

1 H.464

2 Introduced by Representatives Klein of East Montpelier and Peltz of

3 Woodbury

4 Referred to Committee on

5 Date:

6 Subject: Conservation; water resources; underground injection; natural gas

7 production

8 Statement of purpose: This bill proposes to prohibit the issuance of a permit
9 for a discharge into an injection well for conventional or enhanced recovery of
10 natural gas or oil.

~~An act relating to hydraulic fracturing wells for natural gas and oil
production~~ *An act relating to a moratorium on hydraulic fracturing wells
for natural gas and oil production*

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

12 ~~Sec. 1. FINDINGS~~

13 ~~The general assembly finds and declares that:~~

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

17 ~~(2) During hydraulic fracturing, fractures are induced into bedrock~~
18 ~~formations, such as shale, and these fractures may introduce injected chemicals~~
19 ~~into drinking water aquifers.~~

1 (3) The agency of natural resources' (ANR's) underground injection
2 control rules provide that no natural gas or oil well proposed for use in
3 hydraulic fracturing will be permitted if injection into the well results in
4 movement of contaminating fluid into underground sources of drinking water.

5 (4) As ANR's underground injection control rules are implemented, an
6 underground injection control permit is not available for hydraulic fracturing
7 because permit applicants cannot show that contaminating fluid will not move
8 into an underground source of drinking water.

9 (5) To ensure that the state's underground sources of drinking water
10 remain free of contamination and to formalize ANR's interpretation of the state
11 underground injection control rules, the general assembly should prohibit the
12 issuance of a permit for the discharge to an underground injection well for
13 conventional or enhanced recovery of natural gas or oil.

14 Sec. 2. 10 V.S.A. § 1263 is amended to read:

15 § 1263. DISCHARGE PERMITS

16 (a) Any person who intends to discharge waste into the waters of the state
17 or who intends to discharge into an injection well or who intends to discharge
18 into any publicly owned treatment works any waste which interferes with,
19 passes through without treatment, or is otherwise incompatible with that works
20 or would have a substantial adverse effect on that works or on water quality
21 shall make application to the secretary for a discharge permit. Application

1 ~~shall be made on a form prescribed by the secretary. An applicant shall pay an~~
2 ~~application fee in accordance with 3 V.S.A. § 2822.~~

3 * * *

4 ~~(h) No permit shall be issued under this section for a discharge into an~~
5 ~~injection well for conventional or enhanced recovery of natural gas or oil.~~

6 Sec. 3. EFFECTIVE DATE

7 ~~This act shall take effect on passage.~~

~~*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 injected into*~~
~~*natural gas or oil wells.*~~

~~*(2) During hydraulic fracturing, injected chemicals may be introduced*~~
~~*into drinking water aquifers.*~~

~~*(3) The agency of natural resources' (ANR's) underground injection*~~
~~*control rules provide that no natural gas or oil well proposed for use in*~~
~~*hydraulic fracturing will be permitted if injection into the well results in*~~
~~*movement of contaminating fluid into underground sources of drinking water.*~~

~~*(4) As ANR's underground injection control rules are implemented*~~
~~*currently, an underground injection control permit is not available for*~~
~~*hydraulic fracturing because permit applicants are not able to show that*~~

~~contaminating fluid will not move into an underground source of drinking
water.~~

~~(5) To ensure that the state's underground sources of drinking water
remain free of contamination and to formalize ANR's interpretation of the
state underground injection control rules, the general assembly should enact a
moratorium on the issuance of a permit for the discharge to an underground
injection well for conventional or enhanced recovery of natural gas or oil.~~

~~Sec. 2. 10 V.S.A. § 1263 is amended to read:~~

~~§ 1263. DISCHARGE PERMITS~~

~~(a) Any person who intends to discharge waste into the waters of the state
or who intends to discharge into an injection well or who intends to discharge
into any publicly owned treatment works any waste which interferes with,
passes through without treatment, or is otherwise incompatible with that works
or would have a substantial adverse effect on that works or on water quality
shall make application to the secretary for a discharge permit. Application
shall be made on a form prescribed by the secretary. An applicant shall pay
an application fee in accordance with 3 V.S.A. § 2822.~~

~~* * *~~

~~(h) No permit shall be issued under this section for a discharge into an
injection well for conventional or enhanced recovery of natural gas or oil.~~

~~Sec. 3. TRANSITION; AGENCY OF NATURAL RESOURCES~~

RULEMAKING

During the interim between the effective date of this act and July 1, 2015, the agency of natural resources continues to be authorized to exercise its authority under 10 V.S.A. chapter 47 (water pollution control) to adopt or amend rules regulating the discharge of waste into an injection well, including rules regulating discharges into an injection well for oil and gas recovery. The moratorium enacted under this act shall not prohibit or limit the agency of natural resources to amend or adopt rules regulating underground injection control in the state.

Sec. 4. REPEAL

10 V.S.A. § 1263(h) (discharge permit for injection of conventional or enhanced recovery of natural gas or oil) shall be repealed on July 1, 2015.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT;

UNDERGROUND INJECTION CONTROL RULES

On or before January 15, 2015, the agency of natural resources shall submit to the house committee on fish, wildlife and water resources and the house and senate committees on natural resources and energy a report regarding the status of the agency of natural resources' underground injection control rules. The report shall summarize any amendment to the underground injection control rules, how or if any amendment to the rules regulates enhanced recovery of natural gas or oil, and how, at the time of the report, the

~~agency intends to regulate underground injection control for oil and gas recovery upon repeal of 10 V.S.A. § 1263(h) under Sec. 4 of this act.~~

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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:

** * **

(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.

** * **

(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.

** * **

(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.

* * *

(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.

* * *

(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.