

HOUSE BILL No. 5367

February 16, 2016, Introduced by Reps. Irwin, Sarah Roberts, Hovey-Wright, Chang, Greig, Plawecki, Hoadley, Townsend, Moss, LaVoy, Schor, Geiss, Phelps, Singh, Wittenberg and Zemke and referred to the Committee on Energy Policy.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 61531, 61532, 61533, and 61534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61531. (1) IN ADDITION TO OTHER REQUIREMENTS OF THIS
2 PART, THIS SECTION AND SECTIONS 61532 TO 61534 APPLY TO WELLS THAT
3 ARE USED OR ARE INTENDED FOR USE FOR HYDRAULIC FRACTURING.

4 (2) AS USED IN THIS SECTION AND IN SECTIONS 61532 TO 61534:

5 (A) "ADDITIVE" MEANS ANY SUBSTANCE OR COMBINATION OF
6 SUBSTANCES FOUND IN A HYDRAULIC FRACTURING FLUID, INCLUDING A
7 PROPPANT, THAT IS ADDED TO A BASE FLUID IN THE CONTEXT OF A
8 HYDRAULIC FRACTURING OPERATION, WHETHER OR NOT THE FUNCTION OF THE
9 SUBSTANCE OR COMBINATION OF SUBSTANCES IS TO CREATE FRACTURES IN A
10 FORMATION.

1 (B) "APPLICANT" MEANS AN APPLICANT FOR A PERMIT UNDER THIS
2 PART FOR A NATURAL GAS WELL.

3 (C) "BASE FLUID" MEANS THE BASE FLUID TYPE USED IN A
4 PARTICULAR HYDRAULIC FRACTURING OPERATION, SUCH AS WATER, INCLUDING
5 FRESH WATER AND RECYCLED WATER, NITROGEN GAS AND FOAM FLUIDS, AND
6 HYDROCARBON GAS.

7 (D) "CAS NUMBER" MEANS THE UNIQUE IDENTIFICATION NUMBER
8 ASSIGNED BY THE CHEMICAL ABSTRACTS SERVICE TO A CHEMICAL
9 INGREDIENT.

10 (E) "CHEMICAL ABSTRACTS SERVICE" MEANS THE CHEMICAL REGISTRY
11 THAT IS THE AUTHORITATIVE COLLECTION OF DISCLOSED CHEMICAL
12 SUBSTANCE INFORMATION.

13 (F) "CHEMICAL INGREDIENT" MEANS A DISCRETE CHEMICAL
14 CONSTITUENT WITH ITS OWN SPECIFIC NAME OR IDENTITY, SUCH AS A CAS
15 NUMBER, THAT IS CONTAINED IN AN ADDITIVE.

16 (G) "FRACTURING ADDITIVE SYSTEM" MEANS A SPECIFIC COMBINATION
17 OF ADDITIVES THAT IS MADE AVAILABLE AS A TOTAL SYSTEM THAT IS
18 DESIGNED TO SERVE MULTIPLE PURPOSES AND IS ADDED TO A BASE FLUID IN
19 THE CONTEXT OF A HYDRAULIC FRACTURING OPERATION.

20 (H) "HEALTH PROFESSIONAL" MEANS A PHYSICIAN, INDUSTRIAL
21 HYGIENIST, TOXICOLOGIST, EPIDEMIOLOGIST, NURSE, OR EMERGENCY
22 RESPONDER PROVIDING MEDICAL OR OTHER HEALTH SERVICES TO AN
23 INDIVIDUAL EXPOSED TO A CHEMICAL INGREDIENT.

24 (I) "HYDRAULIC FRACTURING" MEANS INJECTING FOAM OR FLUID IN A
25 WELL UNDER PRESSURE TO CREATE FRACTURES IN A FORMATION AND THEREBY
26 ENHANCE PRODUCTION OF HYDROCARBONS.

27 (J) "HYDRAULIC FRACTURING FLUID" MEANS THE FLUID USED TO

1 PERFORM HYDRAULIC FRACTURING AND INCLUDES THE APPLICABLE BASE FLUID
2 AND ALL ADDITIVES.

3 (K) "HYDRAULIC FRACTURING FLUID TRACER" MEANS AN ELEMENT,
4 COMPOUND, OR ISOTOPE THAT IS ADDED TO HYDRAULIC FRACTURING FLUID TO
5 DELINEATE GROUNDWATER FLOW PATHS AND ESTIMATE TIME OF TRAVEL, AND
6 THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

7 (i) THE TRACER SUBSTANCE IS TRACEABLE TO A SPECIFIC PERSON
8 AFTER THE TRACER SUBSTANCE IS USED IN A HYDRAULIC FRACTURING
9 OPERATION.

