

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 393

Representatives DeVitis, O'Brien

A BILL

To amend section 1509.22 of the Revised Code to 1
authorize a person to sell brine derived from an 2
oil and gas operation that is processed as a 3
commodity for use in surface application in 4
deicing, dust suppression, and other 5
applications. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1509.22 of the Revised Code be 7
amended to read as follows: 8

Sec. 1509.22. (A) Except when acting in accordance with 9
section 1509.226 of the Revised Code, no person shall place or 10
cause to be placed in ground water or in or on the land or 11
discharge or cause to be discharged in surface water brine, 12
crude oil, natural gas, or other fluids associated with the 13
exploration, development, well stimulation, production 14
operations, or plugging of oil and gas resources that causes or 15
could reasonably be anticipated to cause damage or injury to 16
public health or safety or the environment. 17

(B) (1) No person shall store or dispose of brine in 18
violation of a plan approved under division (A) of section 19

1509.222 or section 1509.226 of the Revised Code, in violation 20
of a resolution submitted under section 1509.226 of the Revised 21
Code, or in violation of rules or orders applicable to those 22
plans or resolutions. 23

(2) (a) On and after January 1, 2014, no person shall 24
store, recycle, treat, process, or dispose of in this state 25
brine or other waste substances associated with the exploration, 26
development, well stimulation, production operations, or 27
plugging of oil and gas resources without an order or a permit 28
issued under this section or section 1509.06 or 1509.21 of the 29
Revised Code or rules adopted under any of those sections. For 30
purposes of division (B) (2) (a) of this section, a permit or 31
other form of authorization issued by another agency of the 32
state or a political subdivision of the state shall not be 33
considered a permit or order issued by the chief of the division 34
of oil and gas resources management under this chapter. 35

(b) Division (B) (2) (a) of this section does not apply to a 36
person that disposes of such waste substances other than brine 37
in accordance with Chapter 3734. of the Revised Code and rules 38
adopted under it. 39

(C) The chief shall adopt rules regarding storage, 40
recycling, treatment, processing, and disposal of brine and 41
other waste substances. The rules shall establish procedures and 42
requirements in accordance with which a person shall apply for a 43
permit or order for the storage, recycling, treatment, 44
processing, or disposal of brine and other waste substances that 45
are not subject to a permit issued under section 1509.06 or 46
1509.21 of the Revised Code and in accordance with which the 47
chief may issue such a permit or order. An application for such 48
a permit shall be accompanied by a nonrefundable fee of two 49

thousand five hundred dollars. 50

The storage, recycling, treatment, processing, and 51
disposal of brine and other waste substances and the chief's 52
rules relating to storage, recycling, treatment, processing, and 53
disposal are subject to all of the following standards: 54

(1) Brine from any well except an exempt Mississippian 55
well shall be disposed of only as follows: 56

(a) By injection into an underground formation, including 57
annular disposal if approved by rule of the chief, which 58
injection shall be subject to division (D) of this section; 59

(b) By surface application in accordance with section 60
1509.226 of the Revised Code; 61

(c) In association with a method of enhanced recovery as 62
provided in section 1509.21 of the Revised Code; 63

(d) In any other manner not specified in divisions (C)(1) 64
(a) to (c) and (C)(9) of this section that is approved by a 65
permit or order issued by the chief; 66

(e) In accordance with division (C)(9) of this section. 67

(2) Brine from exempt Mississippian wells shall not be 68
discharged directly into the waters of the state. 69

(3) Muds, cuttings, and other waste substances shall not 70
be disposed of in violation of this chapter or any rule adopted 71
under it. 72

(4) Pits or steel tanks shall be used as authorized by the 73
chief for containing brine and other waste substances resulting 74
from, obtained from, or produced in connection with drilling, 75
well stimulation, reworking, reconditioning, plugging back, or 76

plugging operations. The pits and steel tanks shall be 77
constructed and maintained to prevent the escape of brine and 78
other waste substances. 79

(5) A dike or pit may be used for spill prevention and 80
control. A dike or pit so used shall be constructed and 81
maintained to prevent the escape of brine and crude oil, and the 82
reservoir within such a dike or pit shall be kept reasonably 83
free of brine, crude oil, and other waste substances. 84

(6) Impoundments constructed utilizing a synthetic liner 85
pursuant to the division's specifications may be used for the 86
temporary storage of waste substances used in the construction, 87
stimulation, or plugging of a well. 88

(7) No pit or dike shall be used for the temporary storage 89
of brine or other waste substances except in accordance with 90
divisions (C) (4) and (5) of this section. 91

(8) No pit or dike shall be used for the ultimate disposal 92
of brine or other liquid waste substances. 93

