



# House of Representatives

General Assembly

**File No. 440**

February Session, 2014

Substitute House Bill No. 5308

*House of Representatives, April 8, 2014*

The Committee on Environment reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE REGULATION OF FRACKING WASTE AND FRACKING BY-PRODUCTS.**

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

1 Section 1. (NEW) (*Effective from passage*) (a) For the purposes of this  
2 section:

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

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

10 (3) "Gas" means all natural gas, whether hydrocarbon or  
11 nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide,  
12 nitrogen, hydrogen, casing head gas and all other fluid hydrocarbons

13 not defined as oil pursuant to this section;

14 (4) "Hydraulic fracturing" means the process of pumping a fluid into  
15 or under the surface of the ground in order to create fractures in rock  
16 for exploration, development, production or recovery of oil or gas.  
17 "Hydraulic fracturing" does not include the drilling of a geothermal  
18 water well or any other well drilled for drinking water purposes;

19 (5) "Oil" means crude petroleum, oil and all hydrocarbons,  
20 regardless of specific gravity, that are in the liquid phase in the  
21 reservoir and are produced at the wellhead in liquid form;

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

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

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

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

33 (10) "Waste from hydraulic fracturing" means any wastewater,  
34 wastewater solids, brine, sludge, drill cuttings or any other substance  
35 generated secondarily to the purpose of hydraulic fracturing.

36 (b) No person may store, treat, transfer or dispose of waste from  
37 hydraulic fracturing, including, but not limited to, the discharge of  
38 wastewaters into or from a pollution abatement facility, until the  
39 Commissioner of Energy and Environmental Protection adopts  
40 regulations, in accordance with the provisions of chapter 54 of the  
41 general statutes, to: (1) Eliminate the exemption in the state's  
42 hazardous waste management regulations, adopted pursuant to

43 subsection (c) of section 22a-449 of the general statutes, for any wastes  
 44 identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall  
 45 be subject to the state's hazardous waste management regulations, as  
 46 set forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and  
 47 section 22a-449(c)-11 of the regulations of Connecticut state agencies;  
 48 and (2) ensure that any radioactive materials that may be present in  
 49 wastes from hydraulic fracturing do not create a source of pollution to  
 50 the air, land or waters of the state and do not otherwise pose a threat to  
 51 the human health or the environment of this state. The commissioner  
 52 shall publish notice of intent to adopt the regulations that are required  
 53 by this subsection not later than two years after the effective date of  
 54 this section.

55 (c) No person may sell, offer for sale, offer, barter, manufacture,  
 56 distribute or use any product that is derived from or that contains  
 57 waste from hydraulic fracturing until the regulations that are required  
 58 pursuant to subsection (b) of this section are adopted.

59 (d) Notwithstanding the provisions of subsection (b) of this section,  
 60 the Commissioner of Energy and Environmental Protection may issue  
 61 a permit to allow a person to treat not more than one thousand gallons  
 62 of waste from hydraulic fracturing. The commissioner shall prescribe  
 63 the conditions and requirements for issuance of such permit,  
 64 including, but not limited to, any requisite fee for issuance of such  
 65 permit.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 15 \$</b>	<b>FY 16 \$</b>
Department of Energy and Environmental Protection	GF - Cost	Less than 100,000	Less than 100,000

**Municipal Impact:** None

**Explanation**

This bill establishes a moratorium on hydraulic fracturing waste until the Department of Energy and Environmental Protection (DEEP) adopts regulations to control it as a hazardous waste within two years of the bill's passage.

It is anticipated that DEEP would contract with an outside consultant as the agency currently does not have expertise in this area. It is expected that DEEP would incur total costs of less than \$100,000 for FY 15 and FY 16 for this purpose.

**The Out Years**

There is no annualized ongoing fiscal impact as the cost terminates in FY 16.

**OLR Bill Analysis**

**sHB 5308**

***AN ACT CONCERNING THE REGULATION OF FRACKING WASTE AND FRACKING BY-PRODUCTS.***

**SUMMARY:**

This bill establishes a moratorium on hydraulic fracturing waste in Connecticut until the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations to control it as a hazardous waste. The moratorium includes (1) the disposal, sale, manufacture, distribution of such wastes and products derived from or containing these wastes; (2) their storage, treatment, transfer from one vehicle or mode of transportation to another; or (3) their discharge into or from a pollution abatement facility. Currently, there is no ban on these activities.

The bill defines “hydraulic fracturing” as the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for oil or gas exploration, development, production, or recovery. Hydraulic fracturing does not include drilling of geothermal water wells or any other well drilled for drinking water.

It requires DEEP to adopt regulations within two years after the bill’s passage. The regulations must (1) subject these wastes to the state’s hazardous waste management regulations and (2) ensure that any radioactive component of these wastes does not pollute the air, land, or waters or otherwise threaten human health or the environment.

The bill requires DEEP to establish a special permit to allow a person to treat small amounts, not more than 1,000 gallons, of hydraulic fracturing waste. DEEP has the discretion to set the conditions and requirements, including any fees, for the permit. Under

the bill, “treat” means any method or process designed to change the physical, chemical, or biological character or composition of waste, including the reclaiming or rendering it suitable for use or reuse.

EFFECTIVE DATE: Upon passage

**COVERED WASTES**

The wastes covered by this bill include any wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance generated as a part of or in the process of hydraulic fracturing. Products derived from or containing any of these wastes are included in the moratorium.

**DEFINITIONS**

The bill includes the following definitions related to the moratorium.

1. “Dispose” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water in a manner allowing the waste or its components to enter the environment.
2. “Gas” means all natural gas, whether hydrocarbon or nonhydrocarbon, including hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluid hydrocarbons not defined as oil under the bill.
3. “Oil” means crude petroleum, oil, and all hydrocarbons that are in the liquid phase in the reservoir and are produced at a wellhead in liquid form.
4. “Radioactive materials” means any material, solid, liquid, or gas, including waste that emits ionizing radiation spontaneously.

**BACKGROUND**

***Related Bills***

SB 237, favorably reported by the Environment Committee, bans the

storage or disposal of all drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy, including hydraulic fracturing. It requires DEEP to adopt regulations establishing a schedule of penalties for violating the prohibition.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 17 Nay 10 (03/21/2014)