

SENATE BILL 745

M3, M1

4lr2593
CF 4lr1346

By: **Senators Young, Jones–Rodwell, Madaleno, Montgomery, Pinsky,
Ramirez, and Raskin**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Shale Gas Drilling Safety Review Act of 2014

FOR the purpose of prohibiting the Department of the Environment from issuing a certain permit for the hydraulic fracturing of a well for the exploration or production of natural gas until certain conditions are met; requiring the Department of the Environment and the Department of Natural Resources to issue a certain risk assessment at a certain time; prohibiting the Department of the Environment from requiring, accepting, or initiating a process for a certain comprehensive gas development plan until certain conditions and requirements are met; authorizing the Department of the Environment to establish and collect a certain fee under certain circumstances; requiring certain regulations adopted by the Department of the Environment to include certain restrictions or prohibitions on hydraulic fracturing; requiring certain regulations adopted by the Department of the Environment to provide certain protection to public health and the environment; requiring the Department of the Environment and the Department of Natural Resources to jointly brief certain committees of the General Assembly on a certain report and certain risk assessment within a certain period of time; declaring the intent of the General Assembly; making stylistic changes; defining certain terms; altering certain definitions; and generally relating to the hydraulic fracturing of a well for the exploration or production of natural gas in the State.

BY repealing and reenacting, with amendments,

Article – Environment

Section 14–102

Annotated Code of Maryland

(2007 Replacement Volume and 2013 Supplement)

BY adding to

Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 14–107.1
 Annotated Code of Maryland
 (2007 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Environment

14–102.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Coalbed methane” means methane and any other gaseous substance occurring in or produced from a coal seam or related, associated, or adjacent rock materials.
- (c) “County” includes Baltimore City unless otherwise indicated.
- (d) “Department” means the Department of the Environment.
- (e) “Field” means the general area [underlaid] **UNDERLAIN** by one or more pools.
- (f) “Fund” means the Oil and Gas Fund.
- (g) “Gas” means all natural gas, **NATURAL GAS LIQUIDS**, and other fluid hydrocarbons, not defined as oil, which are produced from a natural reservoir.

(G–1) (1) “GAS INTEREST” MEANS THE RIGHT TO EXPLORE FOR GAS ON, OR PRODUCE GAS FROM, REAL PROPERTY.

(2) “GAS INTEREST” DOES NOT INCLUDE A FEE SIMPLE INTEREST IN THE SURFACE RIGHTS OF REAL PROPERTY REGARDLESS OF WHETHER THE FEE INTEREST INCLUDES THE MINERAL RIGHTS.

(G–2) “MARCELLUS SHALE” MEANS A MIDDLE DEVONIAN–AGE, BLACK, LOW–DENSITY, CARBONACEOUS SHALE THAT:

(1) OCCURS THROUGHOUT THE ALLEGHENY PLATEAU REGION OF THE NORTHERN APPALACHIAN BASIN; AND

(2) UNDERLIES PARTS OF GARRETT COUNTY, ALLEGANY COUNTY, AND WASHINGTON COUNTY.

(G-3) “NATURAL GAS LIQUIDS” MEANS COMPONENTS OF NATURAL GAS THAT ARE LIQUID AT THE SURFACE IN FIELD FACILITIES OR GAS-PROCESSING PLANTS.

(h) “Oil” means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the wellhead in liquid form, except **NATURAL GAS LIQUIDS OR** liquid hydrocarbons known as distillate or condensate recovered or extracted from gas.

(i) “Owner” means the person who has the right to drill into and produce from a pool, or to store in a pool, and appropriate the oil or gas the person produces or stores either for the person or others.

(j) “Person” means [any individual, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind]:

(1) THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, A MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY OF THEIR UNITS;

(2) AN INDIVIDUAL, A RECEIVER, A TRUSTEE, A GUARDIAN, AN EXECUTOR, AN ADMINISTRATOR, A FIDUCIARY, OR A REPRESENTATIVE OF ANY KIND; OR

(3) A PARTNERSHIP, A FIRM, AN ASSOCIATION, A PUBLIC OR PRIVATE CORPORATION, OR ANY OTHER ENTITY.

(k) “Pool” means an underground reservoir containing a common accumulation of oil, gas, or both.

(l) “Producer” means the owner of a well capable of producing oil, gas, or both.

(m) “Product” means any commodity produced in its natural state by an oil or gas well.

(n) (1) “Production” means the act or process of producing oil or gas from a natural reservoir.

(2) “Production” does not include the sale or distribution of oil or gas.

(o) (1) “Underground storage” means the storing of gas or oil in a geological stratum beneath the surface of the earth.

(2) “Underground storage” includes the injection of gas or oil into and withdrawal from an underground storage reservoir and any other operation necessary for or convenient to the storage of gas or of oil.

(p) “Underground storage reservoir” means the stratum and subsurface area that are used or are to be used for or in connection with the underground storage of gas or of oil.

14-107.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “COMPREHENSIVE GAS DEVELOPMENT PLAN” MEANS A PLAN THAT IS REQUIRED, BY REGULATION OR OTHERWISE, TO BE SUBMITTED TO THE DEPARTMENT AS A CONDITION FOR THE ISSUANCE OF A PERMIT FOR THE HYDRAULIC FRACTURING OF A WELL FOR THE EXPLORATION OR PRODUCTION OF NATURAL GAS.

(II) “COMPREHENSIVE GAS DEVELOPMENT PLAN” INCLUDES A PLAN THAT ADDRESSES BROAD AND CUMULATIVE ISSUES ASSOCIATED WITH THE COMPLETION OF GAS EXPLORATION, EXTENSION, OR PRODUCTION WELLS AND THE EFFECTS THAT THE WELL CONSTRUCTION, RESOURCE EXTRACTION, AND TRANSPORTATION WOULD HAVE ON A LARGE SCALE.

