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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 838 Session of  
2021

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INTRODUCED BY D. MILLER, McNEILL, FREEMAN, HILL-EVANS, CONKLIN,  
MADDEN, ZABEL, SANCHEZ, SAMUELSON, A. DAVIS, GALLOWAY,  
SCHLOSSBERG, HOWARD, CIRESI AND SIMS, MARCH 15, 2021

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
MARCH 15, 2021

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AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, in development, further providing for hydraulic  
3 fracturing chemical disclosure requirements.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 3222.1 of Title 58 of the Pennsylvania  
7 Consolidated Statutes is amended to read:

8 § 3222.1. Hydraulic fracturing chemical disclosure  
9 requirements.

10 (a) Applicability.--This section applies to hydraulic  
11 fracturing of unconventional wells performed on or after the  
12 effective date of this section.

13 (b) Required disclosures.--

14 (1) [Except as provided under subsection (d), a] A  
15 service provider who performs any part of a hydraulic  
16 fracturing treatment and a vendor who provides hydraulic  
17 fracturing additives directly to the operator for a hydraulic

1 fracturing treatment shall furnish the operator with the  
2 information required under paragraph (2) [not later than 60  
3 days after the commencement of the hydraulic fracturing].

4 (2) [Within 60 days following the conclusion of  
5 hydraulic fracturing, the] The operator of the well shall  
6 complete the chemical disclosure registry form and post the  
7 form on the chemical disclosure registry in accordance with  
8 regulations promulgated under this chapter in a format that  
9 does not link chemicals to their respective hydraulic  
10 fracturing additive at least 14 days prior to the usage in  
11 each stage of the unconventional oil and gas process,  
12 including drilling.

13 [(3) If the vendor, service provider or operator claims  
14 that the specific identity of a chemical or the concentration  
15 of a chemical, or both, are a trade secret or confidential  
16 proprietary information, the operator of the well must  
17 indicate that on the chemical disclosure registry form, and  
18 the vendor, service provider or operator shall submit a  
19 signed written statement that the record contains a trade  
20 secret or confidential proprietary information. If a chemical  
21 is a trade secret, the operator shall include in the chemical  
22 registry disclosure form the chemical family or similar  
23 description associated with the chemical.

24 (4) At the time of claiming that any of the following  
25 are entitled to protection under paragraph (3), a vendor,  
26 service provider or operator shall file a signed written  
27 statement that the record contains a trade secret or  
28 confidential proprietary information:

29 (i) A hydraulic fracturing additive.

30 (ii) A chemical.

1 (iii) A concentration.

2 (iv) Any combination of subparagraphs (i), (ii) and  
3 (iii).]

4 (5) [Unless the information is entitled to protection as  
5 a trade secret or confidential proprietary information,  
6 information] Information submitted to the department or  
7 posted to the chemical disclosure registry shall be a public  
8 record.

9 (6) By January 1, 2013, the department shall determine  
10 whether the chemical disclosure registry allows the  
11 department and the public to search and sort Pennsylvania  
12 chemical disclosure information by geographic area, chemical  
13 ingredient, chemical abstract service number, time period and  
14 operator. If the department determines that there is no  
15 reasonable assurance that the registry will allow for  
16 searches by geographic area, chemical ingredient, chemical  
17 abstract service number, time period and operator, at a date  
18 acceptable to the department, the department shall  
19 investigate the feasibility of making the information under  
20 paragraph (2) available on the department's Internet website  
21 in a manner that will allow the department and the public to  
22 search and sort the information by geographic area, chemical  
23 ingredient, chemical abstract service number, time period and  
24 operator and shall report to the General Assembly whether  
25 additional resources may be needed to implement the searches  
26 and sorting.

27 (7) A vendor shall not be responsible for any inaccuracy  
28 in information that is provided to the vendor by a third-  
29 party manufacturer.

30 (8) A service provider shall not be responsible for any

1 inaccuracy in information that is provided to the service  
2 provider by the vendor.

3 (9) An operator shall not be responsible for any  
4 inaccuracy in information provided to the operator by the  
5 vendor or service provider or manufacturer.

