



Senate

General Assembly

File No. 56

January Session, 2019

Substitute Senate Bill No. 753

Senate, March 13, 2019

The Committee on Environment reported through SEN. COHEN of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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 Section 22a-472 of the general statutes is repealed and the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, oil and
17 other subsurface hydrocarbons. "Hydraulic fracturing" does not
18 include the drilling or repair of a geothermal water well or any other
19 well drilled or repaired for 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, associated with, or generated secondarily to the purpose of
38 hydraulic fracturing; [.]

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

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

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

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

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

67 (b) No person may accept, receive, collect, store, treat, transfer, sell,
68 acquire, handle, apply, process or dispose of natural gas waste or oil
69 waste or waste from hydraulic fracturing, including, but not limited to,
70 the discharge of wastewaters into or from a pollution abatement
71 facility [, until the Commissioner of Energy and Environmental
72 Protection adopts regulations, in accordance with the provisions of
73 chapter 54, including approval of such regulations by the standing
74 legislative regulation review committee, to: (1) Eliminate the
75 exemption in the state's hazardous waste management regulations,

76 adopted pursuant to subsection (c) of section 22a-449 for the wastes
77 identified in 40 CFR 261.4(b)(5) and to provide that such wastes shall
78 be subject to the state's hazardous waste management regulations, as
79 applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119,
80 inclusive, and section 22a-449(c)-11 of the regulations of Connecticut
81 state agencies, (2) ensure that any radioactive materials that may be
82 present in wastes from hydraulic fracturing do not create or will not
83 reasonably be expected to create a source of pollution to the air, land
84 or waters of the state and do not otherwise pose a threat to the human
85 health or the environment of this state, and (3) require disclosure of the
86 composition of the waste from hydraulic fracturing. The commissioner
87 shall not submit regulations authorized by this subsection to the
88 standing legislative regulation review committee earlier than July 1,
89 2017, provided the commissioner shall submit such regulations to said
90 committee not later than July 1, 2018] or the introduction of natural gas
91 waste or oil waste into any solid waste management facility within or
92 operated by the state.

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

105 (d) No person may sell, offer for sale, offer, barter, manufacture,
106 distribute or use any product for anti-icing, de-icing, pre-wetting or
107 dust suppression that is derived from or that contains natural gas
108 waste, oil waste or waste from hydraulic fracturing. [until the
109 commissioner adopts regulations in accordance with the provisions of

110 chapter 54, including approval of such regulations by the legislative
111 regulation review committee, authorizing such sale, offer, barter,
112 manufacture, distribution or use. Such regulations shall either prohibit
113 any such products or shall contain any conditions that the
114 commissioner deems necessary to protect human health and the
115 environment and to ensure that the sale, offer, barter, manufacture,
116 distribution or use of any such product does not create or will not
117 reasonably be expected to create a source of pollution to the air, land
118 or waters of the state. Such conditions may include, but are not limited
119 to, a written statement to accompany such product indicating that such
120 product contains or is derived from wastes from hydraulic fracturing.]

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

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

138 (g) [Until the adoption of regulations in accordance with subsection
139 (b) of this section, the] The commissioner may approve, in writing, not
140 more than three requests to allow a person, who the commissioner
141 determines to be professionally qualified, to treat natural gas waste, oil
142 waste or waste from hydraulic fracturing, provided such treatment is

143 solely for the purpose of conducting research to determine whether
144 such waste can be treated to make such waste suitable for use or reuse.
145 The commissioner shall prescribe the form to be used for submitting
146 any such request, including any information that the commissioner
147 deems necessary for evaluating any such request. In approving any
148 such request, the commissioner shall prescribe any conditions or
149 requirements the commissioner deems necessary to prevent pollution
150 to the air, land or waters of the state or to protect human health or the
151 environment and shall include requirements regarding the disposal of
152 any waste from any such research. [From July 1, 2014, until the
153 adoption of regulations in accordance with subsection (b) of this
154 section, no] No person whose request is approved pursuant to this
155 section shall: (1) Apply for or obtain more than three such approvals
156 pursuant to this subsection, and (2) treat more than three hundred
157 thirty gallons of natural gas waste or oil waste or waste from hydraulic
158 fracturing in accordance with this subsection, regardless of the number
159 of approvals issued to such person. The commissioner may authorize a
160 single treatment in excess of such gallon limitation by one person
161 provided such authorization allows for the treatment of not more than
162 five hundred gallons of natural gas waste or oil waste or waste from
163 hydraulic fracturing. For the purposes of this subsection, all natural
164 gas waste or oil waste or wastes from hydraulic fracturing shall be
165 considered to be hazardous waste, as defined in section 22a-448,
166 regardless of the state's incorporation by reference of 40 CFR
167 261.4(b)(5). Prior to approving any such research request, the
168 Commissioner of Energy and Environmental Protection shall adopt
169 regulations, in accordance with the provisions of chapter 54, including
170 approval of such regulations by the standing legislative regulation
171 review committee, to: (A) Eliminate the exemption in the state's
172 hazardous waste management regulations, adopted pursuant to
173 subsection (c) of section 22a-449 for the wastes identified in 40 CFR
174 261.4(b)(5) and to provide that such wastes shall be subject to the
175 state's hazardous waste management regulations, as applicable, as set
176 forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section
177 22a-449(c)-11 of the regulations of Connecticut state agencies, (B)

178 ensure that any radioactive materials that may be present in natural
 179 gas waste, oil waste or wastes from hydraulic fracturing do not create
 180 or will not reasonably be expected to create a source of pollution to the
 181 air, land or waters of the state and do not otherwise pose a threat to the
 182 human health or the environment of this state, (C) require disclosure of
 183 the composition of natural gas waste, oil waste or the waste from
 184 hydraulic fracturing, and (D) provide for the maintenance of records
 185 concerning the origins and all intermediate and final delivery points of
 186 natural gas waste, oil waste or such wastes from hydraulic fracturing.