(3) “EXECUTIVE ORDER” MEANS EXECUTIVE ORDER 01.01.2011.11, ISSUED ON JUNE 6, 2011, BY THE GOVERNOR.

(B) THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS SUBTITLE FOR THE HYDRAULIC FRACTURING OF A WELL FOR THE EXPLORATION OR PRODUCTION OF NATURAL GAS UNTIL:

(1) EACH REQUIREMENT UNDER THE STUDY REQUIRED UNDER THE EXECUTIVE ORDER IS SATISFIED;

(2) 18 MONTHS HAVE PASSED AFTER THE DATE THE STUDY REQUIRED UNDER THE EXECUTIVE ORDER IS ISSUED; AND

(3) THE DEPARTMENT HAS ADOPTED REGULATIONS IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION.

(C) (1) THE DEPARTMENT AND THE DEPARTMENT OF NATURAL RESOURCES SHALL ISSUE A RISK ASSESSMENT OF PUBLIC HEALTH AND

ENVIRONMENTAL HAZARDS RELATING TO HYDRAULIC FRACTURING ACTIVITIES AT THE SAME TIME THE FINAL REPORT REQUIRED UNDER THE EXECUTIVE ORDER IS ISSUED.

(2) THE RISK ASSESSMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(i) THE RISK OF PUBLIC HEALTH AND ENVIRONMENTAL HAZARDS CLASSIFIED ON THE FOLLOWING BASIS:

1. SLIGHT PUBLIC HEALTH OR ENVIRONMENTAL EFFECT;

2. MINOR PUBLIC HEALTH OR ENVIRONMENTAL EFFECT;

3. MODERATE PUBLIC HEALTH OR ENVIRONMENTAL EFFECT;

4. MAJOR PUBLIC HEALTH OR ENVIRONMENTAL EFFECT;

5. CATASTROPHIC PUBLIC HEALTH OR ENVIRONMENTAL EFFECT; AND

6. INSUFFICIENT DATA AVAILABLE; AND

(ii) THE PROBABILITY OF A HAZARD OCCURRING CLASSIFIED ON THE FOLLOWING BASIS:

1. RARE;

2. OCCASIONAL;

3. PERIODIC;

4. FREQUENT; AND

5. INSUFFICIENT DATA AVAILABLE.

(d) THE DEPARTMENT MAY NOT REQUIRE, ACCEPT, OR INITIATE A PROCESS FOR A COMPREHENSIVE GAS DEVELOPMENT PLAN UNTIL THE

CONDITIONS UNDER SUBSECTION (B) AND THE REQUIREMENTS UNDER THIS SECTION ARE SATISFIED.

(E) (1) ON WRITTEN REQUEST FROM A REPRESENTATIVE OF THE NATURAL GAS DRILLING INDUSTRY, THE DEPARTMENT MAY ESTABLISH AND COLLECT A FEE TO PROVIDE THE FUNDING NECESSARY FOR THE COMPLETION OF THE STUDY REQUIRED UNDER THE EXECUTIVE ORDER.

(2) A FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) BE COLLECTED FROM AN OWNER OF A GAS INTEREST IN REAL PROPERTY THAT:

1. IS LOCATED IN AN AREA OF THE STATE UNDERLAIN BY THE MARCELLUS SHALE; AND

2. WAS ACQUIRED AFTER JANUARY 1, 2007, FOR THE PURPOSE OF EXPLORATION OR PRODUCTION OF NATURAL GAS; AND

(II) APPLY TO EACH ACRE OF REAL PROPERTY IN WHICH THE OWNER HAS A GAS INTEREST.

(F) ANY REGULATIONS ADOPTED BY THE DEPARTMENT THAT ARE SPECIFIC TO HYDRAULIC FRACTURING SHALL:

(1) INCLUDE ANY RESTRICTIONS OR PROHIBITIONS ON HYDRAULIC FRACTURING ACTIVITIES DEEMED NECESSARY BY THE DEPARTMENT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT; AND

(2) BE AT LEAST AS PROTECTIVE OF PUBLIC HEALTH AND THE ENVIRONMENT AS RECOMMENDED IN:

(I) THE FINAL FINDINGS AND RECOMMENDATIONS OF THE STUDY REQUIRED UNDER THE EXECUTIVE ORDER; AND

(II) THE RISK ASSESSMENT REQUIRED UNDER SUBSECTION (C) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the study under Executive Order 01.01.2011.11, issued on June 6, 2011, by the Governor, be fully funded in order for the Department of the Environment and the Department of Natural Resources to satisfy each study item under the executive order.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the Environment and the Department of Natural Resources shall jointly brief the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee within 90 days after the final report required under Executive Order 01.01.2011.11, issued on June 6, 2011, by the Governor, and the risk assessment required under § 14–107.1(c), as enacted by Section 1 of this Act, is issued.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly to:

- (1) continue to monitor the issues relating to hydraulic fracturing;
- (2) review the final findings and recommendations of the study required under Executive Order 01.01.2011.11, issued on June 6, 2011, by the Governor;
- (3) review the risk assessment required under § 14–107.1(c), as enacted by Section 1 of this Act; and
- (4) determine if modification to this Act is necessary, including:
 - (i) extending the moratorium to enable additional study of hydraulic fracturing;
 - (ii) lifting the moratorium to authorize hydraulic fracturing in the State; or
 - (iii) imposing a ban on hydraulic fracturing in the State.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2014.