

1-1 By: Keffer, et al. (Senate Sponsor - Fraser) H.B. No. 3328
1-2 (In the Senate - Received from the House May 13, 2011;
1-3 May 13, 2011, read first time and referred to Committee on Natural
1-4 Resources; May 23, 2011, reported favorably by the following vote:
1-5 Yeas 10, Nays 0; May 23, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the disclosure of the composition of hydraulic
1-9 fracturing fluids used in hydraulic fracturing treatments.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 91, Natural Resources Code, is amended
1-12 by adding Subchapter S to read as follows:

1-13 SUBCHAPTER S. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING
1-14 FLUIDS

1-15 Sec. 91.851. DISCLOSURE OF COMPOSITION OF HYDRAULIC
1-16 FRACTURING FLUIDS. The commission by rule shall:

1-17 (1) require an operator of a well on which a hydraulic
1-18 fracturing treatment is performed to:

1-19 (A) complete the form posted on the hydraulic
1-20 fracturing chemical registry Internet website of the Ground Water
1-21 Protection Council and the Interstate Oil and Gas Compact
1-22 Commission with regard to the well;

1-23 (B) include in the form completed under Paragraph
1-24 (A):

1-25 (i) the total volume of water used in the
1-26 hydraulic fracturing treatment; and

1-27 (ii) each chemical ingredient that is
1-28 subject to the requirements of 29 C.F.R. Section 1910.1200(g)(2);

1-29 (C) post the completed form described by
1-30 Paragraph (A) on the website described by that paragraph or, if the
1-31 website is discontinued or permanently inoperable, post the
1-32 completed form on another publicly accessible Internet website
1-33 specified by the commission;

1-34 (D) submit the completed form described by
1-35 Paragraph (A) to the commission with the well completion report for
1-36 the well; and

1-37 (E) in addition to the completed form specified
1-38 in Paragraph (D), provide to the commission a list, to be made
1-39 available on a publicly accessible website, of all other chemical
1-40 ingredients not listed on the completed form that were
1-41 intentionally included and used for the purpose of creating a
1-42 hydraulic fracturing treatment for the well. The commission rule
1-43 shall ensure that an operator, service company, or supplier is not
1-44 responsible for disclosing ingredients that:

1-45 (i) were not purposely added to the
1-46 hydraulic fracturing treatment;

1-47 (ii) occur incidentally or are otherwise
1-48 unintentionally present in the treatment; or

1-49 (iii) in the case of the operator, are not
1-50 disclosed to the operator by a service company or supplier. The
1-51 commission rule shall not require that the ingredients be
1-52 identified based on the additive in which they are found or that the
1-53 concentration of such ingredients be provided;

1-54 (2) require a service company that performs a
1-55 hydraulic fracturing treatment on a well or a supplier of an
1-56 additive used in a hydraulic fracturing treatment on a well to
1-57 provide the operator of the well with the information necessary for
1-58 the operator to comply with Subdivision (1);

1-59 (3) prescribe a process by which an entity required to
1-60 comply with Subdivision (1) or (2) may withhold and declare certain
1-61 information as a trade secret for purposes of Section 552.110,
1-62 Government Code, including the identity and amount of the chemical
1-63 ingredient used in a hydraulic fracturing treatment;

1-64 (4) require a person who desires to challenge a claim

2-1 of entitlement to trade secret protection under Subdivision (3) to
 2-2 file the challenge not later than the second anniversary of the date
 2-3 the relevant well completion report is filed with the commission;
 2-4 (5) limit the persons who may challenge a claim of
 2-5 entitlement to trade secret protection under Subdivision (3) to:
 2-6 (A) the landowner on whose property the relevant
 2-7 well is located;
 2-8 (B) a landowner who owns property adjacent to
 2-9 property described by Paragraph (A); or
 2-10 (C) a department or agency of this state; and
 2-11 (6) prescribe an efficient process for an entity
 2-12 described by Subdivision (1) or (2) to provide information,
 2-13 including information that is a trade secret as defined by Appendix
 2-14 D to 29 C.F.R. Section 1910.1200, to a health professional or
 2-15 emergency responder who needs the information in accordance with
 2-16 Subsection (i) of that section.

2-17 SECTION 2. Subchapter S, Chapter 91, Natural Resources
 2-18 Code, as added by this Act, applies only to a hydraulic fracturing
 2-19 treatment performed on a well for which an initial drilling permit
 2-20 is issued on or after the date the initial rules adopted by the
 2-21 Railroad Commission of Texas under that subchapter take effect. A
 2-22 hydraulic fracturing treatment performed on a well for which an
 2-23 initial drilling permit is issued before the date the initial rules
 2-24 take effect is governed by the law as it existed immediately before
 2-25 the effective date of this Act, and that law is continued in effect
 2-26 for that purpose.

2-27 SECTION 3. The Railroad Commission of Texas shall adopt
 2-28 rules under Subchapter S, Chapter 91, Natural Resources Code, as
 2-29 added by this Act, not later than January 1, 2012.

2-30 SECTION 4. This Act takes effect September 1, 2011.

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