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

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I N S E N A T E

April 4, 2012

Introduced by Sens. GRISANTI, SALAND -- 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 high volume hydraulic fracturing natural gas production discharge notifications

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

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

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.

S 23-2901. DEFINITIONS.

1. "DISCHARGE" MEANS ANY INTENTIONAL OR UNINTENTIONAL ACTION OR OMISSION RESULTING IN THE RELEASING, SPILLING, LEAKING, PUMPING, POURING, EMITTING, EMPTYING OR DUMPING OF ANY SUBSTANCE USED IN OR ASSOCIATED WITH 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 RESOURCES WITHIN THE JURISDICTION OF THE STATE, EXCEPTING DISCHARGES PURSUANT TO AND IN COMPLIANCE WITH THE CONDITIONS OF A VALID STATE OR FEDERAL PERMIT. FOR THE PURPOSES OF THIS SECTION "DISCHARGE" SHALL NOT INCLUDE FRESH WATER OR SOLID WASTE INCLUDING, BUT NOT LIMITED TO, DRILL CUTTINGS FROM OIL AND GAS PRODUCTION.

2. "HIGH-VOLUME HYDRAULIC FRACTURING" OR "(HVHF)" MEANS 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.

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

LBD13951-06-2

3. "NATURAL GAS PRODUCTION" OR "GAS PRODUCTION" MEANS ALL ACTIVITIES ASSOCIATED WITH THE EXPLORATION AND PRODUCTION OF NATURAL GAS, INCLUDING, BUT NOT LIMITED TO (A) DEVELOPMENT OF NATURAL GAS WELLS; (B) ACTIVITIES ASSOCIATED WITH DRILLING, STIMULATING, COMPLETING, CONSTRUCTING, MAINTAINING, CONVERTING, ABANDONING, PLUGGING OR OPERATING A NATURAL GAS WELL; (C) ACTIVITIES ASSOCIATED WITH THE CONSTRUCTION OR OPERATION OF FACILITIES FOR THE COLLECTION AND TRANSMISSION OF NATURAL GAS FROM GAS WELLS TO CONSUMERS OF NATURAL GAS; AND (D) THE TRANSPORTATION OF MATERIALS 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, FROM A GEOLOGICAL FORMATION AND THE TRANSPORTATION OF SUCH NATURAL GAS TO ANOTHER LOCATION.

4. "PERSON" MEANS PUBLIC OR PRIVATE CORPORATIONS, COMPANIES, ASSOCIATIONS, SOCIETIES, FIRMS, PARTNERSHIPS, JOINT STOCK COMPANIES, INDIVIDUALS, THE UNITED STATES, THE STATE OF NEW YORK AND ANY OF ITS POLITICAL SUBDIVISIONS OR AGENTS.

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.

WITHIN FORTY-EIGHT HOURS OF RECEIPT OF NOTIFICATION MADE PURSUANT TO SECTION 23-2903 OF THIS TITLE OF A DISCHARGE, THE DEPARTMENT SHALL PROVIDE NOTIFICATION OF SUCH DISCHARGE TO THE GENERAL PUBLIC THROUGH A NEW OR EXISTING DATABASE VIA ITS WEBSITE, WHICH SHALL BE UPDATED DAILY.

S 23-2907. ENFORCEMENT OF TITLE; PENALTIES.

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

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.