10 (ii) AS DETERMINED BY THE DEPARTMENT, USE OF THE TRACER
11 SUBSTANCE IN A HYDRAULIC FRACTURING OPERATION WILL NOT ENDANGER
12 PUBLIC HEALTH, SAFETY, OR WELFARE OR THE ENVIRONMENT.

13 (l) "MASTER LIST" MEANS A LIST OF ALL CHEMICAL INGREDIENTS,
14 AND THEIR ASSOCIATED CAS NUMBERS, THAT WERE USED BY A PERMITTEE OR
15 A SERVICE COMPANY, OR WERE SUPPLIED BY A SUPPLIER TO A PERMITTEE OR
16 A SERVICE COMPANY, DURING A CALENDAR YEAR IN CONNECTION WITH ANY
17 HYDRAULIC FRACTURING OPERATIONS CONDUCTED IN THIS STATE.

18 (M) "MATERIAL SAFETY DATA SHEET" MEANS A MATERIAL SAFETY DATA
19 SHEET AUTHORIZED UNDER 29 CFR 1910.

20 (N) "PERMITTEE" MEANS A PERSON THAT HAS BEEN ISSUED A PERMIT
21 UNDER THIS PART FOR A NATURAL GAS WELL.

22 (O) "PROPPANT" MEANS SAND OR ANOTHER NATURAL OR MAN-MADE
23 MATERIAL THAT IS USED IN A HYDRAULIC FRACTURING OPERATION TO
24 PREVENT ARTIFICIALLY CREATED OR ENHANCED FRACTURES FROM CLOSING
25 ONCE THE TREATMENT IS COMPLETED.

26 (P) "PURPOSE", UNLESS THE CONTEXT IMPLIES OTHERWISE, MEANS A
27 BRIEF DESCRIPTOR OF THE INTENDED USES OR FUNCTIONS OF AN ADDITIVE

1 OR A FRACTURING ADDITIVE SYSTEM, SUCH AS ACID, BIOCIDES, BREAKER,
2 CORROSION INHIBITOR, CROSSLINKER, DEMULSIFIER, FRICTION REDUCER,
3 GEL, IRON CONTROL AGENT, OXYGEN SCAVENGER, PH ADJUSTING AGENT,
4 PROPPANT, SCALE INHIBITOR, OR SURFACTANT.

5 (Q) "SERVICE COMPANY" MEANS A PERSON THAT PERFORMS HYDRAULIC
6 FRACTURING IN THIS STATE FOR A PERMITTEE.

7 (R) "SUPPLIER" MEANS A PERSON, INCLUDING AN OPERATOR BUT
8 EXCLUDING A SERVICE COMPANY, THAT PROVIDES AN ADDITIVE OR A
9 FRACTURING ADDITIVE SYSTEM TO A PERMITTEE FOR USE IN CONNECTION
10 WITH HYDRAULIC FRACTURING.

11 (S) "TRADE NAME" MEANS THE NAME UNDER WHICH AN ADDITIVE OR A
12 FRACTURING ADDITIVE SYSTEM IS SOLD OR MARKETED.

13 SEC. 61532. (1) THE DEPARTMENT SHALL NOT ISSUE A PERMIT UNDER
14 THIS PART TO DRILL A WELL THAT WILL USE HYDRAULIC FRACTURING AS A
15 PRODUCTION TECHNIQUE UNLESS THE APPLICANT PROVIDES TO THE
16 DEPARTMENT ALL OF THE FOLLOWING INFORMATION FOR ITS REVIEW AND
17 APPROVAL:

18 (A) THE TYPE AND VOLUME OF BASE FLUID USED IN THE HYDRAULIC
19 FRACTURING OPERATION, EXPRESSED IN GALLONS OR OTHER UNITS APPROVED
20 BY THE DEPARTMENT.

21 (B) THE TRADE NAME AND SUPPLIER OF EACH ADDITIVE OR OF THE
22 FRACTURING ADDITIVE SYSTEM, AS APPLICABLE, THAT IS TO BE USED IN
23 THE HYDRAULIC FRACTURING FLUID.

24 (C) THE PURPOSE OF EACH ADDITIVE OR OF THE FRACTURING ADDITIVE
25 SYSTEM, AS APPLICABLE.

