



Substitute Senate Bill No. 753

Public Act No. 19-112

AN ACT CONCERNING THE STATE-WIDE BAN ON FRACKING WASTE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-472 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) For the purposes of this section:

(1) "Dispose" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste, or any constituent of such waste, may enter the environment, be emitted into the air or discharged into any waters of the state;

(2) "Fluid" means any material or substance that flows or moves whether in semisolid, liquid, sludge, gas or any other form or state;

(3) "Gas" means all natural gas, whether hydrocarbon or nonhydrocarbon, including, but not limited to, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen and casinghead gas;

(4) "Hydraulic fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock

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for exploration, development, production or recovery of gas, oil and other subsurface hydrocarbons. "Hydraulic fracturing" does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes;

(5) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state;

(6) "Radioactive materials" means any material, solid, liquid or gas, including, but not limited to, waste that emits ionizing radiation spontaneously;

(7) "Store" means holding waste for a temporary period, at the end of which the waste is treated, disposed of or stored elsewhere;

(8) "Transfer" means to move from one vehicle to another or to move from one mode of transportation to another;

(9) "Treat" means any method, technique or process designed to change the physical, chemical or biological character or composition of any waste, including, but not limited to, the reclaiming or rendering of waste from hydraulic fracturing as suitable for use or reuse; [and]

(10) "Waste from hydraulic fracturing" means any wastewater, wastewater solids, brine, sludge, drill cuttings or any other substance used for, associated with, or generated secondarily to the purpose of hydraulic fracturing; [.]

(11) "Natural gas extraction activities" means all geologic or geophysical activities related to the exploration for or extraction of natural gas, including, but not limited to, core and rotary drilling and hydraulic fracturing;

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(12) "Oil extraction activities" means all geologic or geophysical activities related to the exploration for or extraction of oil, including, but not limited to, core and rotary drilling and hydraulic fracturing;

(13) "Natural gas waste" means: (A) Any liquid or solid waste or its constituents that is generated secondarily as a result of natural gas extraction activities that may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals or other contaminants, (B) leachate from solid wastes associated with natural gas extraction activities, (C) any waste that is generated as a result of or in association with the underground storage of natural gas, (D) any waste that is generated as a result of or in association with liquefied petroleum gas well storage operations, and (E) any products or byproducts resulting from the treatment, processing or modification of any of the wastes described in this subdivision;

(14) "Oil waste" means: (A) Any liquid or solid waste or its constituents that is generated secondarily as a result of oil extraction activities that may consist of water, brine, chemicals, naturally occurring radioactive materials, heavy metals or other contaminants, (B) leachate from solid wastes associated with oil extraction activities, and (C) any products or byproducts resulting from the treatment, processing or modification of any of the wastes described in this subdivision; and

(15) "Apply" means the physical act of placing or spreading natural gas waste or oil waste on any road or real property in the state.

(b) No person may accept, receive, collect, store, treat, transfer, sell, acquire, handle, apply, process or dispose of natural gas waste or oil waste or waste from hydraulic fracturing, including, but not limited to, the discharge of wastewaters into or from a pollution abatement facility [, until the Commissioner of Energy and Environmental Protection adopts regulations, in accordance with the provisions of

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chapter 54, including approval of such regulations by the standing legislative regulation review committee, to: (1) Eliminate the exemption in the state's hazardous waste management regulations, adopted pursuant to subsection (c) of section 22a-449 for the wastes identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall be subject to the state's hazardous waste management regulations, as applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section 22a-449(c)-11 of the regulations of Connecticut state agencies, (2) ensure that any radioactive materials that may be present in wastes from hydraulic fracturing do not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state and do not otherwise pose a threat to the human health or the environment of this state, and (3) require disclosure of the composition of the waste from hydraulic fracturing. The commissioner shall not submit regulations authorized by this subsection to the standing legislative regulation review committee earlier than July 1, 2017, provided the commissioner shall submit such regulations to said committee not later than July 1, 2018] or the introduction of natural gas waste or oil waste into any solid waste management facility within or operated by the state.

(c) [After the adoption of the regulations, including the approval of such regulations by the legislative regulation review committee, required by subsection (b) of this section, no] No person shall collect or transport waste from hydraulic fracturing for receipt, acceptance or transfer in this state, [unless such person obtains a permit, prior to any such collection or transport, issued in accordance with the provisions of section 22a-454. Such permit shall be required even if such collection or transportation is undertaken by a person whose principal business is not the management of such wastes. In any such permit the commissioner shall require, in addition to any other conditions, that records be maintained concerning the origins and all intermediate and final delivery points of such wastes from hydraulic fracturing.]

