

By: Keffer, Crownover, Burnam, Parker,  
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H.B. No. 3328

Substitute the following for H.B. No. 3328:

By: Keffer

C.S.H.B. No. 3328

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of the composition of hydraulic  
fracturing fluids used in hydraulic fracturing treatments.

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

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

SUBCHAPTER S. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING

FLUIDS

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

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

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

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

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

(ii) each chemical ingredient used in the  
hydraulic fracturing treatment, regardless of whether the  
ingredient is subject to the requirements of 29 C.F.R. Section  
1910.1200(g)(2);

1           (C) post the completed form described by  
2 Paragraph (A) on the website described by that paragraph or, if the  
3 website is discontinued or permanently inoperable, post the  
4 completed form on another publicly accessible Internet website  
5 specified by the commission; and

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

9           (2) require a service company that performs a  
10 hydraulic fracturing treatment on a well or a supplier of an  
11 additive used in a hydraulic fracturing treatment on a well to  
12 provide the operator of the well with the information necessary for  
13 the operator to comply with Subdivision (1);

14           (3) prescribe a process by which an entity required to  
15 comply with Subdivision (1) or (2) may designate certain  
16 information, including the identity and amount of a chemical  
17 ingredient used in a hydraulic fracturing treatment, as a trade  
18 secret for purposes of Section 552.110, Government Code, or, if  
19 that section is repealed, for purposes of 40 C.F.R. Part 350,  
20 Subpart A;

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

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

27           (A) the landowner on whose property the relevant

1 well is located;

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

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

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

11 SECTION 2. Subchapter S, Chapter 91, Natural Resources  
12 Code, as added by this Act, applies only to a hydraulic fracturing  
13 treatment performed on a well for which an initial drilling permit  
14 is issued on or after the date the initial rules adopted by the  
15 Railroad Commission of Texas under that subchapter take effect. A  
16 hydraulic fracturing treatment performed on a well for which an  
17 initial drilling permit is issued before the date the initial rules  
18 take effect is governed by the law as it existed immediately before  
19 the effective date of this Act, and that law is continued in effect  
20 for that purpose.

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

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