

# HOUSE BILL 1274

M3, M1

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By: **Delegates Mizeur, Holmes, Bobo, Cardin, Carr, Frick, Frush, Guzzone, Healey, Hixson, Hubbard, Hucker, Lee, Love, Luedtke, A. Miller, Morhaim, Murphy, Niemann, Pena–Melnyk, Stein, A. Washington, and M. Washington**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Hydraulic Fracturing Moratorium and Right to Know Act of 2013**

3 FOR the purpose of prohibiting the Department of the Environment from issuing a  
4 certain permit for the hydraulic fracturing of a well for the exploration or  
5 production of natural gas until certain conditions are met; requiring the  
6 Department of the Environment and the Department of Natural Resources to  
7 issue a certain risk assessment at a certain time; authorizing the Department of  
8 the Environment to establish and collect a certain fee under certain  
9 circumstances; requiring certain regulations adopted by the Department of the  
10 Environment to include certain restrictions or prohibitions on hydraulic  
11 fracturing; requiring certain regulations adopted by the Department to provide  
12 certain protection to public health and the environment; requiring the  
13 Department of the Environment and the Department of Natural Resources to  
14 jointly brief certain committees of the General Assembly on a certain report and  
15 certain risk assessment within a certain period of time; declaring the intent of  
16 the General Assembly; making stylistic changes; defining certain terms;  
17 altering certain definitions; and generally relating to the hydraulic fracturing of  
18 a well for the exploration or production of natural gas in the State.

19 BY repealing and reenacting, with amendments,  
20 Article – Environment  
21 Section 14–102  
22 Annotated Code of Maryland  
23 (2007 Replacement Volume and 2012 Supplement)

24 BY adding to  
25 Article – Environment  
26 Section 14–107.1

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2007 Replacement Volume and 2012 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Environment**

6 14–102.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) “Coalbed methane” means methane and any other gaseous substance  
9 occurring in or produced from a coal seam or related, associated, or adjacent rock  
10 materials.

11 (c) “County” includes Baltimore City unless otherwise indicated.

12 (d) “Department” means the Department of the Environment.

13 (e) “Field” means the general area [underlaid] **UNDERLAIN** by one or more  
14 pools.

15 (f) “Fund” means the Oil and Gas Fund.

16 (g) “Gas” means all natural gas, **NATURAL GAS LIQUIDS**, and other fluid  
17 hydrocarbons, not defined as oil, which are produced from a natural reservoir.

18 **(G–1) (1) “GAS INTEREST” MEANS THE RIGHT TO EXPLORE FOR GAS ON,  
19 OR PRODUCE GAS FROM, REAL PROPERTY.**

20 **(2) “GAS INTEREST” DOES NOT INCLUDE A FEE SIMPLE INTEREST  
21 IN THE SURFACE RIGHTS OF REAL PROPERTY REGARDLESS OF WHETHER THE  
22 FEE INTEREST INCLUDES THE MINERAL RIGHTS.**

23 **(G–2) “MARCELLUS SHALE” MEANS A MIDDLE DEVONIAN–AGE, BLACK,  
24 LOW–DENSITY, CARBONACEOUS SHALE THAT:**

25 **(1) OCCURS THROUGHOUT THE ALLEGHENY PLATEAU REGION  
26 OF THE NORTHERN APPALACHIAN BASIN; AND**

27 **(2) UNDERLIES PARTS OF GARRETT COUNTY, ALLEGANY  
28 COUNTY, AND WASHINGTON COUNTY.**

1           **(G-3) “NATURAL GAS LIQUIDS” MEANS COMPONENTS OF NATURAL GAS**  
2 **THAT ARE LIQUID AT THE SURFACE IN FIELD FACILITIES OR GAS-PROCESSING**  
3 **PLANTS.**

4           (h) “Oil” means crude petroleum oil and other hydrocarbons, regardless of  
5 gravity, which are produced at the wellhead in liquid form, except **NATURAL GAS**  
6 **LIQUIDS OR** liquid hydrocarbons known as distillate or condensate recovered or  
7 extracted from gas.

8           (i) “Owner” means the person who has the right to drill into and produce  
9 from a pool, or to store in a pool, and appropriate the oil or gas the person produces or  
10 stores either for the person or others.