(9) (a) Brine processed to remove free oil, dissolved 94
volatile organic compounds, metals, and other contaminants in 95
accordance with an order or permit issued under division (C) of 96
this section is a commodity, and the person that received the 97
order or that holds the permit may sell such a commodity for 98
purposes of surface application in deicing, dust control, use in 99
portable restrooms, or other purposes as specifically approved 100
by the chief. 101

Prior to the issuance of a permit or order regarding such 102
a commodity, the person shall demonstrate to the chief that the 103
intended use of the commodity is not expected to result in 104
damage or injury to public health, safety, or the environment. A 105

person may submit a copy of any of the following to the chief, 106
and such submission is sufficient to constitute the 107
demonstration required by division (C) (9) (a) of this section: 108

(i) Documentation that the department of transportation 109
has approved the commodity for deicing or snow control; 110

(ii) Documentation that the commodity, with or without a 111
corrosion inhibitor, is listed on the most recent pacific 112
northwest snowfighters qualified products list; 113

(iii) Documentation from a private certification entity 114
approved by the department of transportation. 115

(b) The chief may establish reporting and testing 116
requirements as are reasonably necessary to confirm that the 117
production and use of the commodity complies with the 118
requirements of this section. The chief may, at reasonable 119
times, collect samples of the commodity. However, the chief 120
shall not collect more than four samples of a commodity annually 121
from a person who sells brine as a commodity as authorized under 122
division (C) (9) (a) of this section. 123

(c) The chief shall not adopt rules or establish or impose 124
additional requirements applicable to commodities governed by 125
division (C) (9) (a) of this section. 126

(D) (1) No person, without first having obtained a permit 127
from the chief, shall inject brine or other waste substances 128
resulting from, obtained from, or produced in connection with 129
oil or gas drilling, exploration, or production into an 130
underground formation unless a rule of the chief expressly 131
authorizes the injection without a permit. The permit shall be 132
in addition to any permit required by section 1509.05 of the 133
Revised Code, and the permit application shall be accompanied by 134

a permit fee of one thousand dollars. The chief shall adopt 135
rules in accordance with Chapter 119. of the Revised Code 136
regarding the injection into wells of brine and other waste 137
substances resulting from, obtained from, or produced in 138
connection with oil or gas drilling, exploration, or production. 139
The rules shall include provisions regarding all of the 140
following: 141

(a) Applications for and issuance of the permits required 142
by this division; 143

(b) Entry to conduct inspections and to examine and copy 144
records to ascertain compliance with this division and rules, 145
orders, and terms and conditions of permits adopted or issued 146
under it; 147

(c) The provision and maintenance of information through 148
monitoring, recordkeeping, and reporting. In addition, the rules 149
shall require the owner of an injection well who has been issued 150
a permit under division (D) of this section to quarterly submit 151
electronically to the chief information concerning each shipment 152
of brine or other waste substances received by the owner for 153
injection into the well. 154

(d) The provision and electronic reporting quarterly of 155
information concerning brine and other waste substances from a 156
transporter that is registered under section 1509.222 of the 157
Revised Code prior to the injection of the transported brine or 158
other waste substances; 159

(e) Any other provisions in furtherance of the goals of 160
this section and the Safe Drinking Water Act. 161

(2) The chief may adopt rules in accordance with Chapter 162
119. of the Revised Code authorizing tests to evaluate whether 163

fluids or carbon dioxide may be injected in a reservoir and to 164
determine the maximum allowable injection pressure, which shall 165
be conducted in accordance with methods prescribed in the rules 166
or in accordance with conditions of the permit. In addition, the 167
chief may adopt rules that do both of the following: 168

(a) Establish the total depth of a well for which a permit 169
has been applied for or issued under this division; 170

(b) Establish requirements and procedures to protect 171
public health and safety. 172

(3) To implement the goals of the Safe Drinking Water Act, 173
the chief shall not issue a permit for the injection of brine or 174
other waste substances resulting from, obtained from, or 175
produced in connection with oil or gas drilling, exploration, or 176
production unless the chief concludes that the applicant has 177
demonstrated that the injection will not result in the presence 178
of any contaminant in ground water that supplies or can 179
reasonably be expected to supply any public water system, such 180
that the presence of the contaminant may result in the system's 181
not complying with any national primary drinking water 182
regulation or may otherwise adversely affect the health of 183
persons. 184

(4) The chief may issue an order to the owner of a well in 185
existence on September 10, 2012, to make changes in the 186
operation of the well in order to correct problems or to address 187
safety concerns. 188

(5) This division and rules, orders, and terms and 189
conditions of permits adopted or issued under it shall be 190
construed to be no more stringent than required for compliance 191
with the Safe Drinking Water Act unless essential to ensure that 192

underground sources of drinking water will not be endangered. 193

(E) The owner holding a permit, or an assignee or 194
transferee who has assumed the obligations and liabilities 195
imposed by this chapter and any rules adopted or orders issued 196
under it pursuant to section 1509.31 of the Revised Code, and 197
the operator of a well shall be liable for a violation of this 198
section or any rules adopted or orders or terms or conditions of 199
a permit issued under it. 200

