S T A T E O F N E W Y O R K

4220--B

2011-2012 Regular Sessions

I N S E N A T E

March 23, 2011

Introduced by Sens. AVELLA, ADAMS, ADDABBO, CARLUCCI, DILAN, DUANE, ESPAILLAT, HASSELL-THOMPSON, HUNTLEY, KLEIN, KRUEGER, MONTGOMERY, OPPENHEIMER, PERKINS, RIVERA, SAMPSON, SAVINO, SERRANO, SQUADRON, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to prohibiting the use of hydraulic fracturing and the disposal and/or processing of any fluid which was used in a hydraulic fracturing process

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

Section 1. Paragraph b of subdivision 1 of section 23-0501 of the environmental conservation law is amended by adding a new subparagraph 4 to read as follows:

(4) "HYDRAULIC FRACTURING" MEANS FRACTURING OF ROCK BY MAN-MADE FLUID-DRIVEN FRACTURING TECHNIQUES FOR THE PURPOSE OF STIMULATING NATURAL GAS OR OIL WELL PRODUCTION. ANY FLUID USED IN SUCH A FRACTURING TECHNIQUE SHALL BE DEEMED A "HYDRAULIC FRACTURING FLUID", INCLUDING WATER OR LIQUID PROPANE GAS.

S 2. Section 23-0305 of the environmental conservation law is amended by adding a new subdivision 15 to read as follows:

15. THE DEPARTMENT SHALL NOT ISSUE A PERMIT FOR THE DRILLING OR OPERATION OF ANY WELL PROPOSING TO USE HYDRAULIC FRACTURING OR HYDRAULIC FRACTURING FLUIDS, AS SUCH TERMS ARE DEFINED BY SUBPARAGRAPH FOUR OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION 23-0501 OF THIS ARTICLE, FOR THE EXTRACTION OF GAS AND/OR OIL.

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

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S 3. Subdivision 3 of section 23-0501 of the environmental conservation law is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. THE DEPARTMENT SHALL NOT ISSUE A PERMIT FOR THE DRILLING OR OPERATION OF ANY WELL PROPOSING TO USE HYDRAULIC FRACTURING OR HYDRAULIC FRACTURING FLUIDS FOR THE EXTRACTION OF GAS AND/OR OIL.

S 4. The environmental conservation law is amended by adding a new section 17-0513 to read as follows:

S 17-0513. PROHIBITION ON ACCEPTANCE, DISPOSAL AND/OR PROCESSING OF ANY FLUID USED IN A HYDRAULIC FRACTURING PROCESS.

1. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, THE ACCEPTANCE, DISPOSAL AND/OR PROCESSING OF ANY DRILLING FLUIDS OR DRILL CUTTINGS IN THIS STATE, WHEN SUCH DRILLING FLUIDS OR DRILL CUTTINGS HAVE BEEN USED IN A HYDRAULIC FRACTURING PROCESS, IS PROHIBITED.

2. FOR THE PURPOSES OF THIS SECTION:

(A) "DRILLING FLUIDS" SHALL MEAN DRILLING MUD, CHEMICAL ADDITIVES CONTAINED IN OR ADDED TO DRILLING FLUIDS DURING THE HYDRAULIC FRACTURING DRILLING PROCESS, FLOW BACK WATER THAT RETURNS TO THE SURFACE AFTER THE HYDRAULIC FRACTURING PROCESS, OR ANY OTHER RESIDUAL LIQUIDS INVOLVED IN DRILLING.

(B) "DRILL CUTTINGS" SHALL MEAN SOLID PRODUCTS REMOVED FROM THE WELL BORE DURING AN OIL OR GAS WELL DRILLING OPERATION.

(C) "HYDRAULIC FRACTURING" SHALL MEAN THE FRACTURING OF ROCK BY MAN-MADE FLUID-DRIVEN FRACTURING TECHNIQUES FOR THE PURPOSE OF STIMULATING NATURAL GAS OR OIL WELL PRODUCTION.

S 5. This act shall take effect immediately.