

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE MARCH 11, 2013

SENATE BILL

No. 4

Introduced by Senator Pavley

(~~Coauthor: Senator~~ *Coauthors: Senators De León, Leno, and Monning*)

(Coauthor: Assembly Member Stone)

December 3, 2012

An act to amend Sections 3213, 3215, 3236.5, and 3401 of, and to add Article 3 (commencing with Section 3150) to Chapter 1 of Division 3 of, the Public Resources Code, relating to oil and gas.

LEGISLATIVE COUNSEL'S DIGEST

SB 4, as amended, Pavley. Oil and gas: hydraulic fracturing.

(1) Under existing law, the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, *or the division*, regulates the drilling, operation, maintenance, and abandonment of oil and gas wells in the state. The State Oil and Gas Supervisor, *or supervisor*, supervises the drilling, operation, maintenance, and abandonment of wells and the operation, maintenance, and removal or abandonment of tanks and facilities related to oil and gas production within an oil and gas field regarding safety and environmental damage. Existing law requires an operator of a well, before commencing the work of drilling the well, to obtain approval from the ~~State Oil and Gas Supervisor or~~ *a supervisor or* district deputy. Existing law requires the operator of a well to keep, or cause to be kept, a careful and accurate log, core record, and history of the drilling of the well. Within 60 days after the date of cessation of drilling, rework, or abandonment operations, the owner or operator is required to file with the district deputy certain information,

including the history of work performed. Under existing law, a person who violates any prohibition specific to the regulation of oil or gas operations is guilty of a misdemeanor.

This bill would define, among other things, the terms hydraulic fracturing and hydraulic fracturing fluid. The bill would require the Secretary of the Natural Resources Agency, on or before January 1, 2015, to cause to be conducted an independent scientific study on hydraulic fracturing treatments. The bill would require an operator of a well to record and include all data on hydraulic fracturing treatments, as specified. The bill would require the division, on or before January 1, 2015, to adopt rules and regulations specific to hydraulic fracturing, including governing the construction of wells and well casings and full disclosure of the composition and disposition of hydraulic fracturing. The bill would require an operator to apply for a permit, as specified, with the supervisor or district deputy, prior to performing a hydraulic fracturing treatment of a well and would prohibit the operator from either conducting a new hydraulic fracturing treatment or repeating a hydraulic fracturing treatment without a valid, approved permit. The bill would prohibit the approval of a permit that presents an unreasonable risk or is incomplete. The bill would require the division, within 5 business days of issuing a permit to commence hydraulic fracturing, to provide a copy to specific boards and entities and to post the permit on a publicly accessible portion of its Internet Web site. The bill would require the hydraulic fracturing treatment to be completed within one year from the date that a permit is issued. The bill would require the division to perform random periodic spot check investigations during hydraulic fracturing treatments, as specified. The bill would prohibit the supervisor or district deputy, as of January 1, 2015, from issuing a permit to commence a hydraulic fracturing treatment, as specified, until the study is completed and peer reviewed by independent scientific experts. The bill would require the operator to provide a copy of the approved hydraulic fracturing treatment permit to specified property owners at least 30 days prior to commencing a hydraulic fracturing treatment. The bill would require the operator to provide notice to the division at least 72 hours prior to the actual start of the hydraulic fracturing treatment in order for the division to witness the hydraulic fracturing treatment. The bill would require the supplier, as defined, of the hydraulic fracturing treatment to provide to the operator, within 30 days following the conclusion of the hydraulic fracturing, certain information regarding the hydraulic fracturing fluid. The bill would

require the operator, within 60 days of the cessation of hydraulic fracturing treatment, to post or cause to have posted on an Internet Web site accessible to the public specified information on the fracturing and fluid, as specified. The bill would provide that where the division shares jurisdiction over a well with a federal entity, the division's rules and regulations govern the hydraulic fracturing treatment of a well. The bill would require a supplier claiming trade secret protection for the chemical composition of additives used in the hydraulic treatment to disclose the composition to the division, in conjunction with a hydraulic fracturing treatment permit application, but would, except as specified, prohibit those with access to the trade secret from disclosing it. Because a violation of this bill would create a new crime, it would impose a state-mandated local program.

(2) Under existing law, a person who violates certain statutes or regulations relating to oil and gas well operations is subject to a civil penalty not to exceed \$25,000 for each violation.