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(d) No person may sell, offer for sale, offer, barter, manufacture, distribute or use any product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from or that contains natural gas waste, oil waste or waste from hydraulic fracturing. [until the commissioner adopts regulations in accordance with the provisions of chapter 54, including approval of such regulations by the legislative regulation review committee, authorizing such sale, offer, barter, manufacture, distribution or use. Such regulations shall either prohibit any such products or shall contain any conditions that the commissioner deems necessary to protect human health and the environment and to ensure that the sale, offer, barter, manufacture, distribution or use of any such product does not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state. Such conditions may include, but are not limited to, a written statement to accompany such product indicating that such product contains or is derived from wastes from hydraulic fracturing.]

(e) In implementing the provisions of this section, the commissioner shall request of any person information, including, but not limited to, whether and to what extent an anti-icing, de-icing, pre-wetting or dust suppression product is or may be derived from or contain natural gas waste, oil waste or wastes from hydraulic fracturing, where the materials used to manufacture any such product were obtained, and the chemical composition of such product or waste from hydraulic fracturing. If any person fails to provide the information requested by the commissioner pursuant to this subsection, such failure shall provide a basis for the commissioner to prohibit the sale, offering for sale, bartering, manufacturing, distribution or use of such anti-icing, de-icing, pre-wetting or dust suppression product. [or to not adopt regulations required pursuant to subsection (b) or (d) of this section, as applicable.]

(f) Any information acquired by the commissioner under this

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section shall be subject to disclosure in accordance with the provisions of chapter 14.

(g) [Until the adoption of regulations in accordance with subsection (b) of this section, the] The commissioner may approve, in writing, not more than three requests to allow a person, who the commissioner determines to be professionally qualified, to treat natural gas waste, oil waste or waste from hydraulic fracturing, provided such treatment is solely for the purpose of conducting research to determine whether such waste can be treated to make such waste suitable for use or reuse. The commissioner shall prescribe the form to be used for submitting any such request, including any information that the commissioner deems necessary for evaluating any such request. In approving any such request, the commissioner shall prescribe any conditions or requirements the commissioner deems necessary to prevent pollution to the air, land or waters of the state or to protect human health or the environment and shall include requirements regarding the disposal of any waste from any such research. [From July 1, 2014, until the adoption of regulations in accordance with subsection (b) of this section, no] No person whose request is approved pursuant to this section shall: (1) Apply for or obtain more than three such approvals pursuant to this subsection, and (2) treat more than three hundred thirty gallons of natural gas waste or oil waste or waste from hydraulic fracturing in accordance with this subsection, regardless of the number of approvals issued to such person. The commissioner may authorize a single treatment in excess of such gallon limitation by one person provided such authorization allows for the treatment of not more than five hundred gallons of natural gas waste or oil waste or waste from hydraulic fracturing. For the purposes of this subsection, all natural gas waste or oil waste or wastes from hydraulic fracturing shall be considered to be hazardous waste, as defined in section 22a-448, regardless of the state's incorporation by reference of 40 CFR 261.4(b)(5). Prior to approving any such research request, the

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Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, including approval of such regulations by the standing legislative regulation review committee, to: (A) Eliminate the exemption in the state's hazardous waste management regulations, adopted pursuant to subsection (c) of section 22a-449 for the wastes identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall be subject to the state's hazardous waste management regulations, as applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section 22a-449(c)-11 of the regulations of Connecticut state agencies, (B) ensure that any radioactive materials that may be present in natural gas waste, oil waste or wastes from hydraulic fracturing do not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state and do not otherwise pose a threat to the human health or the environment of this state, (C) require disclosure of the composition of natural gas waste, oil waste or the waste from hydraulic fracturing, and (D) provide for the maintenance of records concerning the origins and all intermediate and final delivery points of natural gas waste, oil waste or such wastes from hydraulic fracturing.

(h) Any person exploring for oil or gas [on or after the effective date of regulations required by this subsection] shall register with the Commissioner of Energy and Environmental Protection on a form prescribed by him. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 setting forth (1) standards for oil and gas exploration and production wells, including, but not limited to, standards for the abandonment of exploration and production activities, and (2) the amount of a fee to be paid by registrants which shall be sufficient to pay the cost of administering the registration program.

(i) The provisions of this section shall be construed to preempt any municipal ordinance or act concerning the acceptance, receipt,

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collection, storage, treatment, transfer, sale, acquisition, handling, application, processing or disposal of natural gas waste or oil waste or waste from hydraulic fracturing, including, but not limited to, the discharge of wastewaters into or from a pollution abatement facility.