

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 723

Representative Holmes

Cosponsor: Representative Ashford

A BILL

To amend section 1509.22 of the Revised Code to 1
limit the number of injection well permits that 2
the Chief of the Division of Oil and Gas 3
Resources Management may issue in a county. 4

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

Section 1. That section 1509.22 of the Revised Code be 5
amended to read as follows: 6

Sec. 1509.22. (A) Except when acting in accordance with 7
section 1509.226 of the Revised Code, no person shall place or 8
cause to be placed in ground water or in or on the land or 9
discharge or cause to be discharged in surface water brine, 10
crude oil, natural gas, or other fluids associated with the 11
exploration, development, well stimulation, production 12
operations, or plugging of oil and gas resources that causes or 13
could reasonably be anticipated to cause damage or injury to 14
public health or safety or the environment. 15

(B) (1) No person shall store or dispose of brine in 16
violation of a plan approved under division (A) of section 17
1509.222 or section 1509.226 of the Revised Code, in violation 18

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

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

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

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

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

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

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

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

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

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

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

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

(4) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.

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

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

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

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

(D) (1) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall not issue more than twenty-three permits for injection wells in any one county. If more than twenty-three injection well permits have been issued by the chief in a county on the effective date of this amendment, the chief shall not issue any more permits for injection wells in that county.

(2) Not later than three business days after receipt of an

application to inject brine or other waste substances resulting 106
from, obtained from, or produced in connection with oil or gas 107
drilling, exploration, or production into an underground 108
formation, the chief shall provide written notice of the 109
application to each state representative and state senator in 110
whose district the injection well is proposed to be located. 111

(3) The chief shall adopt rules in accordance with Chapter 112
119. of the Revised Code regarding the injection into wells of 113
brine and other waste substances resulting from, obtained from, 114
or produced in connection with oil or gas drilling, exploration, 115
or production. The rules shall include provisions regarding all 116
of the following: 117

(a) Applications for and issuance of the permits required 118
by this division; 119

(b) Entry to conduct inspections and to examine and copy 120
records to ascertain compliance with this division and rules, 121
orders, and terms and conditions of permits adopted or issued 122
under it; 123

(c) The provision and maintenance of information through 124
monitoring, recordkeeping, and reporting. In addition, the rules 125
shall require the owner of an injection well who has been issued 126
a permit under division (D) of this section to quarterly submit 127
electronically to the chief information concerning each shipment 128
of brine or other waste substances received by the owner for 129
injection into the well. 130

(d) The provision and electronic reporting quarterly of 131
information concerning brine and other waste substances from a 132
transporter that is registered under section 1509.222 of the 133
Revised Code prior to the injection of the transported brine or 134

other waste substances;	135
(e) Any other provisions in furtherance of the goals of this section and the Safe Drinking Water Act.	136 137
(2) <u>(4)</u> The chief may adopt rules in accordance with Chapter 119. of the Revised Code authorizing tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of the permit. In addition, the chief may adopt rules that do both of the following:	138 139 140 141 142 143 144 145
(a) Establish the total depth of a well for which a permit has been applied for or issued under this division;	146 147
(b) Establish requirements and procedures to protect public health and safety.	148 149
(3) <u>(5)</u> To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.	150 151 152 153 154 155 156 157 158 159 160 161
(4) <u>(6)</u> The chief may issue an order to the owner of a well in existence on September 10, 2012, to make changes in the	162 163

operation of the well in order to correct problems or to address 164
safety concerns. 165

~~(5)~~ (7) This division and rules, orders, and terms and 166
conditions of permits adopted or issued under it shall be 167
construed to be no more stringent than required for compliance 168
with the Safe Drinking Water Act unless essential to ensure that 169
underground sources of drinking water will not be endangered. 170

(E) The owner holding a permit, or an assignee or 171
transferee who has assumed the obligations and liabilities 172
imposed by this chapter and any rules adopted or orders issued 173
under it pursuant to section 1509.31 of the Revised Code, and 174
the operator of a well shall be liable for a violation of this 175
section or any rules adopted or orders or terms or conditions of 176
a permit issued under it. 177