11           (j) “Person” means [any individual, corporation, association, partnership,  
12 receiver, trustee, executor, administrator, guardian, fiduciary, or other representative  
13 of any kind]:

14                   **(1) THE FEDERAL GOVERNMENT, THE STATE, A COUNTY, A**  
15 **MUNICIPAL CORPORATION, OR ANY OTHER POLITICAL SUBDIVISION OF THE**  
16 **STATE, OR ANY OF THEIR UNITS;**

17                   **(2) AN INDIVIDUAL, A RECEIVER, A TRUSTEE, A GUARDIAN, AN**  
18 **EXECUTOR, AN ADMINISTRATOR, A FIDUCIARY, OR A REPRESENTATIVE OF ANY**  
19 **KIND; OR**

20                   **(3) A PARTNERSHIP, A FIRM, AN ASSOCIATION, A PUBLIC OR**  
21 **PRIVATE CORPORATION, OR ANY OTHER ENTITY.**

22           (k) “Pool” means an underground reservoir containing a common  
23 accumulation of oil, gas, or both.

24           (l) “Producer” means the owner of a well capable of producing oil, gas, or  
25 both.

26           (m) “Product” means any commodity produced in its natural state by an oil or  
27 gas well.

28           (n) (1) “Production” means the act or process of producing oil or gas from  
29 a natural reservoir.

30                   (2) “Production” does not include the sale or distribution of oil or gas.

31           (o) (1) “Underground storage” means the storing of gas or oil in a  
32 geological stratum beneath the surface of the earth.

1           (2)    “Underground storage” includes the injection of gas or oil into and  
2 withdrawal from an underground storage reservoir and any other operation necessary  
3 for or convenient to the storage of gas or of oil.

4           (p)    “Underground storage reservoir” means the stratum and subsurface area  
5 that are used or are to be used for or in connection with the underground storage of  
6 gas or of oil.

7   **14-107.1.**

8           **(A)    IN THIS SECTION, “EXECUTIVE ORDER” MEANS EXECUTIVE ORDER**  
9 **01.01.2011.11, ISSUED ON JUNE 6, 2011, BY THE GOVERNOR.**

10           **(B)    THE DEPARTMENT MAY NOT ISSUE A PERMIT UNDER THIS**  
11 **SUBTITLE FOR THE HYDRAULIC FRACTURING OF A WELL FOR THE**  
12 **EXPLORATION OR PRODUCTION OF NATURAL GAS UNTIL:**

13                   **(1)    EACH REQUIREMENT UNDER THE STUDY REQUIRED UNDER**  
14 **THE EXECUTIVE ORDER IS SATISFIED;**

15                   **(2)    18 MONTHS HAVE PASSED AFTER THE DATE THE STUDY**  
16 **REQUIRED UNDER THE EXECUTIVE ORDER IS ISSUED; AND**

17                   **(3)    THE DEPARTMENT HAS ADOPTED REGULATIONS IN**  
18 **ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.**

19           **(C)    (1)    THE DEPARTMENT AND THE DEPARTMENT OF NATURAL**  
20 **RESOURCES SHALL ISSUE A RISK ASSESSMENT OF PUBLIC HEALTH AND**  
21 **ENVIRONMENTAL HAZARDS RELATING TO HYDRAULIC FRACTURING ACTIVITIES**  
22 **AT THE SAME TIME THE FINAL REPORT REQUIRED UNDER THE EXECUTIVE**  
23 **ORDER IS ISSUED.**

24                   **(2)    THE RISK ASSESSMENT REQUIRED UNDER PARAGRAPH (1) OF**  
25 **THIS SUBSECTION SHALL INCLUDE:**

26                           **(I)    THE RISK OF PUBLIC HEALTH AND ENVIRONMENTAL**  
27 **HAZARDS CLASSIFIED ON THE FOLLOWING BASIS:**

28                                   1.    **SLIGHT PUBLIC HEALTH OR ENVIRONMENTAL**  
29 **EFFECT;**

30                                   2.    **MINOR PUBLIC HEALTH OR ENVIRONMENTAL**  
31 **EFFECT;**

1                                   3.    **MODERATE PUBLIC HEALTH OR ENVIRONMENTAL**  
2 **EFFECT;**

3                                   4.    **MAJOR PUBLIC HEALTH OR ENVIRONMENTAL**  
4 **EFFECT;**

5                                   5.    **CATASTROPHIC PUBLIC HEALTH OR**  
6 **ENVIRONMENTAL EFFECT; AND**

7                                   6.    **INSUFFICIENT DATA AVAILABLE; AND**

8                                   **(II) THE PROBABILITY OF A HAZARD OCCURRING**  
9 **CLASSIFIED ON THE FOLLOWING BASIS:**