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

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

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.

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

The bill expands the prohibition on certain activities involving fracking waste. As fracking is currently prohibited, there is no fiscal impact.

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

OLR Bill Analysis**sSB 753*****AN ACT CONCERNING THE STATE-WIDE BAN ON FRACKING WASTE.*****SUMMARY**

This bill, with a limited exception for research, permanently bans accepting, receiving, collecting, storing, treating, transferring, selling, acquiring, handling, applying, processing, and disposing of hydraulic fracturing (“fracking”) waste, natural gas waste, or oil waste in Connecticut. Current law imposes a narrower ban that generally applies to accepting, receiving, collecting, storing, treating, transferring, and disposing of fracking waste until the Department of Energy and Environmental Protection (DEEP) commissioner adopts regulations to, among other things, control it as hazardous waste. (DEEP has not adopted such regulations.)

The bill maintains existing law’s exception for conducting certain fracking waste research, but it requires the DEEP commissioner, before approving a research request, to adopt regulations that, among other things, eliminate the exemption in the state’s hazardous management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy.

The bill bans the sale, offer, barter, manufacture, distribution, and use of anti-icing, de-icing, pre-wetting, or dust suppression products derived from or containing fracking waste, natural gas waste, or oil waste. Under current law, the DEEP commissioner may regulate products derived from fracking waste through regulations.

The bill also requires anyone exploring for oil or gas to register with DEEP on a form the commissioner prescribes. Under current law, such

a person has to register only after the commissioner adopts regulations providing (1) standards for oil and gas exploration and production wells and (2) the registration fee, which must be enough to pay the registration program's administrative costs. The bill continues to require such regulations.

EFFECTIVE DATE: Upon passage

BAN ON FRACKING, NATURAL GAS, OR OIL WASTE

Under the bill, no person, including an individual, business, or political subdivision of the state, may accept, receive, collect, store, treat, transfer, sell, acquire, handle, apply, process, or dispose of fracking, natural gas, or oil waste (see Expanded Definitions below). The ban includes discharging wastewaters into or from a pollution abatement facility or introducing natural gas or oil waste into a solid waste management facility in, or operated by, the state.

The bill eliminates a provision that allows a person to collect or transport fracking waste for receipt, acceptance, or transfer in the state if he or she obtains a DEEP permit before doing so. Consequently, it prohibits the practice.

It also eliminates the DEEP commissioner's authority to adopt regulations allowing the sale, offer, barter, manufacture, distribution, or use of an anti-icing, de-icing, pre-wetting, or dust suppression product derived from or containing fracking waste. Thus, the bill bans these actions and also applies the ban to products derived from natural gas and oil waste.

RESEARCH EXCEPTION

The bill maintains a provision in existing law that allows certain fracking waste research to be conducted in the state, but prohibits the DEEP commissioner from approving such a request until there are applicable regulations. It also expands the type of waste that a person may conduct research on to include natural gas or oil waste, but does not increase the amount of waste that can be used for research.

As under existing law, DEEP may approve up to three requests for a person to treat up to 330 gallons of waste for research purposes or a single request for treating up to 500 gallons. The research is limited to determining whether the waste can be made suitable for use or reuse.

Regulations Required

Before approving a research request, the bill requires the commissioner to adopt regulations, which must:

1. eliminate the exemption in the state's hazardous waste management regulations for drilling fluids, produced waters, and other wastes associated with exploring, developing, or producing crude oil, natural gas, or geothermal energy;
2. ensure that any radioactive materials that may be in the waste do not pollute the state's air, land, or waters or threaten human health or the environment;
3. require disclosure of the waste's composition; and
4. require records be kept on the waste's origins and intermediate and final delivery points.

EXPANDED DEFINITIONS

Under current law, "hydraulic fracturing" refers to the process of pumping fluid into or under the ground's surface for purposes of fracturing rock to explore for, develop, produce, or recover natural gas. The bill broadens the definition by also applying it to oil and other subsurface hydrocarbons. The bill also provides that "waste from hydraulic fracturing" includes any substances that are associated with, instead of only used for or generated secondarily to, fracking.

Under the bill, "natural gas waste" is:

1. liquid or solid waste, or its parts, from natural gas extraction activity;
2. solid waste leachate associated with the activity;

3. waste from, or associated with, natural gas underground storage;
4. waste from, or associated with, liquefied petroleum gas well storage operations; and
5. products or byproducts from treating, modifying, or processing these wastes.

The bill defines “oil waste” as (1) liquid or solid waste, or its parts, from oil extraction activity; (2) solid waste leachate associated with the activity; and (3) products or byproducts from treating, modifying, or processing these wastes.

Extraction activity refers to geological or geophysical activities related to exploring for or extracting natural gas or oil, such as core and rotary drilling and fracking.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 1 (02/25/2019)