

112TH CONGRESS
1ST SESSION

S. 587

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2011

Mr. CASEY (for himself, Mr. SCHUMER, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. LAUTENBERG, Mr. WHITEHOUSE, Mr. SANDERS, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fracturing Responsi-
5 bility and Awareness of Chemicals Act” or the “FRAC
6 Act”.

7 **SEC. 2. REGULATION OF HYDRAULIC FRACTURING.**

8 (a) UNDERGROUND INJECTION.—Section 1421(d) of
9 the Safe Drinking Water Act (42 U.S.C. 300h(d)) is

1 amended by striking paragraph (1) and inserting the fol-
2 lowing:

3 “(1) UNDERGROUND INJECTION.—

4 “(A) IN GENERAL.—The term ‘under-
5 ground injection’ means the subsurface em-
6 placement of fluids by well injection.

7 “(B) INCLUSION.—The term ‘underground
8 injection’ includes the underground injection of
9 fluids or propping agents pursuant to hydraulic
10 fracturing operations relating to oil or gas pro-
11 duction activities.

12 “(C) EXCLUSION.—The term ‘underground
13 injection’ does not include the underground in-
14 jection of natural gas for the purpose of stor-
15 age.”.

16 (b) DISCLOSURE.—Section 1421(b) of the Safe
17 Drinking Water Act (42 U.S.C. 300h(b)) is amended by
18 adding at the end the following:

19 “(4) DISCLOSURES OF CHEMICAL CONSTITU-
20 ENTS.—

21 “(A) IN GENERAL.—A person conducting
22 hydraulic fracturing operations shall disclose to
23 the State (or to the Administrator, in any case
24 in which the Administrator has primary en-
25 forcement responsibility in a State), by not

1 later than such deadlines as shall be established
2 by the State (or the Administrator)—

3 “(i) before the commencement of any
4 hydraulic fracturing operations at any
5 lease area or a portion of a lease area, a
6 list of chemicals intended for use in any
7 underground injection during the oper-
8 ations (including identification of the
9 chemical constituents of mixtures, Chem-
10 ical Abstracts Service numbers for each
11 chemical and constituent, material safety
12 data sheets when available, and the antici-
13 pated volume of each chemical to be used);
14 and

15 “(ii) after the completion of hydraulic
16 fracturing operations described in clause
17 (i), the list of chemicals used in each un-
18 derground injection during the operations
19 (including identification of the chemical
20 constituents of mixtures, Chemical Ab-
21 stracts Service numbers for each chemical
22 and constituent, material safety data
23 sheets when available, and the volume of
24 each chemical used).

1 “(B) PUBLIC AVAILABILITY.—The State
2 (or the Administrator, as applicable) shall make
3 available to the public the information con-
4 tained in each disclosure of chemical constitu-
5 ents under subparagraph (A), including by
6 posting the information on an appropriate
7 Internet website.

8 “(C) IMMEDIATE DISCLOSURE IN CASE OF
9 MEDICAL EMERGENCY.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii), the regulations promulgated pursuant
12 to subsection (a) shall require that, in any
13 case in which the State (or the Adminis-
14 trator, as applicable) or an appropriate
15 treating physician or nurse determines that
16 a medical emergency exists and the propri-
17 etary chemical formula or specific chemical
18 identity of a trade-secret chemical used in
19 hydraulic fracturing is necessary for med-
20 ical treatment, the applicable person using
21 hydraulic fracturing shall, upon request,
22 immediately disclose to the State (or the
23 Administrator) or the treating physician or
24 nurse the proprietary chemical formula or

1 specific chemical identity of a trade-secret
2 chemical, regardless of the existence of—

3 “(I) a written statement of need;

4 or

5 “(II) a confidentiality agreement.

6 “(ii) REQUIREMENT.—A person using
7 hydraulic fracturing that makes a disclo-
8 sure required under clause (i) may require
9 the execution of a written statement of
10 need and a confidentiality agreement as
11 soon as practicable after the determination
12 by the State (or the Administrator) or the
13 treating physician or nurse under that
14 clause.

15 “(D) NO PUBLIC DISCLOSURE RE-
16 QUIRED.—Nothing in subparagraph (A) or (B)
17 authorizes a State (or the Administrator) to re-
18 quire the public disclosure of any proprietary
19 chemical formula.”.

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