



House of Representatives

General Assembly

File No. 388

January Session, 2017

House Bill No. 6329

House of Representatives, April 4, 2017

The Committee on Environment reported through REP. DEMICCO of the 21st Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING HYDRAULIC FRACTURING WASTE IN CONNECTICUT.

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

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 Section 22a-472 of the general statutes is repealed and the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

3 (a) For the purposes of this section:

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

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

11 (3) "Gas" means all natural gas, whether hydrocarbon or
12 nonhydrocarbon, including, but not limited to, hydrogen sulfide,

13 helium, carbon dioxide, nitrogen, hydrogen and casinghead gas;

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 gas.
17 "Hydraulic fracturing" does not include the drilling or repair of a
18 geothermal water well or any other well drilled or repaired for
19 drinking water purposes;

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

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

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

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

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

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

39 (b) No person may accept, receive, collect, store, treat, transfer or
40 dispose of waste from hydraulic fracturing, including, but not limited
41 to, the discharge of wastewaters into or from a pollution abatement
42 facility, [, until the Commissioner of Energy and Environmental

43 Protection adopts regulations, in accordance with the provisions of
44 chapter 54, including approval of such regulations by the standing
45 legislative regulation review committee, to: (1) Eliminate the
46 exemption in the state's hazardous waste management regulations,
47 adopted pursuant to subsection (c) of section 22a-449 for the wastes
48 identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall
49 be subject to the state's hazardous waste management regulations, as
50 applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119,
51 inclusive, and section 22a-449(c)-11 of the regulations of Connecticut
52 state agencies, (2) ensure that any radioactive materials that may be
53 present in wastes from hydraulic fracturing do not create or will not
54 reasonably be expected to create a source of pollution to the air, land
55 or waters of the state and do not otherwise pose a threat to the human
56 health or the environment of this state, and (3) require disclosure of the
57 composition of the waste from hydraulic fracturing. The commissioner
58 shall not submit regulations authorized by this subsection to the
59 standing legislative regulation review committee earlier than July 1,
60 2017, provided the commissioner shall submit such regulations to said
61 committee not later than July 1, 2018.]

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

74 (d) No person may sell, offer for sale, offer, barter, manufacture,
75 distribute or use any product for anti-icing, de-icing, pre-wetting or
76 dust suppression that is derived from or that contains waste from

77 hydraulic fracturing. [until the commissioner adopts regulations in
78 accordance with the provisions of chapter 54, including approval of
79 such regulations by the legislative regulation review committee,
80 authorizing such sale, offer, barter, manufacture, distribution or use.
81 Such regulations shall either prohibit any such products or shall
82 contain any conditions that the commissioner deems necessary to
83 protect human health and the environment and to ensure that the sale,
84 offer, barter, manufacture, distribution or use of any such product does
85 not create or will not reasonably be expected to create a source of
86 pollution to the air, land or waters of the state. Such conditions may
87 include, but are not limited to, a written statement to accompany such
88 product indicating that such product contains or is derived from
89 wastes from hydraulic fracturing.]

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

103 (f) Any information acquired by the commissioner under this
104 section shall be subject to disclosure in accordance with the provisions
105 of chapter 14.

106 [(g) Until the adoption of regulations in accordance with subsection
107 (b) of this section, the commissioner may approve, in writing, not more
108 than three requests to allow a person, who the commissioner
109 determines to be professionally qualified, to treat waste from hydraulic

110 fracturing, provided such treatment is solely for the purpose of
111 conducting research to determine whether such waste can be treated to
112 make such waste suitable for use or reuse. The commissioner shall
113 prescribe the form to be used for submitting any such request,
114 including any information that the commissioner deems necessary for
115 evaluating any such request. In approving any such request, the
116 commissioner shall prescribe any conditions or requirements the
117 commissioner deems necessary to prevent pollution to the air, land or
118 waters of the state or to protect human health or the environment and
119 shall include requirements regarding the disposal of any waste from
120 any such research. From July 1, 2014, until the adoption of regulations
121 in accordance with subsection (b) of this section, no person whose
122 request is approved pursuant to this section shall: (1) Apply for or
123 obtain more than three such approvals pursuant to this subsection, and
124 (2) treat more than three hundred thirty gallons of waste from
125 hydraulic fracturing in accordance with this subsection, regardless of
126 the number of approvals issued to such person. The commissioner
127 may authorize a single treatment in excess of such gallon limitation by
128 one person provided such authorization allows for the treatment of not
129 more than five hundred gallons of waste from hydraulic fracturing.
130 For the purposes of this subsection, all wastes from hydraulic
131 fracturing shall be considered to be hazardous waste, as defined in
132 section 22a-448, regardless of the state's incorporation by reference of
133 40 CFR 261.4(b)(5).]

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-472

ENV *Joint Favorable*

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.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill permanently prohibits the storage of fracking waste. As this is current practice, there is no fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 6329*****AN ACT CONCERNING HYDRAULIC FRACTURING WASTE IN CONNECTICUT.*****SUMMARY**

This bill permanently bans collecting, storing, handling, transporting, disposing, and using hydraulic fracturing (“fracking”) waste in Connecticut (see BACKGROUND). Under current law, these activities are banned only until the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations to, among other things, control fracking waste as hazardous waste. The bill removes his authority to adopt such regulations and places a permanent ban on fracking waste in the state.

EFFECTIVE DATE: Upon passage

FRACKING WASTE BAN

Under the bill, no person, including an individual, business, or political subdivision of the state, may:

1. accept, receive, collect, store, treat, transfer, or dispose of fracking waste;
2. collect or transport fracking waste for receipt, acceptance, or transfer in the state; or
3. sell, offer, barter, manufacture, distribute, or use an anti-icing, de-icing, pre-wetting, or dust suppression product derived from or containing fracking waste.

The bill eliminates a provision that allows a person to collect or transport fracking waste if the person obtains a DEEP permit before bringing the waste into the state.

The bill also deletes a provision that allows certain fracking waste research to be conducted in the state. Under current law, until the commissioner adopts regulations, DEEP may approve up to three requests to treat up to 330 gallons of fracking waste for research purposes or a single person to treat up to 500 gallons. The research must be for determining whether fracking waste can be made suitable for use or reuse.

BACKGROUND

Fracking Waste

Fracking waste includes wastewater, wastewater solids, brine, sludge, drill cuttings, or any other substance used or generated in the fracking process.

Fracking is the process of pumping fluid into or under the surface of the ground to create fractures in rock for natural gas exploration, development, production, or recovery. It does not include drilling or repairing a geothermal water well or any other well drilled or repaired for drinking water purposes.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 29 Nay 0 (03/22/2017)