
SENATE BILL NO. 390—SENATORS SEGERBLOM; AND JONES

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN BOBZIEN AND DALY

Referred to Committee on Natural Resources

SUMMARY—Enacts provisions relating to hydraulic fracturing.
(BDR 46-929)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.

Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to natural resources; requiring a person who wishes to engage in hydraulic fracturing to obtain a permit from the Division of Environmental Protection of the State Department of Conservation and Natural Resources; requiring the Division to post certain information on its Internet website concerning hydraulic fracturing; authorizing the Division to charge a fee for issuing a permit and to adopt regulations; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires persons desiring to drill a well in search of oil or gas to
2 obtain a permit from the Division of Minerals of the Commission on Mineral
3 Resources. (NRS 522.050) In addition to obtaining the permit, **section 3** of this bill
4 requires a person who wishes to engage in hydraulic fracturing, the process of
5 pumping a fluid into or under the ground in order to create fractures in the rock to
6 facilitate the production or recovery of oil or gas, to obtain a permit to engage in
7 hydraulic fracturing from the Division of Environmental Protection of the State
8 Department of Conservation and Natural Resources. **Section 3** requires an applicant
9 for such a permit to submit: (1) a hydrologic study of the effects of the proposed
10 hydraulic fracturing on water sources; (2) a seismologic study of the seismographic
11 aspects of the area in which the proposed hydraulic fracturing is to occur; (3) a plan
12 to monitor the air and water quality of the area in which the proposed hydraulic



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13 fracturing is to occur; and (4) a list of all chemicals to be used in the proposed
14 hydraulic fracturing. **Section 3** requires a person who is issued the permit to revise
15 the required list of chemicals quarterly and at the commencement and cessation of
16 operations at the well. **Section 3** further prohibits: (1) the issuance of a permit for
17 the use of hydraulic fracturing within 2,000 feet of certain buildings; and (2) the use
18 of known carcinogens by any person who is issued a permit to engage in hydraulic
19 fracturing in the operation of a well.

20 **Section 4** of this bill requires the Division of Environmental Protection to post
21 on its Internet website information submitted by persons applying for and persons
22 issued a permit to engage in hydraulic fracturing. **Section 5** of this bill authorizes
23 the Division of Environmental Protection to adopt any regulations prescribing a fee
24 for issuing a permit and any other regulations necessary to carry out the provisions
25 of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 522 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Division of Environmental Protection” means the*
5 *Division of Environmental Protection of the State Department of*
6 *Conservation and Natural Resources.*

7 **Sec. 3. 1.** *In addition to a permit required pursuant to NRS*
8 *522.050, a person who wishes to engage in hydraulic fracturing*
9 *while operating a well in search of oil or gas shall, before*
10 *operating the well, apply to the Division of Environmental*
11 *Protection for a permit on a form prescribed by the Division of*
12 *Environmental Protection. The application must include:*

13 *(a) A hydrologic study identifying each source of water that*
14 *may be affected by the proposed hydraulic fracturing, both*
15 *through drilling and through the disposal of wastewater.*

16 *(b) A seismologic study of the region where the applicant*
17 *proposes to engage in hydraulic fracturing. The study must*
18 *identify all known and suspected fault lines that may be affected*
19 *by the proposed hydraulic fracturing and include the results of*
20 *any seismic surveys.*

21 *(c) A plan to monitor the quality of the air and water in*
22 *locations that may be affected by the proposed hydraulic*
23 *fracturing. The plan must include:*

24 *(1) Baseline measurements of air and water quality in a*
25 *number of locations sufficient to ensure detection of any*
26 *significant change to the air and water quality caused by the*
27 *proposed hydraulic fracturing by the new measurements required*
28 *by subparagraph (2); and*

29 *(2) Quarterly reporting of new measurements of the air and*
30 *water quality in the locations for which baseline measurements of*



1 *air and water quality were measured pursuant to subparagraph*
2 *(1), to continue throughout the period during which the well is in*
3 *operation and for at least 3 years immediately after the well ceases*
4 *to be in operation.*

5 *(d) A complete and specific disclosure of all chemicals,*
6 *including proprietary chemicals, that the applicant plans to use in*
7 *the proposed hydraulic fracturing. The disclosure for each*
8 *chemical must include the product name of the chemical, the*
9 *names and chemical formulas of all chemical compounds present*
10 *in the chemical and any hazardous components of the chemical*
11 *which are listed on a material data safety sheet.*

12 *2. The Division of Environmental Protection may not issue a*
13 *permit for a person to engage in hydraulic fracturing within 2,000*
14 *feet of any home, school or hospital.*