This bill would make persons who violate specified provisions relating to hydraulic fracturing subject to a civil penalty of not less than \$10,000 and not to exceed \$25,000 per day per violation.

(3) Existing law imposes an annual charge upon each person operating or owning an interest in an oil or gas well in respect to the production of the well which charge is payable to the Treasurer for deposit into the Oil, Gas, and Geothermal Administrative Fund. Existing law further requires that specific moneys from charges levied, assessed, and collected upon the properties of every person operating or owning an interest in the production of a well to be used exclusively, upon appropriation, for the support and maintenance of the department charged with the supervision of oil and gas operations.

This bill would allow the moneys described above to be used for all costs associated with hydraulic fracturing including scientific studies required to evaluate the treatment, inspections, and any air and water ~~monitoring~~ *quality sampling, monitoring,* and testing performed by public entities.

This bill would require the supervisor, on or before January 1, 2016, and annually thereafter, to transmit to the Legislature and make available publicly a comprehensive report on hydraulic fracturing in the exploration and production of oil and gas resources in the state.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Hydraulic fracturing of oil and gas wells in combination
4 with technological advances in oil and gas well drilling are spurring
5 oil and gas extraction and exploration in California.

6 (b) Insufficient information is available to fully assess the
7 science of the practice of hydraulic fracturing in California
8 including environmental, occupational, and public health hazards
9 and risks.

10 (c) Providing transparency and accountability to the public
11 regarding hydraulic fracturing, associated emissions to the
12 environment, and the handling, processing, and disposal of
13 hydraulic fracturing and related wastes is of paramount concern.

14 SEC. 2. Article 3 (commencing with Section 3150) is added
15 to Chapter 1 of Division 3 of the Public Resources Code, to read:

16

17 Article 3. Hydraulic Fracturing

18

19 3150. "Additive" means a substance or combination of
20 substances added to a base fluid for purposes of preparing a
21 hydraulic fracturing fluid. An additive may, but is not required to,
22 serve additional purposes beyond the transmission of hydraulic
23 pressure to the geologic formation. An additive may be of any
24 phase and includes proppants.

25 3151. "Base fluid" means the continuous phase fluid used in
26 the makeup of a hydraulic fracturing fluid. The continuous phase
27 fluid may include, but is not limited to, water, and may be a liquid
28 or a hydrocarbon or nonhydrocarbon gas. A hydraulic fracturing
29 treatment may use more than one base fluid.

30 3152. "Hydraulic fracturing" means a well stimulation or well
31 completion treatment that involves the pressurized injection of
32 hydraulic fracturing fluid and proppant into an underground
33 geologic formation in order to fracture the formation, thereby

1 causing or enhancing, for the purposes of this division, the
2 production of oil or gas from a well.

3 3153. “Hydraulic fracturing fluid” means a base fluid mixed
4 with physical and chemical additives for the purpose of hydraulic
5 fracturing. A hydraulic fracturing treatment may include more than
6 one hydraulic fracturing fluid.

7 3154. “Proppants” means materials inserted or injected into
8 the underground geologic formation that are intended to prevent
9 fractures from closing.

10 3155. “Supplier” means an entity performing a hydraulic
11 fracturing treatment or an entity supplying an additive or proppant
12 directly to the operator for use in a hydraulic fracturing treatment.

13 3156. “Surface property owner” means the owner of real
14 property as shown on the latest equalized assessment roll or, if
15 more recent information than the information contained on the
16 assessment roll is available, the owner of record according to the
17 county assessor or tax collector.

18 3160. (a) On or before January 1, 2015, the Secretary of the
19 Natural Resources Agency shall cause to be conducted an
20 independent scientific study on hydraulic fracturing treatments.
21 The scientific study shall evaluate the hazards and risks and
22 potential hazards and risks that hydraulic fracturing treatments
23 pose to natural resources and public, occupational, and
24 environmental health and safety. The scientific study shall do all
25 of the following:

26 (1) Follow the well-established standard protocols of the
27 scientific profession, including, but not limited to, the use of
28 recognized experts, peer review, and publication.

29 (2) Identify areas with existing and potential conventional and
30 unconventional oil and gas reserves where hydraulic fracturing
31 treatments are likely to spur or enable oil and gas exploration and
32 production.

33 (3) Evaluate all aspects of hydraulic fracturing, including, but
34 not limited to, the hydraulic fracturing treatment, additive and
35 water transportation to and from the well site, mixing and handling
36 of the hydraulic fracturing fluids and additives on site, wastewater
37 and waste hydraulic fracturing fluid handling, treatment, and
38 disposal.

