

1 **H. B. 4637**

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3 (By Delegates Manypenny, Talbott and Brown)
4 [Introduced February 20, 2012; referred to the
5 Committee on the Judiciary then Finance.]
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10 A BILL to amend and reenact §22-6A-12 of the Code of West Virginia,
11 1931, as amended, relating to prohibiting the drilling of
12 horizontal oil and gas wells beneath abandoned wells; and
13 prohibiting fracking within five hundred feet of an abandoned
14 well.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §22-6A-12 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.**

19 **§22-6A-12. Well location restrictions; abandoned wells.**

20 (a) Wells may not be drilled within two hundred fifty feet
21 measured horizontally from any existing water well or developed
22 spring used for human or domestic animal consumption. Wells may
23 not be drilled beneath an abandoned oil and gas well that has not
24 been capped nor may fracking activities take place within five

1 hundred feet laterally of an abandoned well. The center of well
2 pads may not be located within six hundred twenty-five feet of an
3 occupied dwelling structure, or a building two thousand five
4 hundred square feet or larger used to house or shelter dairy cattle
5 or poultry husbandry. This limitation is applicable to those
6 wells, developed springs, dwellings or agricultural buildings that
7 existed on the date a notice to the surface owner of planned entry
8 for surveying or staking as provided in section ten of this article
9 or a notice of intent to drill a horizontal well as provided in
10 subsection (b), section sixteen of this article was provided,
11 whichever occurs first, and to any dwelling under construction
12 prior to that date. This limitation may be waived by written
13 consent of the surface owner transmitted to the department and
14 recorded in the real property records maintained by the clerk of
15 the county commission for the county in which such property is
16 located. Furthermore, the well operator may be granted a variance
17 by the secretary from these distance restrictions upon submission
18 of a plan which identifies the sufficient measures, facilities or
19 practices to be employed during well site construction, drilling
20 and operations. The variance, if granted, shall include terms and
21 conditions the department requires to ensure the safety and
22 protection of affected persons and property. The terms and
23 conditions may include insurance, bonding and indemnification, as
24 well as technical requirements.

1 (b) No well pad may be prepared or well drilled within one
2 hundred feet measured horizontally from any perennial stream,
3 natural or artificial lake, pond or reservoir, or a wetland, or
4 within three hundred feet of a naturally reproducing trout stream.
5 No well pad may be located within one thousand feet of a surface or
6 ground water intake of a public water supply. The distance from
7 the public water supply as identified by the department shall be
8 measured as follows:

9 (1) For a surface water intake on a lake or reservoir, the
10 distance shall be measured from the boundary of the lake or
11 reservoir.

12 (2) For a surface water intake on a flowing stream, the
13 distance shall be measured from a semicircular radius extending
14 upstream of the surface water intake.

15 (3) For a groundwater source, the distance shall be measured
16 from the wellhead or spring. The department may, in its
17 discretion, waive these distance restrictions upon submission of a
18 plan identifying sufficient measures, facilities or practices to be
19 employed during well site construction, drilling and operations to
20 protect the waters of the state. A waiver, if granted, shall
21 impose any permit conditions as the secretary considers necessary.

22 (c) Notwithstanding the foregoing provisions of this section,
23 nothing contained in this section prevents an operator from
24 conducting the activities permitted or authorized by a Clean Water

1 Act Section 404 permit or other approval from the United States
2 Army Corps of Engineers within any waters of the state or within
3 the restricted areas referenced in this section.

4 (d) The well location restrictions set forth in this section
5 shall not apply to any well on a multiple well pad if at least one
6 of the wells was permitted or has an application pending prior to
7 the effective date of this article.

8 (e) The secretary shall, by December 31, 2012, report to the
9 Legislature on the noise, light, dust and volatile organic
10 compounds generated by the drilling of horizontal wells as they
11 relate to the well location restrictions regarding occupied
12 dwelling structures pursuant to this section. Upon a finding, if
13 any, by the secretary that the well location restrictions regarding
14 occupied dwelling structures are inadequate or otherwise require
15 alteration to address the items examined in the study required by
16 this subsection, the secretary shall have the authority to propose
17 for promulgation legislative rules establishing guidelines and
18 procedures regarding reasonable levels of noise, light, dust and
19 volatile organic compounds relating to drilling horizontal wells,
20 including reasonable means of mitigating such factors, if
21 necessary.

NOTE: The purpose of the bill is to prohibit the drilling of horizontal oil and gas wells beneath abandoned wells. The bill also prohibits fracking within five hundred feet of an abandoned

well.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.