(F) An owner shall replace the water supply of the holder 178
of an interest in real property who obtains all or part of the 179
holder's supply of water for domestic, agricultural, industrial, 180
or other legitimate use from an underground or surface source 181
where the supply has been substantially disrupted by 182
contamination, diminution, or interruption proximately resulting 183
from the owner's oil or gas operation, or the owner may elect to 184
compensate the holder of the interest in real property for the 185
difference between the fair market value of the interest before 186
the damage occurred to the water supply and the fair market 187
value after the damage occurred if the cost of replacing the 188
water supply exceeds this difference in fair market values. 189
However, during the pendency of any order issued under this 190
division, the owner shall obtain for the holder or shall 191
reimburse the holder for the reasonable cost of obtaining a 192
water supply from the time of the contamination, diminution, or 193

interruption by the operation until the owner has complied with 194
an order of the chief for compliance with this division or such 195
an order has been revoked or otherwise becomes not effective. If 196
the owner elects to pay the difference in fair market values, 197
but the owner and the holder have not agreed on the difference 198
within thirty days after the chief issues an order for 199
compliance with this division, within ten days after the 200
expiration of that thirty-day period, the owner and the chief 201
each shall appoint an appraiser to determine the difference in 202
fair market values, except that the holder of the interest in 203
real property may elect to appoint and compensate the holder's 204
own appraiser, in which case the chief shall not appoint an 205
appraiser. The two appraisers appointed shall appoint a third 206
appraiser, and within thirty days after the appointment of the 207
third appraiser, the three appraisers shall hold a hearing to 208
determine the difference in fair market values. Within ten days 209
after the hearing, the appraisers shall make their determination 210
by majority vote and issue their final determination of the 211
difference in fair market values. The chief shall accept a 212
determination of the difference in fair market values made by 213
agreement of the owner and holder or by appraisers under this 214
division and shall make and dissolve orders accordingly. This 215
division does not affect in any way the right of any person to 216
enforce or protect, under applicable law, the person's interest 217
in water resources affected by an oil or gas operation. 218

(G) In any action brought by the state for a violation of 219
division (A) of this section involving any well at which annular 220
disposal is used, there shall be a rebuttable presumption 221
available to the state that the annular disposal caused the 222
violation if the well is located within a one-quarter-mile 223
radius of the site of the violation. 224

(H) (1) There is levied on the owner of an injection well 225
who has been issued a permit under division (D) of this section 226
the following fees: 227

(a) Five cents per barrel of each substance that is 228
delivered to a well to be injected in the well when the 229
substance is produced within the division of oil and gas 230
resources management regulatory district in which the well is 231
located or within an adjoining oil and gas resources management 232
regulatory district; 233

(b) Twenty cents per barrel of each substance that is 234
delivered to a well to be injected in the well when the 235
substance is not produced within the division of oil and gas 236
resources management regulatory district in which the well is 237
located or within an adjoining oil and gas resources management 238
regulatory district. 239

(2) The maximum number of barrels of substance per 240
injection well in a calendar year on which a fee may be levied 241
under division (H) of this section is five hundred thousand. If 242
in a calendar year the owner of an injection well receives more 243
than five hundred thousand barrels of substance to be injected 244
in the owner's well and if the owner receives at least one 245
substance that is produced within the division's regulatory 246
district in which the well is located or within an adjoining 247
regulatory district and at least one substance that is not 248
produced within the division's regulatory district in which the 249
well is located or within an adjoining regulatory district, the 250
fee shall be calculated first on all of the barrels of substance 251
that are not produced within the division's regulatory district 252
in which the well is located or within an adjoining district at 253
the rate established in division (H) ~~(2)~~ (1) (b) of this section. 254

The fee then shall be calculated on the barrels of substance 255
that are produced within the division's regulatory district in 256
which the well is located or within an adjoining district at the 257
rate established in division (H) (1) (a) of this section until the 258
maximum number of barrels established in division (H) (2) of this 259
section has been attained. 260

(3) The owner of an injection well who is issued a permit 261
under division (D) of this section shall collect the fee levied 262
by division (H) of this section on behalf of the division of oil 263
and gas resources management and forward the fee to the 264
division. The chief shall transmit all money received under 265
division (H) of this section to the treasurer of state who shall 266
deposit the money in the state treasury to the credit of the oil 267
and gas well fund created in section 1509.02 of the Revised 268
Code. The owner of an injection well who collects the fee levied 269
by this division may retain up to three per cent of the amount 270
that is collected. 271

(4) The chief shall adopt rules in accordance with Chapter 272
119. of the Revised Code establishing requirements and 273
procedures for collection of the fee levied by division (H) of 274
this section. 275

Section 2. That existing section 1509.22 of the Revised 276
Code is hereby repealed. 277