39 (4) Consider, at a minimum, atmospheric emissions, the potential
40 degradation of air quality, potential water and surface

1 contamination, induced seismicity, and the ultimate disposition,
2 transport, transformation, and toxicology of hydraulic fracturing
3 fluids, and waste hydraulic fracturing fluids in the environment.

4 (5) Include a hazard assessment and risk analysis addressing
5 occupational and environmental exposures to hydraulic fracturing
6 treatments and hydraulic fracturing treatment-related processes
7 and the corresponding impacts on public health and safety with
8 the participation of the Office of Environmental Health Hazard
9 Assessment.

10 (6) Clearly identify where additional information is necessary
11 to inform and improve the analyses.

12 (b) (1) On or before January 1, 2015, the division shall adopt
13 rules and regulations specific to hydraulic fracturing. The rules
14 and regulations shall include, but are not limited to, revisions, as
15 needed, to the rules and regulations governing construction of
16 wells and well casings to ensure integrity of wells, well casings,
17 and the geologic and hydrologic isolation of the oil and gas
18 formation during and following hydraulic fracturing, and full
19 disclosure of the composition and disposition of hydraulic
20 fracturing fluids and waste hydraulic fracturing fluids.

21 (2) Full disclosure of the composition and disposition of
22 hydraulic fracturing fluids shall, at a minimum, include:

23 (A) The date of the hydraulic fracturing treatment.

24 (B) A complete list of the names, Chemical Abstract Service
25 (CAS) numbers, and maximum concentration, in percent by mass,
26 of each and every chemical constituent of the hydraulic fracturing
27 fluids used. If a CAS number does not exist for a chemical
28 constituent, the well owner or operator may provide another unique
29 identifier, if available. Chemical information claimed as a trade
30 secret, pursuant to subdivision (j), shall be identified as such and
31 reported as described in subdivision (j).

32 (C) The trade name, the supplier, and a brief description of the
33 intended purpose of each additive contained in the hydraulic
34 fracturing fluid.

35 (D) The total volume of base fluid used during the hydraulic
36 fracturing treatment, and the identification of whether the base
37 fluid is water suitable for irrigation or domestic purposes, water
38 not suitable for irrigation or domestic purposes, or a fluid other
39 than water.

1 (E) The source, volume, and specific composition and
2 disposition of all water, including, but not limited to, all water
3 used as base fluid during the hydraulic fracturing treatment and
4 recovered from the well following the hydraulic fracturing
5 treatment that is not otherwise reported as produced water pursuant
6 to Section 3227.

7 (F) The specific composition and disposition of all hydraulic
8 fracturing fluids, including waste fluids, other than water.

9 (G) Any radiological components or tracers injected into the
10 well as part of, or in order to evaluate, the hydraulic fracturing
11 treatment, a description of the recovery method, if any, for those
12 components or tracers, the recovery rate, and specific disposal
13 information for recovered components or tracers.

14 (H) The radioactivity of the recovered hydraulic fracturing
15 fluids.

16 (I) The location of the portion of the well subject to the hydraulic
17 fracturing treatment and the extent of the fracturing surrounding
18 the well induced by the treatment.

19 (3) The rules and regulations shall be revised to incorporate the
20 results of the independent scientific study conducted pursuant to
21 subdivision (a).

22 *(c) (1) The rules and regulations adopted pursuant to paragraph*
23 *(1) of subdivision (b) shall delineate the existing statutory authority*
24 *and regulatory responsibility relating to hydraulic fracturing of*
25 *the Department of Toxic Substances Control, the State Air*
26 *Resources Board, any local air districts, the State Water Resources*
27 *Control Board, any regional water quality control board, and*
28 *other public entities. The division shall additionally delineate how*
29 *the respective authority, responsibility, and notification and*
30 *reporting requirements associated with hydraulic fracturing*
31 *treatments and hydraulic fracturing treatment-related activities*
32 *is divided among each public entity.*

33 ~~(e) (1) On~~

34 (2) *On* or before January 1, 2015, the division shall enter into
35 formal agreements with the Department of Toxic Substances
36 Control, the State Air Resources Board, any local air districts where
37 hydraulic fracturing treatments may occur, the State Water
38 Resources Control Board, and any regional water quality control
39 board where hydraulic fracturing treatments may occur, clearly
40 delineating respective authority, responsibility, and notification

1 and reporting requirements associated with hydraulic fracturing
2 treatments and hydraulic fracturing treatment-related activities in
3 order to promote regulatory transparency and accountability.