6 (10) A vendor, service company or operator shall  
7 identify the specific identity and amount of any chemicals  
8 [claimed to be a trade secret or confidential proprietary  
9 information to any] within five days of a written request by  
10 a health professional. [who requests the information in  
11 writing if the health professional executes a confidentiality  
12 agreement and provides a written statement of need for the  
13 information indicating all of the following:

14 (i) The information is needed for the purpose of  
15 diagnosis or treatment of an individual.

16 (ii) The individual being diagnosed or treated may  
17 have been exposed to a hazardous chemical.

18 (iii) Knowledge of information will assist in the  
19 diagnosis or treatment of an individual.]

20 (11) If a health professional determines that a medical  
21 emergency exists and the specific identity and amount of any  
22 chemicals claimed to be a trade secret or confidential  
23 proprietary information are necessary for emergency  
24 treatment, the vendor, service provider or operator shall  
25 immediately disclose the information to the health  
26 professional. [upon a verbal acknowledgment by the health  
27 professional that the information may not be used for  
28 purposes other than the health needs asserted and that the  
29 health professional shall maintain the information as  
30 confidential. The vendor, service provider or operator may

1 request, and the health professional shall provide upon  
2 request, a written statement of need and a confidentiality  
3 agreement from the health professional as soon as  
4 circumstances permit, in conformance with regulations  
5 promulgated under this chapter.]

6 (c) Disclosures not required.--Notwithstanding any other  
7 provision of this chapter, a vendor, service provider or  
8 operator shall not be required to do any of the following:

9 (1) Disclose chemicals that are not disclosed to it by  
10 the manufacturer, vendor or service provider.

11 (2) Disclose chemicals that were not intentionally added  
12 to the stimulation fluid.

13 (3) Disclose chemicals that occur incidentally or are  
14 otherwise unintentionally present in trace amounts, may be  
15 the incidental result of a chemical reaction or chemical  
16 process or may be constituents of naturally occurring  
17 materials that become part of a stimulation fluid.

18 [(d) Trade secrets and confidential proprietary  
19 information.--

20 (1) Notwithstanding any other provision of this chapter,  
21 a vendor, service company or operator shall not be required  
22 to disclose trade secrets or confidential proprietary  
23 information to the chemical disclosure registry.

24 (2) The following shall apply:

25 (i) If the specific identity of a chemical, the  
26 concentration of a chemical or both the specific identity  
27 and concentration of a chemical are claimed to be a trade  
28 secret or confidential proprietary information, the  
29 vendor, service provider or operator may withhold the  
30 specific identity, the concentration, or both the

1 specific identity and concentration, of the chemical from  
2 the information provided to the chemical disclosure  
3 registry.

4 (ii) Nothing under this paragraph shall prohibit any  
5 of the following from obtaining from a vendor, service  
6 provider or operator information that may be needed to  
7 respond to a spill or release:

8 (A) The department.

9 (B) A public health official.

10 (C) An emergency manager.

11 (D) A responder to a spill, release or a  
12 complaint from a person who may have been directly  
13 and adversely affected or aggrieved by the spill or  
14 release.

15 (iii) Upon receipt of a written statement of need  
16 for the information under subparagraph (ii), the  
17 information shall be disclosed by the vendor, service  
18 provider or operator to the requesting official or entity  
19 authorized under subparagraph (ii) and shall not be a  
20 public record.

21 (e) Disclosure prevented.--The department shall prevent  
22 disclosure of trade secrets or confidential proprietary  
23 information under this section pursuant to the requirements of  
24 the Right-to-Know Law or other applicable State law.]

25 (e.1) Emergency response reporting.--Notwithstanding any  
26 other provision of law, a vendor, service provider or operator  
27 shall immediately disclose all information necessary to respond  
28 to a spill or release to the following:

29 (1) The department.

30 (2) A public health official.

1           (3) An emergency manager.

2           (4) A responder to a spill, release or complaint from a  
3           person that may have been directly and adversely affected or  
4           aggrieved by the spill or release.

5           (f) Well reporting.--Notwithstanding any other provision of  
6 law, nothing in this section shall be construed to reduce or  
7 modify the disclosure requirements for conventional well  
8 operators contained in 25 Pa. Code Ch. 78 Subch. E (relating to  
9 well reporting).

10          Section 2. This act shall take effect in 60 days.