

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 635

Short Title: Hydraulic Fracturing/Statewide Ban. (Public)

Sponsors: Representatives Autry, von Haefen, Richardson, and Farkas (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 22, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO BAN THE DANGEROUS, POLLUTING, AND UNNECESSARY PRACTICE
3 OF HYDRAULIC FRACTURING THROUGHOUT THE STATE.

4 The General Assembly of North Carolina enacts:

5
6 **BAN ON HYDRAULIC FRACTURING**

7 **SECTION 1.(a)** No agency of the State, including the Department of Environmental
8 Quality, the Environmental Management Commission, the Commission for Public Health, or the
9 Mining and Energy Commission, shall issue a permit for oil or gas exploration or development
10 activities using horizontal drilling and hydraulic fracturing treatments.

11 **SECTION 1.(b)** G.S. 113-391(a)(14) reads as rewritten:

12 "(14) Any other matter the Commission deems necessary for implementation of a
13 modern regulatory program for the management of oil and gas exploration and
14 development in the ~~State and State~~. This subdivision shall not be interpreted
15 to allow the use of horizontal drilling and hydraulic fracturing for that
16 purpose-oil and gas exploration or development."

17 **SECTION 1.(c)** G.S. 113-391(a3) reads as rewritten:

18 "(a3) The Environmental Management Commission shall adopt rules, after consideration
19 of recommendations from the Oil and Gas Commission, for all of the following purposes:

20 ...

21 (2) Regulation of toxic air emissions from drilling operations, if it determines that
22 the State's current air toxics program and any federal regulations governing
23 toxic air emissions from drilling operations to be adopted by the State by
24 reference are inadequate to protect public health, safety, welfare, and the
25 environment. In formulating appropriate standards, the Department shall
26 assess emissions from oil and gas exploration and development ~~activities that~~
27 ~~use horizontal drilling and hydraulic fracturing technologies, activities,~~
28 including emissions from associated truck traffic, in order to (i) determine the
29 adequacy of the State's current air toxics program to protect landowners who
30 lease their property to drilling operations and (ii) determine the impact on
31 ozone levels in the area in order to determine measures needed to maintain
32 compliance with federal ozone standards."

33 **SECTION 1.(d)** G.S. 113-391(b1) reads as rewritten:

34 "(b1) In the exercise of their respective authority over oil and gas exploration and
35 development activities, the Commission and the Department, as applicable, shall have access to



1 all data, records, and information related to such activities, including, but not limited to, seismic
2 surveys, stratigraphic testing, geologic cores, proposed well bore trajectories, hydraulic
3 fracturing fluid chemicals and constituents, trajectories, drilling mud chemistry, and geophysical
4 borehole logs. With the exception of information designated as a trade secret, as defined in
5 G.S. 66-152(3), and that is designated as confidential or as a trade secret under G.S. 132-1.2, the
6 Department shall make any information it receives available to the public. The State Geologist,
7 or the State Geologist's designee, shall serve as the custodian of all data, information, and records
8 received by the Department pursuant to this subsection, including information designated as a
9 trade secret, as defined in G.S. 66-152(3), and that is designated as confidential or as a trade
10 secret under G.S. 132-1.2, and shall ensure that all of the information, including information
11 designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as confidential
12 or as a trade secret under G.S. 132-1.2, is maintained securely as provided in G.S. 132-7."

13 **SECTION 1.(e)** G.S. 113-391(d) reads as rewritten:

14 "(d) The Department of Labor shall develop, adopt, and enforce rules establishing health
15 and safety standards for workers engaged in oil and gas operations in the State, including
16 operations in which hydraulic fracturing treatments are used for that purpose.State."

17 **SECTION 1.(f)** G.S. 113-391.1(b) reads as rewritten:

18 "(b) Determination and Treatment of Confidential Information. – Information obtained by
19 the Commission and the Department pursuant to this Article, and rules adopted thereunder, shall
20 be available to the public except that, upon a showing satisfactory to the Commission by any
21 person that information to which the Commission and Department has access, if made public,
22 would divulge methods or processes entitled to protection as confidential information pursuant
23 to G.S. 132-1.2, the Commission shall consider the information confidential. In accordance with
24 subsection (b1) of G.S. 113-391, the State Geologist shall serve as the custodian of the
25 confidential information and shall ensure that it is maintained securely as provided in G.S. 132-7.
26 ~~The State Geologist, or the Geologist's designee, shall:~~

27 (1) ~~Review confidential information that concerns hydraulic fracturing fluid, as~~
28 ~~that term is defined in G.S. 113-389, to ensure compliance with all State and~~
29 ~~federal laws, rules, and regulations concerning prohibited chemicals or~~
30 ~~constituents, or exceedances of standards for chemicals or constituents. The~~
31 ~~State Geologist, or the Geologist's designee, shall issue a written certification~~
32 ~~within five days of completion of the review that the hydraulic fracturing~~
33 ~~fluids, including chemicals and constituents contained therein, comply with~~
34 ~~all State and federal laws, rules, and regulations; (ii) transmit the certification~~
35 ~~to the Mining and Energy Commission and the Director of the Division of~~
36 ~~Energy, Mining, and Land Resources; and (iii) transmit a copy of the~~
37 ~~certification electronically to the permittee. Horizontal drilling and hydraulic~~
38 ~~fracturing treatments shall not commence until this written certification has~~
39 ~~been issued and transmitted as required by this subsection.~~

40 (2) ~~Review, in consultation with the State Health Director, confidential~~
41 ~~information that concerns hydraulic fracturing fluid, as that term is defined in~~
42 ~~G.S. 113-389, to advise local health departments of additional parameters that~~
43 ~~should be included in testing for private drinking water wells in their~~
44 ~~jurisdictions in compliance with the requirements of G.S. 87-97 and the~~
45 ~~Private Well Water Education Act enacted by S.L. 2013-122."~~

46 **SECTION 1.(g)** G.S. 113-393(d) reads as rewritten:

47 "(d) Variation from Vertical. – Whenever the Department fixes the location of any well or
48 wells on the surface, the point at which the maximum penetration of such wells into the producing
49 formation is reached shall not unreasonably vary from the vertical drawn from the center of the
50 hole at the surface, provided, that the Commission shall prescribe rules and the Department shall
51 prescribe orders governing the reasonableness of such variation. ~~This subsection shall not apply~~

1 to wells drilled for the purpose of exploration or development of natural gas through use of
2 horizontal drilling in conjunction with hydraulic fracturing treatments."

3 **SECTION 1.(h)** G.S. 143-214.2(b) reads as rewritten:

4 "(b) The discharge of any wastes to the subsurface or groundwaters of the State by means
5 of wells is prohibited. This section shall not be construed to prohibit (i) the operation of
6 closed-loop groundwater remediation systems in accordance with ~~G.S. 143-215.1A~~ or (ii)
7 injection of hydraulic fracturing fluid for the exploration or development of natural gas
8 resources.G.S. 143-215.1A."

9 **SECTION 1.(i)** G.S. 113-391(a)(5) and G.S. 113-395(b) are repealed.

10
11 **RESTORE COMMUNITY CHOICE ON OIL AND GAS EXPLORATION**

12 **SECTION 2.** G.S. 113-415.1 is repealed.

13
14 **EFFECTIVE DATE**

15 **SECTION 3.** This act is effective when it becomes law and applies to any application
16 for a permit for oil and gas exploration or development activities received by any agency of the
17 State on or after that date.