4 (2)

5 (3) The agreements under paragraph ~~(1)~~ (2) shall ~~include~~
6 ~~provisions~~ *specify the appropriate public entity responsible* for
7 air and water quality monitoring, *include* trade secret handling
8 protocols, if necessary, and provide for ready public access to
9 information related to hydraulic fracturing treatments and related
10 activities. ~~The agreements shall be posted on the publicly accessible~~
11 ~~Internet Web site of each entity.~~

12 (4) *Any party to an agreement under paragraph (2) shall revise*
13 *its regulations, if necessary, to reflect the agreement.*

14 (d) (1) Notwithstanding any other law or regulation, prior to
15 performing a hydraulic fracturing treatment on a well, the operator
16 shall apply for a permit to perform a hydraulic fracturing treatment
17 with the supervisor or district deputy. The permit application shall
18 contain the pertinent data the supervisor requires on printed forms
19 supplied by the division or on other forms acceptable to the
20 supervisor. The information provided in the permit application
21 shall include, but is not limited to, the following:

- 22 (A) The well identification number and location.
- 23 (B) The time period during which the hydraulic fracturing
24 treatment is planned to occur.
- 25 (C) An estimate of the amount of water to be used in the
26 treatment and its source.
- 27 (D) A complete list of the names, Chemical Abstract Service
28 (CAS) numbers, and estimated concentrations, in percent by mass,
29 of each and every chemical constituent of the hydraulic fracturing
30 fluids planned to be used in the treatment. If a CAS number does
31 not exist for a chemical constituent, the well owner or operator
32 may provide another unique identifier, if available. Chemical
33 information claimed as a trade secret, pursuant to subdivision (j),
34 shall be identified as such and reported as described in subdivision
35 (j).
- 36 (E) The planned location of the hydraulic fracturing treatment
37 on the well bore and the estimated length, height, and direction of
38 the induced fractures.

1 (2) (A) The supervisor or district deputy shall review the
2 hydraulic fracturing treatment permit application and may approve
3 the permit if the application is complete.

4 (B) A hydraulic fracturing treatment or repeat hydraulic
5 fracturing treatment shall not be performed on any well without a
6 valid permit that the supervisor or district deputy has approved.

7 (C) A permit describing a hydraulic fracturing treatment that
8 presents unreasonable risk or is incomplete shall not be approved.

9 (3) The hydraulic fracturing treatment shall be completed within
10 one year of the issuance of the permit.

11 (4) Within five business days of issuing a permit to perform a
12 hydraulic fracturing treatment, the division shall provide a copy
13 of the permit to the appropriate regional water quality control board
14 or boards and to the local planning entity where the well, including
15 its subsurface portion, is located. The division shall post the permit
16 on the publicly accessible portion of its Internet Web site.

17 (5) At least 30 calendar days prior to commencing a hydraulic
18 fracturing treatment, the operator shall provide a copy of the
19 approved hydraulic fracturing treatment permit to every surface
20 property owner or authorized agent of that owner whose property
21 line location is one of the following:

22 (A) Within a 1,500 foot radius of the wellhead.

23 (B) Within 500 feet from the horizontal projection of all
24 subsurface portions of the designated well to the surface.

25 (6) (A) A property owner notified pursuant to paragraph (5)
26 may request the regional water quality control board to perform
27 water quality sampling and testing on any water well suitable for
28 drinking or irrigation purposes and on any surface water suitable
29 for drinking or irrigation purposes as follows:

30 ~~(A)~~

31 (i) Baseline measurements prior to the commencement of the
32 hydraulic fracturing treatment.

33 ~~(B)~~

34 (ii) Followup measurements after the hydraulic fracturing
35 treatment on the same schedule as the pressure testing of the well
36 casing of the hydraulically-fractured well.

37 (B) *The regional water quality control board may contract with*
38 *an independent third party that adheres to board-specified*
39 *standards and protocols to perform the water sampling and testing.*

1 (7) The regional water quality control board shall retain and
2 archive sufficient sample collected pursuant to paragraph (6) to
3 permit a reasonable number of additional analyses.