10                                  1.    **RARE;**

11                                  2.    **OCCASIONAL;**

12                                  3.    **PERIODIC;**

13                                  4.    **FREQUENT; AND**

14                                  5.    **INSUFFICIENT DATA AVAILABLE.**

15                   **(D) (1) ON WRITTEN REQUEST FROM A REPRESENTATIVE OF THE**  
16 **NATURAL GAS DRILLING INDUSTRY, THE DEPARTMENT MAY ESTABLISH AND**  
17 **COLLECT A FEE TO PROVIDE THE FUNDING NECESSARY FOR THE COMPLETION**  
18 **OF THE STUDY REQUIRED UNDER THE EXECUTIVE ORDER.**

19                                  **(2) A FEE ESTABLISHED UNDER PARAGRAPH (1) OF THIS**  
20 **SUBSECTION SHALL:**

21                                   **(i) BE COLLECTED FROM AN OWNER OF A GAS INTEREST IN**  
22 **REAL PROPERTY THAT:**

23   1.    **IS LOCATED IN AN AREA OF THE STATE**  
24 **UNDERLAIN BY THE MARCELLUS SHALE; AND**

25   2.    **WAS ACQUIRED AFTER JANUARY 1, 2007, FOR**  
26 **THE PURPOSE OF EXPLORATION OR PRODUCTION OF NATURAL GAS; AND**

27                                   **(ii) APPLY TO EACH ACRE OF REAL PROPERTY IN WHICH**  
28 **THE OWNER HAS A GAS INTEREST.**

1           **(E) ANY REGULATIONS ADOPTED BY THE DEPARTMENT THAT ARE**  
2 **SPECIFIC TO HYDRAULIC FRACTURING SHALL:**

3                   **(1) INCLUDE ANY RESTRICTIONS OR PROHIBITIONS ON**  
4 **HYDRAULIC FRACTURING ACTIVITIES DEEMED NECESSARY BY THE**  
5 **DEPARTMENT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT; AND**

6                   **(2) BE AT LEAST AS PROTECTIVE OF PUBLIC HEALTH AND THE**  
7 **ENVIRONMENT AS RECOMMENDED IN:**

8                           **(I) THE FINAL FINDINGS AND RECOMMENDATIONS OF THE**  
9 **STUDY REQUIRED UNDER THE EXECUTIVE ORDER; AND**

10                           **(II) THE RISK ASSESSMENT REQUIRED UNDER SUBSECTION**  
11 **(C) OF THIS SECTION.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the  
13 General Assembly that the study under Executive Order 01.01.2011.11, issued on  
14 June 6, 2011, by the Governor, be fully funded in order for the Department of the  
15 Environment and the Department of Natural Resources to satisfy each study item  
16 under the executive order.

17           SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the  
18 Environment and the Department of Natural Resources shall jointly brief the House  
19 Environmental Matters Committee and the Senate Education, Health, and  
20 Environmental Affairs Committee within 90 days after the final report required under  
21 Executive Order 01.01.2011.11, issued on June 6, 2011, by the Governor, and the risk  
22 assessment required under § 14–107.1(c), as enacted by this Act, is issued.

23           SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the  
24 General Assembly to:

25                   (1) continue to monitor the issues relating to hydraulic fracturing;

26                   (2) review the final findings and recommendations of the study  
27 required under Executive Order 01.01.2011.11, issued on June 6, 2011, by the  
28 Governor;

29                   (3) review the risk assessment required under § 14–107.1(c), as  
30 enacted by this Act; and

31                   (4) determine if modification to this Act is necessary, including:

32                           (i) extending the moratorium to enable additional study of  
33 hydraulic fracturing;

1 (ii) lifting the moratorium to authorize hydraulic fracturing in  
2 the State; or

3 (iii) imposing a ban on hydraulic fracturing in the State.

4 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 June 1, 2013.