discretion of the secretary of natural resources, they are determined to be instructive or relevant to the potential environmental impacts of hydraulic fracturing in Vermont; and

(3) A recommendation as to whether the prohibition on hydraulic fracturing under 29 V.S.A § 571 should be repealed.

Sec. 7. AGENCY OF NATURAL RESOURCES; UNDERGROUND

INJECTION CONTROL RULEMAKING

On or before July 15, 2015, the secretary of natural resources shall amend the rules regulating the discharge of waste into an injection well, including those discharges into an injection well for oil and gas recovery for which the agency of natural resources has jurisdiction, in order to update the rules to reflect existing requirements under federal and state law and to address practices not contemplated by the existing rules. In amending the rules

regulating the discharge of waste into an injection well, the agency of natural resources shall provide that no permit shall be issued under 10 V.S.A. chapter 47 for a discharge of waste into an injection well when such a discharge would endanger an underground source of drinking water.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Approved: May 16, 2012