4 (8) The operator shall provide the division with a list of the
5 entities and property owners notified pursuant to paragraphs (4)
6 and (5).

7 (9) The operator shall provide notice to the division at least 72
8 hours prior to the actual start of the hydraulic fracturing treatment
9 in order for the division to witness the treatment.

10 (e) On and after January 1, 2015, the supervisor or district
11 deputy shall not issue a hydraulic fracturing treatment permit for
12 any well until the independent scientific study in subdivision (a)
13 is completed and peer reviewed by independent scientific experts.

14 (f) If a hydraulic fracturing treatment is performed on a well, a
15 supplier that performs any part of hydraulic fracturing or provides
16 additives directly to the operator for a hydraulic fracturing
17 treatment shall furnish the operator with information needed for
18 the operator to comply with subdivision (g). If a supplier claims
19 trade secret protection pursuant to subdivision (j), the supplier
20 shall notify the operator and provide to the operator substitute
21 information, as described in subdivision (j), suitable for public
22 disclosure. This information shall be provided as soon as possible
23 but no later than 30 days following the conclusion of the hydraulic
24 fracturing treatment.

25 (g) (1) Within 60 days following cessation of a hydraulic
26 fracturing treatment on a well, the operator shall post or cause to
27 have posted to an Internet Web site designated or maintained by
28 the division and accessible to the public, all of the hydraulic
29 fracturing fluid composition and disposition information required
30 to be collected pursuant to rules and regulations adopted under
31 subdivision (b), including well identification number and location.

32 (2) The division’s Internet Web site shall be operational by
33 January 1, 2016, and the division may direct reporting to an
34 alternative Internet Web site developed by the Ground Water
35 Protection Council and the Interstate Oil and Gas Compact
36 Commission in the interim. The reported information shall be
37 organized on the division’s Internet Web site in a format, such as
38 a spreadsheet, that allows the public to easily search and aggregate,
39 to the extent practicable, each type of information required to be

1 collected pursuant to subdivision (b) using search functions on
2 that Internet Web site.

3 (h) The operator is responsible for compliance with this section.

4 (i) (1) All geologic features within a distance reflecting an
5 appropriate safety factor of the fracture zone and having the
6 potential to either limit or facilitate the migration of fluids outside
7 of the fracture zone, shall be identified and added to the well
8 history. Geologic features include, but are not limited to, seismic
9 faults.

10 (2) For the purposes of this section, the “fracture zone” is
11 defined as the volume surrounding the well bore where fractures
12 were created or enhanced by the hydraulic fracturing treatment.
13 The safety factor shall be at least five and may vary depending
14 upon geologic knowledge.

15 (j) (1) The supplier may claim trade secret protection for the
16 chemical composition of additives pursuant to Section 1060 of the
17 Evidence Code, or the Uniform Trade Secrets Act (Title 5
18 commencing with Section 3426) of Part 1 of Division 4 of the
19 Civil Code).

20 (2) If a supplier believes that information regarding a chemical
21 constituent of a hydraulic fracturing fluid is a trade secret, the
22 supplier shall nevertheless disclose the information to the division
23 in conjunction with a hydraulic fracturing treatment permit
24 application, if not previously disclosed, within 30 days following
25 cessation of hydraulic fracturing on a well, and shall notify the
26 division in writing of that belief.

27 (3) The supplier is not required to disclose trade secret
28 information to the operator.

29 (4) This subdivision does not permit a supplier to refuse to
30 disclose the information required pursuant to this section to the
31 division.

32 (5) To comply with the public disclosure requirements of this
33 section, the supplier shall indicate where trade secret information
34 has been withheld and the specific name of a chemical constituent
35 shall be replaced with the chemical family name or similar
36 descriptor associated with the trade secret chemical information.

37 (6) Except as provided in subparagraph (B) of paragraph (8),
38 the division shall protect from disclosure any trade secret
39 designated as such by the supplier, if that trade secret is not a public
40 record.

1 (7) The supplier shall notify the division in writing within 30
2 days of any changes to information provided to the division to
3 support a trade secret claim.

4 (8) Upon receipt of a request for the release of information to
5 the public, which includes information the supplier has notified
6 the division is a trade secret and is not a public record, the
7 following procedure applies:

8 (A) The division shall notify the supplier of the request in
9 writing by certified mail, return receipt requested.