15 *3. The Division of Environmental Protection shall evaluate*
16 *each application submitted pursuant to subsection 1 and, if the*
17 *Division determines that the proposed hydraulic fracturing will*
18 *not be deleterious to the health or welfare of any person or the*
19 *environment, that the air and water quality will be adequately*
20 *monitored and that the issuance of a permit does not violate*
21 *subsection 2, shall issue a permit. A permit issued pursuant to this*
22 *section is valid only for the well for which the Division of*
23 *Environmental Protection issues the permit and expires upon the*
24 *cessation of operations at the well.*

25 *4. A person who is issued a permit:*

26 *(a) Shall revise the list of chemicals required to be submitted*
27 *pursuant to paragraph (d) of subsection 1:*

28 *(1) Quarterly for the entire period during which the well is*
29 *in operation; and*

30 *(2) Upon the commencement and cessation of operations at*
31 *the well; and*

32 *(b) Shall not use any known carcinogens, as defined by the*
33 *International Agency for Research on Cancer or the National*
34 *Toxicology Program, in the operations of the well.*

35 *5. As used in this section:*

36 *(a) "Hydraulic fracturing" means the process of pumping a*
37 *fluid into or under the surface of the ground to create fractures in*
38 *the rock to facilitate the production or recovery of oil or gas.*

39 *(b) "Material safety data sheet" means a document prepared*
40 *in accordance with the requirements of the hazard communication*
41 *standard set forth in 29 C.F.R. § 1910.1200 and which contains*
42 *hazard and safe handling information for a chemical.*

43 *(c) "Seismic survey" means a method of exploration in which*
44 *low frequency sound waves are generated on the surface of the*



1 *ground to find subsurface rock structures that may contain oil or*
2 *gas.*

3 *(d) "Wastewater" means any water containing chemicals or*
4 *other contaminants derived from the use of the water in hydraulic*
5 *fracturing.*

6 **Sec. 4.** *The Division of Environmental Protection shall post*
7 *on its Internet website all information submitted by a person to*
8 *comply with the provisions of section 3 of this act within 10 days*
9 *of receiving the information. The Internet website must allow*
10 *users to search, sort and download the information by the name of*
11 *the applicant or permittee, the county in which the well is located,*
12 *the latitude and longitude of the well, the well number, the names*
13 *and chemical formulas of the chemicals used in the operation of*
14 *the well and the size and depth of the well.*

15 **Sec. 5.** *The Division of Environmental Protection may*
16 *prescribe:*

17 *1. By regulation, a fee for issuing a permit; and*

18 *2. Any other regulations necessary to carry out the provisions*
19 *of sections 3 and 4 of this act.*

20 **Sec. 6.** NRS 522.020 is hereby amended to read as follows:

21 522.020 As used in this chapter, unless the context otherwise
22 requires, the words and terms defined in NRS 522.021 to 522.0395,
23 inclusive, *and section 2 of this act* have the meanings ascribed to
24 them in those sections.

25 **Sec. 7.** NRS 522.040 is hereby amended to read as follows:

26 522.040 *Except as otherwise provided in sections 3, 4 and 5*
27 *of this act:*

28 1. The Division has jurisdiction and authority over all persons
29 and property, public and private, necessary to effectuate the
30 purposes and intent of this chapter.

31 2. The Division shall make investigation to determine whether
32 waste exists or is imminent, or whether other facts exist which
33 justify or require action by it.

34 3. The Division shall adopt regulations, make orders and take
35 other appropriate action to effectuate the purposes of this chapter.

36 4. The Division may:

37 (a) Require:

38 (1) Identification or ownership of wells, producing leases,
39 tanks, plants and drilling structures.

40 (2) The making and filing of reports, well logs and
41 directional surveys. Logs of exploratory or "wildcat" wells marked
42 "confidential" must be kept confidential for 6 months after the filing
43 thereof, unless the owner gives written permission to release those
44 logs at an earlier date.



1 (3) The drilling, casing and plugging of wells in such a
2 manner as to prevent the escape of oil or gas out of one stratum into
3 another, the intrusion of water into an oil or gas stratum, the
4 pollution of fresh water supplies by oil, gas or salt water, and to
5 prevent blowouts, cavings, seepages and fires.

6 (4) The furnishing of a reasonable bond with good and
7 sufficient surety conditioned for the performance of the duty to plug
8 each dry or abandoned well or the repair of wells causing waste.

9 (5) The operation of wells with efficient gas-oil and water-oil
10 ratios, and to fix these ratios.

11 (6) The gauging or other measuring of oil and gas to
12 determine the quality and quantity thereof.

