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H.B. No. 3328

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the disclosure of the composition of hydraulic
3 fracturing fluids used in hydraulic fracturing treatments.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 91, Natural Resources Code, is amended
6 by adding Subchapter S to read as follows:

7 SUBCHAPTER S. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING
8 FLUIDS

9 Sec. 91.851. DISCLOSURE OF COMPOSITION OF HYDRAULIC
10 FRACTURING FLUIDS. The commission by rule shall:

11 (1) require an operator of a well on which a hydraulic
12 fracturing treatment is performed to:

13 (A) complete the form posted on the hydraulic
14 fracturing chemical registry Internet website of the Ground Water
15 Protection Council and the Interstate Oil and Gas Compact
16 Commission with regard to the well;

17 (B) include in the form completed under Paragraph
18 (A):

19 (i) the total volume of water used in the
20 hydraulic fracturing treatment; and

21 (ii) each chemical ingredient that is
22 subject to the requirements of 29 C.F.R. Section 1910.1200(g)(2);

23 (C) post the completed form described by
24 Paragraph (A) on the website described by that paragraph or, if the

1 website is discontinued or permanently inoperable, post the
2 completed form on another publicly accessible Internet website
3 specified by the commission;

4 (D) submit the completed form described by
5 Paragraph (A) to the commission with the well completion report for
6 the well; and

7 (E) in addition to the completed form specified
8 in Paragraph (D), provide to the commission a list, to be made
9 available on a publicly accessible website, of all other chemical
10 ingredients not listed on the completed form that were
11 intentionally included and used for the purpose of creating a
12 hydraulic fracturing treatment for the well. The commission rule
13 shall ensure that an operator, service company, or supplier is not
14 responsible for disclosing ingredients that:

15 (i) were not purposely added to the
16 hydraulic fracturing treatment;

17 (ii) occur incidentally or are otherwise
18 unintentionally present in the treatment; or

19 (iii) in the case of the operator, are not
20 disclosed to the operator by a service company or supplier. The
21 commission rule shall not require that the ingredients be
22 identified based on the additive in which they are found or that the
23 concentration of such ingredients be provided;

24 (2) require a service company that performs a
25 hydraulic fracturing treatment on a well or a supplier of an
26 additive used in a hydraulic fracturing treatment on a well to
27 provide the operator of the well with the information necessary for

1 the operator to comply with Subdivision (1);

2 (3) prescribe a process by which an entity required to
3 comply with Subdivision (1) or (2) may withhold and declare certain
4 information as a trade secret for purposes of Section 552.110,
5 Government Code, including the identity and amount of the chemical
6 ingredient used in a hydraulic fracturing treatment;

7 (4) require a person who desires to challenge a claim
8 of entitlement to trade secret protection under Subdivision (3) to
9 file the challenge not later than the second anniversary of the date
10 the relevant well completion report is filed with the commission;

11 (5) limit the persons who may challenge a claim of
12 entitlement to trade secret protection under Subdivision (3) to:

13 (A) the landowner on whose property the relevant
14 well is located;

15 (B) a landowner who owns property adjacent to
16 property described by Paragraph (A); or

17 (C) a department or agency of this state; and

18 (6) prescribe an efficient process for an entity
19 described by Subdivision (1) or (2) to provide information,
20 including information that is a trade secret as defined by Appendix
21 D to 29 C.F.R. Section 1910.1200, to a health professional or
22 emergency responder who needs the information in accordance with
23 Subsection (i) of that section.

24 SECTION 2. Subchapter S, Chapter 91, Natural Resources
25 Code, as added by this Act, applies only to a hydraulic fracturing
26 treatment performed on a well for which an initial drilling permit
27 is issued on or after the date the initial rules adopted by the

1 Railroad Commission of Texas under that subchapter take effect. A
2 hydraulic fracturing treatment performed on a well for which an
3 initial drilling permit is issued before the date the initial rules
4 take effect is governed by the law as it existed immediately before
5 the effective date of this Act, and that law is continued in effect
6 for that purpose.

7 SECTION 3. The Railroad Commission of Texas shall adopt
8 rules under Subchapter S, Chapter 91, Natural Resources Code, as
9 added by this Act, not later than January 1, 2012.

10 SECTION 4. This Act takes effect September 1, 2011.