



# House of Representatives

## File No. 750

General Assembly

January Session, 2017

**(Reprint of File No. 388)**

House Bill No. 6329  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 11, 2017

### **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 Section 22a-472 of the general statutes is repealed and the  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] The commissioner may approve, in writing, not  
108 more 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] 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) Any person exploring for oil or gas [on or after the effective date  
135 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

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:*** None***Municipal Impact:*** None***Explanation***

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

House "A" altered the underlying bill by removing provisions regarding the adoption of regulations, which does not result in a fiscal impact.

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

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**OLR Bill Analysis****HB 6329 (as amended by House "A")\******AN ACT CONCERNING HYDRAULIC FRACTURING WASTE IN CONNECTICUT.*****SUMMARY**

This bill, with a limited exception for research, 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.

\*House Amendment "A" restores a provision in existing law that allows research in Connecticut on a limited amount of fracking waste with the DEEP commissioner's approval.

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.

### **RESEARCH EXCEPTION**

The bill maintains a provision in existing law that allows certain fracking waste research to be conducted in the state. Under the law, 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.

Under current law, this research exception exists only until the commissioner adopts fracking waste regulations. The bill removes his authority to adopt fracking waste regulations and imposes no time parameters on the research exception.

### **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)