(F) An owner shall replace the water supply of the holder 201
of an interest in real property who obtains all or part of the 202
holder's supply of water for domestic, agricultural, industrial, 203
or other legitimate use from an underground or surface source 204
where the supply has been substantially disrupted by 205
contamination, diminution, or interruption proximately resulting 206
from the owner's oil or gas operation, or the owner may elect to 207
compensate the holder of the interest in real property for the 208
difference between the fair market value of the interest before 209
the damage occurred to the water supply and the fair market 210
value after the damage occurred if the cost of replacing the 211
water supply exceeds this difference in fair market values. 212
However, during the pendency of any order issued under this 213
division, the owner shall obtain for the holder or shall 214
reimburse the holder for the reasonable cost of obtaining a 215
water supply from the time of the contamination, diminution, or 216
interruption by the operation until the owner has complied with 217
an order of the chief for compliance with this division or such 218
an order has been revoked or otherwise becomes not effective. If 219
the owner elects to pay the difference in fair market values, 220
but the owner and the holder have not agreed on the difference 221
within thirty days after the chief issues an order for 222
compliance with this division, within ten days after the 223

expiration of that thirty-day period, the owner and the chief 224
each shall appoint an appraiser to determine the difference in 225
fair market values, except that the holder of the interest in 226
real property may elect to appoint and compensate the holder's 227
own appraiser, in which case the chief shall not appoint an 228
appraiser. The two appraisers appointed shall appoint a third 229
appraiser, and within thirty days after the appointment of the 230
third appraiser, the three appraisers shall hold a hearing to 231
determine the difference in fair market values. Within ten days 232
after the hearing, the appraisers shall make their determination 233
by majority vote and issue their final determination of the 234
difference in fair market values. The chief shall accept a 235
determination of the difference in fair market values made by 236
agreement of the owner and holder or by appraisers under this 237
division and shall make and dissolve orders accordingly. This 238
division does not affect in any way the right of any person to 239
enforce or protect, under applicable law, the person's interest 240
in water resources affected by an oil or gas operation. 241

(G) In any action brought by the state for a violation of 242
division (A) of this section involving any well at which annular 243
disposal is used, there shall be a rebuttable presumption 244
available to the state that the annular disposal caused the 245
violation if the well is located within a one-quarter-mile 246
radius of the site of the violation. 247

(H) (1) There is levied on the owner of an injection well 248
who has been issued a permit under division (D) of this section 249
the following fees: 250

(a) Five cents per barrel of each substance that is 251
delivered to a well to be injected in the well when the 252
substance is produced within the division of oil and gas 253

resources management regulatory district in which the well is 254
located or within an adjoining oil and gas resources management 255
regulatory district; 256

(b) Twenty cents per barrel of each substance that is 257
delivered to a well to be injected in the well when the 258
substance is not produced within the division of oil and gas 259
resources management regulatory district in which the well is 260
located or within an adjoining oil and gas resources management 261
regulatory district. 262

(2) The maximum number of barrels of substance per 263
injection well in a calendar year on which a fee may be levied 264
under division (H) of this section is five hundred thousand. If 265
in a calendar year the owner of an injection well receives more 266
than five hundred thousand barrels of substance to be injected 267
in the owner's well and if the owner receives at least one 268
substance that is produced within the division's regulatory 269
district in which the well is located or within an adjoining 270
regulatory district and at least one substance that is not 271
produced within the division's regulatory district in which the 272
well is located or within an adjoining regulatory district, the 273
fee shall be calculated first on all of the barrels of substance 274
that are not produced within the division's regulatory district 275
in which the well is located or within an adjoining district at 276
the rate established in division (H) ~~(2)~~ (1) (b) of this section. 277
The fee then shall be calculated on the barrels of substance 278
that are produced within the division's regulatory district in 279
which the well is located or within an adjoining district at the 280
rate established in division (H) (1) (a) of this section until the 281
maximum number of barrels established in division (H) (2) of this 282
section has been attained. 283

(3) The owner of an injection well who is issued a permit 284
under division (D) of this section shall collect the fee levied 285
by division (H) of this section on behalf of the division of oil 286
and gas resources management and forward the fee to the 287
division. The chief shall transmit all money received under 288
division (H) of this section to the treasurer of state who shall 289
deposit the money in the state treasury to the credit of the oil 290
and gas well fund created in section 1509.02 of the Revised 291
Code. The owner of an injection well who collects the fee levied 292
by this division may retain up to three per cent of the amount 293
that is collected. 294

(4) The chief shall adopt rules in accordance with Chapter 295
119. of the Revised Code establishing requirements and 296
procedures for collection of the fee levied by division (H) of 297
this section. 298

Section 2. That existing section 1509.22 of the Revised 299
Code is hereby repealed. 300