26 (D) A LIST OF ALL CHEMICAL INGREDIENTS CONTAINED IN EACH
27 ADDITIVE OR IN THE FRACTURING ADDITIVE SYSTEM, AS APPLICABLE,

1 DESCRIBED UNDER SUBDIVISION (B), AND THEIR ASSOCIATED CAS NUMBERS.

2 (E) THE ACTUAL OR MAXIMUM CONCENTRATION OF EACH CHEMICAL
3 INGREDIENT LISTED UNDER SUBDIVISION (D), EXPRESSED AS A PERCENT BY
4 MASS OF THE TOTAL VOLUME OF HYDRAULIC FRACTURING FLUID USED.

5 (F) THE MATERIAL SAFETY DATA SHEETS ASSOCIATED WITH CHEMICAL
6 INGREDIENTS TO BE USED IN THE HYDRAULIC FRACTURING OPERATION.

7 (G) THE NAME OF THE SERVICE COMPANY THAT WILL BE USED, WHEN
8 KNOWN.

9 (H) AN EVALUATION OF WHETHER THERE ARE ALTERNATIVE HYDRAULIC
10 FRACTURING OPERATIONS THAT COULD BE UTILIZED WITH LESS POTENTIAL
11 RISK TO PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE ENVIRONMENT
12 THAN THE PROPOSED HYDRAULIC FRACTURING OPERATION AND, IF AN
13 ALTERNATIVE EXISTS, THE REASONS WHY THE ALTERNATIVE IS NOT BEING
14 PROPOSED.

15 (I) THE SPECIFIC SUBSTANCES IN THE HYDRAULIC FRACTURING FLUID
16 TRACER THAT WILL BE USED IN CONJUNCTION WITH THE HYDRAULIC
17 FRACTURING OPERATION.

18 (2) A PERMITTEE THAT INTENDS TO USE A HYDRAULIC FRACTURING
19 OPERATION THAT IS NOT CURRENTLY AUTHORIZED IN THE PERMIT SHALL
20 PROVIDE THE INFORMATION DESCRIBED IN SUBSECTION (1) TO THE
21 DEPARTMENT FOR ITS REVIEW AND APPROVAL.

22 (3) A PERMITTEE THAT WISHES TO MODIFY HIS OR HER HYDRAULIC
23 FRACTURING OPERATION IN A MANNER INCONSISTENT WITH THE INFORMATION
24 PROVIDED TO THE DEPARTMENT UNDER SUBSECTION (1) OR (2) SHALL
25 PROVIDE UPDATED INFORMATION TO THE DEPARTMENT FOR ITS REVIEW AND
26 APPROVAL.

27 (4) THE DEPARTMENT SHALL POST THE INFORMATION PROVIDED UNDER

1 SUBSECTIONS (1), (2), AND (3) ON THE DEPARTMENT'S WEBSITE FOR A
2 PERIOD OF AT LEAST 60 DAYS PRIOR TO MAKING A DECISION UNDER THIS
3 SECTION, TO ALLOW FOR PUBLIC NOTICE AND COMMENT. THE INFORMATION
4 SHALL REMAIN ON THE WEBSITE UNTIL 3 YEARS AFTER COMPLETION OF THE
5 HYDRAULIC FRACTURING OPERATION. IN ADDITION, THE DEPARTMENT SHALL
6 PROVIDE NOTICE TO BOTH OF THE FOLLOWING THAT INFORMATION REGARDING
7 A PROPOSED HYDRAULIC FRACTURING OPERATION HAS BEEN POSTED ON ITS
8 WEBSITE:

9 (A) MEDIA OUTLETS IN THE VICINITY OF THE LOCATION OF THE
10 PROPOSED HYDRAULIC FRACTURING OPERATION.

11 (B) THE LOCAL UNITS OF GOVERNMENT IN WHICH THE PROPOSED
12 HYDRAULIC FRACTURING OPERATION WILL OCCUR.

13 (5) FOLLOWING THE PERIOD SPECIFIED FOR PUBLIC NOTICE AND
14 COMMENT UNDER SUBSECTION (4), THE DEPARTMENT MAY APPROVE A PROPOSED
15 HYDRAULIC FRACTURING OPERATION PROPOSAL SUBMITTED UNDER THIS
16 SECTION. HOWEVER, IF THE DEPARTMENT DETERMINES THAT AN ALTERNATIVE
17 HYDRAULIC FRACTURING OPERATION THAT PROVIDES GREATER PROTECTION TO
18 PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE ENVIRONMENT IS
19 FEASIBLE, THE DEPARTMENT SHALL DISAPPROVE THE PROPOSED HYDRAULIC
20 FRACTURING OPERATION. IF THE DEPARTMENT DISAPPROVES A PROPOSED
21 HYDRAULIC FRACTURING OPERATION PROPOSAL UNDER THIS SUBSECTION, THE
22 APPLICANT OR PERMITTEE MAY RESUBMIT A MODIFIED HYDRAULIC FRACTURING
23 OPERATION PROPOSAL FOR THE DEPARTMENT'S CONSIDERATION.

