

HOUSE BILL No. 1085

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2-128.4; IC 14-37.

Synopsis: Environmental review of hydraulic fracturing. Defines hydraulic fracturing. Requires the natural resources commission to regulate hydraulic fracturing. Requires an operator that performs or intends to perform hydraulic fracturing to submit an environmental compliance plan to the department of natural resources (department) for review and approval. Requires an operator to disclose chemical constituents used in hydraulic fracturing. Requires the department to publish the information received on its web site. Requires disclosure of proprietary chemical composition in a medical emergency. Requires the department to prescribe a process for reviewing an environmental compliance plan and for disclosure of proprietary information in a medical emergency.

Effective: July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Natural Resources.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1085



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-128.4 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 128.4. "Hydraulic fracturing",**
4 **for purposes of IC 14-37, means the process of injecting specially**
5 **blended liquids and propping agents under high pressure to create**
6 **fractures in underground formations through which oil, water, or**
7 **gas can flow into a wellbore. The term includes the acquisition of**
8 **source water, well construction, well stimulation, and waste**
9 **disposal. The term does not include the underground injection of**
10 **natural gas for the purpose of storage.**

11 SECTION 2. IC 14-37-3-5 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. The commission
13 shall regulate the drilling, casing, operating, **hydraulic fracturing,**
14 plugging, and abandoning of wells and any related fluid storage to
15 prevent the following:

- 16 (1) Waste.
- 17 (2) Fresh water pollution.



- 1 (3) Blowouts.
 2 (4) Cavings.
 3 (5) Seepages.
 4 (6) Fires.
 5 (7) Unreasonably detrimental effects upon fish, wildlife, and
 6 botanical resources.
- 7 SECTION 3. IC 14-37-3-8 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. **(a)** The commission
 9 shall regulate the stimulation and treatment of wells.
- 10 **(b) The commission shall regulate the disclosure of the**
 11 **composition of liquids and agents used in hydraulic fracturing.**
- 12 SECTION 4. IC 14-37-7-1, AS AMENDED BY P.L.80-2005,
 13 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2012]: Sec. 1. The commission may require a person drilling
 15 or modifying a well for oil and gas purposes to furnish the following:
- 16 (1) A copy of the driller's log and completion report of the well.
 17 (2) A copy of any geophysical or instrumental log.
 18 (3) Drill cuttings or cores.
- 19 **(4) An environmental compliance plan under section 8.5 of**
 20 **this chapter.**
- 21 ~~(4)~~ **(5) Other information required by rule.**
- 22 SECTION 5. IC 14-37-7-8.5 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2012]: Sec. 8.5. **(a) An operator that intends to perform**
 25 **hydraulic fracturing:**
- 26 **(1) shall submit an environmental compliance plan to the**
 27 **department for review; and**
 28 **(2) must receive the department's approval of the plan;**
 29 **before proceeding with hydraulic fracturing.**
- 30 **(b) An environmental compliance plan must contain the**
 31 **following information:**
- 32 **(1) Well location and total depth.**
 33 **(2) A list of injection fluids and propping agents used in the**
 34 **hydraulic fracturing process.**
 35 **(3) The chemical constituents and additives used in, and**
 36 **wastes generated during, the hydraulic fracturing process.**
 37 **(4) A detailed geographic analysis of the well and its**
 38 **surrounding area, including the rock type and the direction**
 39 **and magnitude of regional tectonic stresses.**
 40 **(5) The results of any predrilling or prealteration survey**
 41 **performed on the well with respect to the hydraulic fracturing**
 42 **process.**

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1 **(6) An analysis of whether the proposed hydraulic fracturing**
2 **process will pollute or otherwise endanger water or land in**
3 **Indiana.**

4 **The department may require additional information. A drilling**
5 **operator is not, however, required to submit to the department**
6 **proprietary formulas or a trade secret, except as provided in**
7 **subsection (e).**

8 **(c) The department shall prescribe a process to review an**
9 **environmental compliance plan. The department shall use data,**
10 **maps, and other publications made available by the Indiana**
11 **geological survey. The review must cover the following:**

12 **(1) The impact of the hydraulic fracturing process on the**
13 **drilling operator's compliance with the federal Safe Drinking**
14 **Water Act (Public Law 95-523, as amended by Public Law**
15 **96-502, 42 U.S.C. 300f et seq.).**

16 **(2) Whether the hydraulic fracturing process will pollute or**
17 **otherwise endanger water or land in Indiana.**

18 **The department may consider additional topics for review.**

19 **(d) The department shall approve an environmental compliance**
20 **plan that satisfies its review under subsection (c) not later than**
21 **sixty (60) days after the department receives the plan. A drilling**
22 **operator may amend and resubmit an environmental compliance**
23 **plan that is disapproved by the department.**

24 **(e) The department shall prescribe a process by which an**
25 **operator shall immediately disclose to the department or an agent**
26 **of the department, including a health services professional, a**
27 **proprietary formula or trade secret otherwise protected from**
28 **disclosure under subsection (b), if the department or its agent**
29 **determines that:**

30 **(1) a medical emergency exists; and**

31 **(2) information regarding the proprietary chemical formula**
32 **or composition of a hydraulic fracturing treatment is**
33 **necessary to provide medical or first aid care.**

34 **(f) The department shall publish an environmental compliance**
35 **plan received by the department under subsection (a) on the**
36 **department's web site.**

37 **(g) The department shall adopt rules under IC 4-22-2 to**
38 **implement this section, including a rule requiring periodic updates**
39 **of an environmental compliance plan approved under this section.**

40 **(h) This subsection expires January 1, 2015. Not later than**
41 **December 31, 2014, the department shall review the rules adopted**
42 **under subsection (i) to determine if any of the rules require repeal**

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1 or amendment to comply with this section and other amendments
2 made to this article in 2012. If the department determines that a
3 rule requires repeal or amendment under this subsection, the
4 department shall repeal or amend the rule.
5 (i) The department may act under IC 14-10-2-5 to adopt
6 emergency rules in the manner provided by IC 4-22-2-37.1 to carry
7 out this section. An emergency rule adopted under this subsection
8 expires on the earliest of the following:
9 (1) The date another emergency rule adopted under this
10 subsection or a permanent rule adopted under IC 4-22-2 on
11 the same subject becomes effective.
12 (2) The date specified in the emergency rule adopted under
13 this subsection.
14 (3) December 31, 2014.
15 This subsection expires January 1, 2015.

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