10 (B) The division shall release the information to the public, but
11 not earlier than 60 days after the date of mailing the notice of the
12 request for information, unless, prior to the expiration of the 60-day
13 period, the supplier obtains an action in an appropriate court for a
14 declaratory judgment that the information is subject to protection
15 or for a preliminary injunction prohibiting disclosure of the
16 information to the public and provides notice to the division of
17 that action.

18 (9) (A) Except as provided in subparagraph (B) of paragraph
19 (8), trade secret information is not a public record and shall not be
20 disclosed to anyone except to an officer or employee of the
21 division, the state, local air districts, or the United States, in
22 connection with the official duties of that officer or employee, to
23 a health professional, under any law for the protection of health,
24 or to contractors with the division or the state and its employees
25 if, in the opinion of the division, disclosure is necessary and
26 required for the satisfactory performance of a contract, for
27 performance of work, or to protect health and safety.

28 (B) A health professional may share trade secret information
29 with other persons as may be professionally necessary, including,
30 but not limited to, the patient and other health professionals.
31 Confidentiality of the trade secret information shall be maintained.
32 The holder of the trade secret may request a confidentiality
33 agreement consistent with the requirements of this subdivision to
34 whom this information is disclosed as soon as circumstances
35 permit. If necessary, a procedure for timely disclosure by the
36 division in the event of an emergency shall be identified.

37 (k) This section does not apply to routine pressure tests to
38 monitor the integrity of wells and well casings.

39 (l) A well granted confidential status pursuant to Section 3234
40 shall comply with this section, with the exception of the disclosure

1 of hydraulic fracturing fluids pursuant to subdivision (g) which
2 shall not be required until the confidential status of the well ceases.

3 (m) The division shall perform random periodic spot check
4 investigations to ensure that the information provided on hydraulic
5 fracturing treatments is accurately reported, including that the
6 estimates provided prior to the commencement of the hydraulic
7 fracturing treatment are reasonably consistent with the well history.

8 (n) Where the division shares jurisdiction over a well or the
9 hydraulic fracturing treatment on a well with a federal entity, the
10 division's rules and regulations shall govern the hydraulic
11 fracturing treatment of the well.

12 SEC. 3. Section 3213 of the Public Resources Code is amended
13 to read:

14 3213. The history shall show the location and amount of
15 sidetracked casings, tools, or other material, the depth and quantity
16 of cement in cement plugs, the shots of dynamite or other
17 explosives, and the results of production and other tests during
18 drilling operations. All data on hydraulic fracturing treatments
19 pursuant to Section 3160 shall be recorded in the history.

20 SEC. 4. Section 3215 of the Public Resources Code is amended
21 to read:

22 3215. (a) Within 60 days after the date of cessation of drilling,
23 rework, hydraulic fracturing treatment, or abandonment operations,
24 or the date of suspension of operations, the operator shall file with
25 the district deputy, in a form approved by the supervisor, true
26 copies of the log, core record, and history of work performed, and,
27 if made, true and reproducible copies of all electrical, physical, or
28 chemical logs, tests, or surveys. Upon a showing of hardship, the
29 supervisor may extend the time within which to comply with this
30 section for a period not to exceed 60 additional days.

31 (b) The supervisor shall include information provided pursuant
32 to subdivision (g) of Section 3160 on existing publicly accessible
33 maps on the division's Internet Web site, and make the information
34 available such that hydraulic fracturing treatment and related
35 information are associated with each specific well. If data is
36 reported on an Internet Web site not maintained by the division
37 pursuant to paragraph (2) of subdivision (g) of Section 3160, the
38 division shall provide electronic links to that Internet Web site.
39 The public shall be able to search and sort the hydraulic fracturing
40 treatment and related information by at least the following criteria:

- 1 (1) Geographic area.
- 2 (2) Additive.
- 3 (3) Chemical constituent.
- 4 (4) Chemical Abstract Service number.
- 5 (5) Time period.
- 6 (6) Operator.

7 (c) Notwithstanding Section 10231.5 of the Government Code,
8 on or before January 1, 2016, and annually thereafter, the
9 supervisor shall, in compliance with Section 9795 of the
10 Government Code, prepare and transmit to the Legislature a
11 comprehensive report on hydraulic fracturing in the exploration
12 and production of oil and gas resources in California. The report
13 shall include aggregated data of all of the information required to
14 be reported pursuant to Section 3160 reported by the district,
15 county, and operator. The report also shall include relevant
16 additional information, as necessary, including, but not limited to,
17 all the following:

18 (1) Aggregated data detailing the disposition of any produced
19 water from wells that have undergone hydraulic fracturing
20 treatments.

