

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to environmental protection related to the drilling of oil and gas wells, and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 3 of section 23-0501 of the environmental
2 conservation law is renumbered subdivision 5 and two new subdivisions 3
3 and 4 are added to read as follows:

4 3. COMMENCING WITH THE EFFECTIVE DATE OF THIS SUBDIVISION, THERE SHALL
5 BE A MORATORIUM ON THE ISSUANCE OF PERMITS FOR THE DRILLING OF NEW
6 WELLS.

7 4. (A) NO PERMIT TO DRILL AN OIL OR GAS WELL USING HYDRAULIC FRACTUR-
8 ING SHALL BE ISSUED FOR THE DRILLING OF ANY OIL OR GAS WELL WITHIN TEN
9 MILES OF:

10 (I) THE NEW YORK CITY WATER SUPPLY INFRASTRUCTURE;

11 (II) THE NEW YORK CITY WATERSHED; OR

12 (III) THE AREA AROUND AND INCLUDING ANY WATER SYSTEM THAT HAS
13 RECEIVED, AT ANY POINT IN TIME, A FILTRATION AVOIDANCE DETERMINATION
14 FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY;

15 (B) NO PERMIT TO DRILL AN OIL OR GAS WELL USING HYDRAULIC FRACTURING
16 SHALL BE ISSUED FOR THE DRILLING OF ANY OIL OR GAS WELL WITHIN AN APPRO-
17 PRIATE DISTANCE, TO BE DETERMINED BY RULES AND REGULATIONS OF THE
18 DEPARTMENT, OF:

19 (I) ANY AREA OVERLYING A SOLE SOURCE AQUIFER;

20 (II) ANY OTHER AREA IDENTIFIED BY THE DEPARTMENT AS NECESSARY FOR THE
21 PROTECTION OF DRINKING WATER RESOURCES;

22 (III) ANY AREA IDENTIFIED AS A CRITICAL HABITAT FOR A THREATENED OR
23 ENDANGERED SPECIES UNDER SECTION FOUR OF THE FEDERAL ENDANGERED SPECIES

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ACT (42 U.S.C. S 1533) OR ANY AREA IDENTIFIED AS A "NATURAL HERITAGE
2 AREA" UNDER SECTION 11-0539 OF THIS CHAPTER;

3 (IV) ANY AREA IDENTIFIED BY THE DEPARTMENT AS A BIRD CONSERVATION AREA
4 OR ANY OTHER CRITICAL BIRD HABITAT FOR THE PROTECTION OF MIGRATORY OR
5 NON-MIGRATORY BIRDS;

6 (V) ANY FLOODPLAINS; OR

7 (VI) ALL AREAS WITHIN ANY NEW YORK STATE PARK, FOREST PRESERVE, STATE
8 FOREST, WILDLIFE REFUGE, WILDLIFE MANAGEMENT AREA, OR WILDERNESS AREA.

9 (C) THE DEPARTMENT SHALL, UPON APPLICATION BY ANY CHIEF EXECUTIVE OR
10 LEGISLATIVE BODY OF A MUNICIPALITY, IN A MANNER AND FORM TO BE DETER-
11 MINED BY THE DEPARTMENT, STUDY THE NEED FOR A BAN ON SUCH PERMITS IN
12 SUCH MUNICIPALITY AND REPORT THE FINDINGS OF SUCH STUDY TO SUCH MUNICI-
13 PALITY. AS THE DEPARTMENT DEEMS APPROPRIATE, IT MAY PERFORM A SINGLE
14 STUDY AND REPORT FOR MORE THAN ONE MUNICIPALITY.

15 (D) FOR PURPOSES OF THIS SUBDIVISION:

16 (I) "NEW YORK CITY WATER SUPPLY INFRASTRUCTURE" SHALL MEAN FACILITIES,
17 EQUIPMENT, SITES, BUILDINGS, PIPES, PUMPS, TANKS AND ANY OTHER STRUC-
18 TURES USED FOR THE SUPPLY, CONTROL, TREATMENT, DISTRIBUTION, AND TRANS-
19 PORT OF DRINKING WATER FOR THE CITY OF NEW YORK;

20 (II) "NEW YORK CITY WATERSHED" SHALL MEAN THE ENTIRE DRAINAGE AREA
21 CONTRIBUTING WATER TO THE CITY OF NEW YORK WATER SUPPLY; AND

22 (III) "HYDRAULIC FRACTURING" SHALL MEAN FRACTURING OF ROCK BY MAN-MADE
23 FRACTURING TECHNIQUES FOR THE PURPOSE OF STIMULATING NATURAL GAS OR OIL
24 WELL PRODUCTION.

25 S 2. This act shall take effect immediately; provided that the
26 provisions of subdivision 3 of section 23-0501 of the environmental
27 conservation law, as added by section one of this act, shall expire and
28 be deemed repealed two years after such date; and provided further, that
29 the provisions of subdivision 4 of section 23-0501 of the environmental
30 conservation law, as added by section one of this act, shall apply to
31 any application not yet approved by the department of environmental
32 conservation on such effective date.