24 (6) AN APPLICANT OR PERMITTEE IS NOT RESPONSIBLE FOR UNKNOWN
25 INACCURACIES IN THE INFORMATION THAT IS PROVIDED TO THE DEPARTMENT
26 UNDER SUBSECTION (1)(B) THAT THE APPLICANT OR PERMITTEE RECEIVED
27 FROM A SUPPLIER OR THIRD-PARTY MANUFACTURER OF THE ADDITIVES.

1 SEC. 61533. (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, A
2 PERMITTEE THAT UTILIZED HYDRAULIC FRACTURING DURING THE PREVIOUS
3 CALENDAR YEAR SHALL SUBMIT TO THE DEPARTMENT BOTH OF THE FOLLOWING
4 RELATED TO THE USE OF HYDRAULIC FRACTURING OPERATIONS DURING THAT
5 YEAR:

6 (A) A MASTER LIST.

7 (B) A REPORT LISTING THE TOTAL QUANTITY OF EACH CHEMICAL
8 INGREDIENT, IDENTIFIED BY NAME AND CAS NUMBER, THAT WAS USED FOR
9 HYDRAULIC FRACTURING OPERATIONS IN THIS STATE DURING THE PREVIOUS
10 CALENDAR YEAR.

11 (2) ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL
12 COMPILE AND MAKE PUBLICLY AVAILABLE A COMPREHENSIVE LIST OF
13 CHEMICAL INGREDIENTS AND QUANTITIES USED THAT IS AGGREGATED FROM
14 ALL THE INFORMATION SUBMITTED TO THE DEPARTMENT PURSUANT TO
15 SUBSECTION (1).

16 SEC. 61534. (1) A PERSON SHALL SUPPLY THE FOLLOWING
17 INFORMATION RELATED TO HYDRAULIC FRACTURING TO A HEALTH CARE
18 PROFESSIONAL:

19 (A) INFORMATION REGARDING ADDITIVES OR CHEMICAL INGREDIENTS
20 NEEDED BY THE HEALTH CARE PROFESSIONAL FOR DIAGNOSTIC PURPOSES.
21 THIS INFORMATION SHALL BE PROVIDED DIRECTLY TO THE HEALTH CARE
22 PROFESSIONAL AS FOLLOWS:

23 (i) IMMEDIATELY UPON REQUEST, IN A CASE IDENTIFIED BY THE
24 HEALTH CARE PROFESSIONAL AS A MEDICAL EMERGENCY. IF THE HEALTH CARE
25 PROFESSIONAL'S INITIAL REQUEST FOR INFORMATION DOES NOT SATISFY THE
26 REQUIREMENTS OF A STATEMENT OF NEED AS DESCRIBED IN SUBSECTION (2),
27 AS SOON AFTER THE EMERGENCY AS CIRCUMSTANCES PERMIT, THE HEALTH

1 CARE PROFESSIONAL SHALL PROVIDE TO THE PERSON DISCLOSING THE
2 INFORMATION A WRITTEN STATEMENT OF THE NEED FOR THE INFORMATION.

3 (ii) UPON RECEIPT OF A WRITTEN STATEMENT OF NEED FROM THE
4 HEALTH CARE PROFESSIONAL, IN CASES THAT ARE NOT MEDICAL
5 EMERGENCIES.

6 (B) ANY OTHER INFORMATION, THE DISCLOSURE OF WHICH IS REQUIRED
7 BY A STATE OR FEDERAL LAW.

8 (2) THE STATEMENT OF NEED REFERRED TO IN SUBSECTION (1) (A) (i)
9 OR (ii) SHALL STATE ALL OF THE FOLLOWING:

10 (A) THE HEALTH CARE PROFESSIONAL HAS A REASONABLE BASIS TO
11 BELIEVE THE INFORMATION IS NEEDED FOR DIAGNOSIS OR TREATMENT OF AN
12 INDIVIDUAL.

13 (B) THE INDIVIDUAL BEING DIAGNOSED OR TREATED MAY HAVE BEEN
14 EXPOSED TO THE CHEMICAL INGREDIENT.

15 (C) KNOWLEDGE OF THE SPECIFIC CHEMICAL INGREDIENT IDENTITY IS
16 LIKELY TO ASSIST IN DIAGNOSIS OR TREATMENT.