10208

## IN ASSEMBLY

## May 11, 2012

Introduced by M. of A. SWEENEY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to high volume hydraulic fracturing natural gas production discharge notifications

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

Section 1. Article 23 of the environmental conservation law is amended 2 by adding a new title 29 to read as follows: 3

TITLE 29

HIGH VOLUME HYDRAULIC FRACTURING

NATURAL GAS PRODUCTION DISCHARGE NOTIFICATION

SECTION 23-2901. DEFINITIONS.

- 23-2903. NOTIFICATION BY PERSONS RESPONSIBLE FOR DISCHARGE.
- 23-2905. NOTIFICATION BY THE DEPARTMENT.
- 23-2907. ENFORCEMENT OF TITLE; PENALTIES.
- 10 S 23-2901. DEFINITIONS.

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- 1. "DISCHARGE" MEANS ANY INTENTIONAL OR UNINTENTIONAL ACTION OR OMIS-SION RESULTING IN THE RELEASING, SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING OR DUMPING OF ANY SUBSTANCE USED IN OR ASSOCIATED PROCESSES RELATED TO NATURAL GAS PRODUCTION INTO THE WATERS OF THE STATE OR ONTO LANDS, OR INTO WATERS OR LANDS OUTSIDE THE JURISDICTION OF THE STATE WHEN DAMAGE MAY RESULT TO THE LANDS, WATERS OR NATURAL OF THE STATE, EXCEPTING DISCHARGES WITHIN THE JURISDICTION RESOURCES PURSUANT TO AND IN COMPLIANCE WITH THE CONDITIONS OF A VALID STATE FEDERAL PERMIT. FOR THE PURPOSES OF THIS SECTION "DISCHARGE" SHALL NOT INCLUDE FRESH WATER OR SOLID WASTE INCLUDING, BUT NOT LIMITED TO, CUTTINGS FROM OIL AND GAS PRODUCTION.
- FRACTURING" OR "(HVHF)" MEANS HYDRAULIC "HIGH-VOLUME HYDRAULIC FRACTURING FOR NATURAL GAS EXTRACTION USING GREATER THAN THREE HUNDRED THOUSAND GALLONS OF WATER REGARDLESS OF WHETHER THE WELL IS VERTICAL, DIRECTIONAL OR HORIZONTAL.
- 26 3. "NATURAL GAS PRODUCTION" OR "GAS PRODUCTION" MEANS ALL ACTIVITIES ASSOCIATED WITH THE EXPLORATION AND PRODUCTION OF NATURAL GAS, INCLUD-27

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

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ING, BUT NOT LIMITED TO (A) DEVELOPMENT OF NATURAL GAS WELLS; (B) ACTIV-ITIES ASSOCIATED WITH DRILLING, STIMULATING, COMPLETING, CONSTRUCTING, MAINTAINING, CONVERTING, ABANDONING, PLUGGING OR OPERATING A NATURAL GAS (C) ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OR OPERATION OF 5 FACILITIES FOR THE COLLECTION AND TRANSMISSION OF NATURAL GAS FROM GAS WELLS TO CONSUMERS OF NATURAL GAS; AND (D) THE TRANSPORTATION OF MATERI-6 7 ALS ASSOCIATED WITH A NATURAL GAS WELL SITE OR NATURAL GAS PRODUCTION WHETHER OR NOT SUCH GAS IS RE-INJECTED INTO THE SUBSURFACE OF THE EARTH, 8 9 FROM A GEOLOGICAL FORMATION AND THE TRANSPORTATION OF SUCH NATURAL GAS 10 TO ANOTHER LOCATION.

- "PERSON" MEANS PUBLIC OR PRIVATE CORPORATIONS, COMPANIES, ASSOCI-11 12 ATIONS, SOCIETIES, FIRMS, PARTNERSHIPS, JOINT STOCK COMPANIES, INDIVID-UALS, THE UNITED STATES, THE STATE OF NEW YORK AND ANY OF ITS POLITICAL 13 14 SUBDIVISIONS OR AGENTS.
- 15 S 23-2903. NOTIFICATION BY PERSONS RESPONSIBLE FOR DISCHARGE.

ANY PERSON RESPONSIBLE FOR CAUSING A DISCHARGE OF ANY SUBSTANCE USED IN OR ASSOCIATED WITH PROCESSES RELATED TO THE PRODUCTION OF NATURAL GAS WHERE HIGH-VOLUME HYDRAULIC FRACTURING IS UTILIZED SHALL IMMEDIATELY NOTIFY THE DEPARTMENT PURSUANT TO RULES AND REGULATIONS ESTABLISHED BY THE DEPARTMENT, BUT IN NO CASE LATER THAN TWO HOURS AFTER THE DISCHARGE. FAILURE TO SO NOTIFY SHALL MAKE SUCH PERSON LIABLE PURSUANT TO THE PENALTY PROVISIONS OF SECTION 23-2907 OF THIS TITLE.

S 23-2905. NOTIFICATION BY THE DEPARTMENT. 23

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24 WITHIN FORTY-EIGHT HOURS OF RECEIPT OF NOTIFICATION MADE PURSUANT 25 SECTION 23-2903 OF THIS TITLE OF A DISCHARGE, THE DEPARTMENT SHALL 26 PROVIDE NOTIFICATION OF SUCH DISCHARGE TO THE GENERAL PUBLIC NEW OR EXISTING DATABASE VIA ITS WEBSITE, WHICH SHALL BE UPDATED DAILY. 27 28 S 23-2907. ENFORCEMENT OF TITLE; PENALTIES.

ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF THIS TITLE OR ANY 29 RULE OR REGULATION PROMULGATED THEREUNDER OR WHO FAILS TO COMPLY WITH 30 ANY DUTY CREATED BY THIS TITLE SHALL BE LIABLE TO A PENALTY OF NOT MORE 31 32 THAN TWENTY-FIVE THOUSAND DOLLARS FOR EACH OFFENSE IN A COURT OF COMPE-33 TENT JURISDICTION. IF THE VIOLATION IS OF A CONTINUING NATURE EACH DAY 34 DURING WHICH IT CONTINUES SHALL CONSTITUTE AN ADDITIONAL, SEPARATE 35 DISTINCT OFFENSE.

S 2. This act shall take effect on the one hundred twentieth day after 37 shall have become a law. Effective immediately, the addition, amend-38 ment and/or repeal of any rule or regulation necessary for the implemen-39 tation of this act on its effective date is authorized to be made on or 40 before such date.