13 (7) That every person who produces oil or gas in this State
14 keep and maintain for a period of 5 years within this State complete
15 and accurate record of the quantities thereof, which must be
16 available for examination by the Division or its agents at all
17 reasonable times.

18 (b) Regulate, for conservation purposes:

19 (1) The drilling, producing and plugging of wells.

20 (2) The shooting and chemical treatment of wells.

21 (3) The spacing of wells.

22 (4) The disposal of salt water, nonpotable water and oil field
23 wastes.

24 (5) The contamination or waste of underground water.

25 (c) Classify wells as oil or gas wells for purposes material to the
26 interpretation or enforcement of this chapter.

27 **Sec. 8.** NRS 522.120 is hereby amended to read as follows:

28 522.120 1. Any person who willfully violates any provision
29 of this chapter, or any regulation or order of the Division of
30 *Minerals or any regulation of the Division of Environmental*
31 *Protection*, is subject to a penalty of not more than \$1,000 for each
32 act of violation and for each day that the violation continues, unless
33 the penalty for the violation is otherwise provided for and made
34 exclusive in this chapter.

35 2. If any person, for the purpose of evading this chapter, or any
36 regulation or order of the Division of *Minerals or any regulation*
37 *of the Division of Environmental Protection*, makes or causes to be
38 made any false entry in any record, account or memorandum
39 required by this chapter, or by any such regulation or order, or omits
40 or causes to be omitted, from any such record, account or
41 memorandum, full, true and correct entries as required by this
42 chapter, or by any such regulation or order, or removes from this
43 state or destroys, mutilates, alters or falsifies any such record,
44 account or memorandum, that person is guilty of a gross
45 misdemeanor.



1 3. Any person knowingly aiding or abetting any other person in
2 the violation of any provision of this chapter, or any regulation or
3 order of the Division *of Minerals or any regulation of the Division*
4 *of Environmental Protection*, is subject to the same penalty as that
5 prescribed by this chapter for the violation by the other person.

6 4. The penalties provided in this section are recoverable by suit
7 filed by the Attorney General in the name and on behalf of the
8 Division *of Minerals or the Division of Environmental Protection,*
9 *as appropriate*, in the district court of the county in which the
10 defendant resides or in which any defendant resides, if there is more
11 than one defendant, or in the district court of any county in which
12 the violation occurred. The payment of any such penalty does not
13 operate to relieve a person on whom the penalty is imposed from
14 liability to any other person for damages arising out of the violation.

15 **Sec. 9.** NRS 522.130 is hereby amended to read as follows:

16 522.130 1. Whenever it appears that any person is violating
17 or threatening to violate any provision of this chapter, or any
18 regulation or order of the Division *of Minerals or any regulation*
19 *of the Division of Environmental Protection, the Division of*
20 *Minerals or the Division of Environmental Protection, as*
21 *appropriate*, shall bring suit against that person in the district court
22 of any county where the violation occurs or is threatened to restrain
23 the person from continuing the violation or from carrying out the
24 threat of violation. Upon the filing of any such suit, summons issued
25 to the person may be directed to the sheriff of any county in this
26 state for service by the sheriff or the sheriff's deputies. In any such
27 suit, the court may grant to the Division *of Minerals or the*
28 *Division of Environmental Protection, as appropriate*, without
29 bond or other undertaking, such prohibitory and mandatory
30 injunctions as the facts may warrant.

31 2. If the Division *of Minerals or the Division of*
32 *Environmental Protection, as appropriate*, fails to bring suit to
33 enjoin a violation or threatened violation of any provision of this
34 chapter, or any regulation or order of the Division *of Minerals or*
35 *any regulation of the Division of Environmental Protection*, within
36 10 days after receipt of written request to do so by any person who
37 is or will be adversely affected by the violation, the person making
38 the request may bring suit in his or her own behalf to restrain the
39 violation or threatened violation in any court in which the Division
40 *of Minerals or the Division of Environmental Protection, as*
41 *appropriate*, might have brought suit. If, in the suit, the court should
42 hold that injunctive relief should be granted, then the Division *of*
43 *Minerals or the Division of Environmental Protection, as*
44 *appropriate*, must be made a party and must be substituted for the
45 person who brought the suit, and the injunction must be issued as if



1 the Division *of Minerals or the Division of Environmental*
2 *Protection, as appropriate*, had at all times been the plaintiff.

3 **Sec. 10.** This act becomes effective:

4 1. Upon passage and approval for the purpose of adopting
5 regulations; and

6 2. For all other purposes, on January 1, 2014.

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