21 (2) Aggregated data describing the formations where wells have
22 received hydraulic fracturing treatments including the range of
23 safety factors used and fracture zone lengths.

24 (3) The number of emergency responses to a spill or release
25 associated with a hydraulic fracturing treatment.

26 (4) Aggregated data detailing the number of times trade secret
27 information was not provided to the public, by county and by each
28 company, in the preceding year.

29 (5) Data detailing the loss of well and well casing integrity in
30 the preceding year for wells that have undergone hydraulic
31 fracturing treatment. For comparative purposes, data detailing the
32 loss of well and well casing integrity in the preceding year for all
33 wells shall also be provided. The cause of each well and well casing
34 failure, if known, shall also be provided.

35 (6) The number of spot check inspections conducted pursuant
36 to subdivision (m) of Section 3160, including the number of
37 inspections where the composition of hydraulic fracturing fluids
38 were verified and the results of those inspections.

39 (7) The number of hydraulic fracturing treatments witnessed
40 by the division.

1 (8) The number of enforcement actions associated with hydraulic
2 fracturing treatments, including, but not limited to, notices of
3 deficiency, notices of violation, civil or criminal enforcement
4 actions, and any penalties assessed.

5 (d) The report shall be made publicly available and an electronic
6 version shall be available on the division's Internet Web site.

7 SEC. 5. Section 3236.5 of the Public Resources Code is
8 amended to read:

9 3236.5. (a) A person who violates this chapter or a regulation
10 implementing this chapter is subject to a civil penalty not to exceed
11 twenty-five thousand dollars (\$25,000) for each violation. A person
12 who commits a violation of Article 3 (commencing with Section
13 3150) is subject to a civil penalty of not less than ten thousand
14 dollars (\$10,000) and not to exceed twenty-five thousand dollars
15 (\$25,000) per day per violation. An act of God and an act of
16 vandalism beyond the reasonable control of the operator shall not
17 be considered a violation. The civil penalty shall be imposed by
18 an order of the supervisor pursuant to Section 3225 upon a
19 determination that a violation has been committed by the person
20 charged. The imposition of a civil penalty under this section shall
21 be in addition to any other penalty provided by law for the
22 violation. When establishing the amount of the civil penalty
23 pursuant to this section, the supervisor shall consider, in addition
24 to other relevant circumstances, all of the following:

25 (1) The extent of harm caused by the violation.

26 (2) The persistence of the violation.

27 (3) The pervasiveness of the violation.

28 (4) The number of prior violations by the same violator.

29 (b) An order of the supervisor imposing a civil penalty shall be
30 reviewable pursuant to Article 6 (commencing with Section 3350).
31 When the order of the supervisor has become final and the penalty
32 has not been paid, the supervisor may apply to the appropriate
33 superior court for an order directing payment of the civil penalty.
34 The supervisor may also seek from the court an order directing
35 that production from the well or use of the production facility that
36 is the subject of the civil penalty order be discontinued until the
37 violation has been remedied to the satisfaction of the supervisor
38 and the civil penalty has been paid.

39 (c) Any amount collected under this section shall be deposited
40 in the Oil, Gas, and Geothermal Administrative Fund.

1 SEC. 6. Section 3401 of the Public Resources Code is amended
2 to read:

3 3401. (a) The proceeds of charges levied, assessed, and
4 collected pursuant to this article upon the properties of every person
5 operating or owning an interest in the production of a well shall
6 be used exclusively for the support and maintenance of the
7 department charged with the supervision of oil and gas operations.
8 ~~This shall include all costs associated with hydraulic fracturing
9 treatments including scientific studies required to evaluate the
10 treatment, inspections, and any air and water quality monitoring
11 and testing performed by public entities.~~

12 (b) *Notwithstanding subdivision (a), the proceeds of charges
13 levied, assessed, and collected pursuant to this article upon the
14 properties of every person operating or owning an interest in the
15 production of a well undergoing a hydraulic fracturing treatment,
16 may be used by public entities, subject to appropriation by the
17 Legislature, for all costs associated with hydraulic fracturing
18 treatments including scientific studies required to evaluate the
19 treatment, inspections, and any air and water quality sampling,
20 monitoring, and testing performed by public entities.*

21 SEC. 7. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.