To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 9, 2009

Mr. CASEY (for himself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Fracturing Responsibility and Awareness of Chemicals (FRAC) Act'.

SEC. 2. REGULATION OF HYDRAULIC FRACTURING.

(a) Underground Injection- Section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended by striking paragraph (1) and inserting the following:

`1. UNDERGROUND INJECTION-

(A) IN GENERAL- The term `underground injection' means the subsurface emplacement of fluids by well injection.

(B) INCLUSION- The term `underground injection' includes the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations relating to oil or gas production activities.

(C) EXCLUSION- The term `underground injection' does not include the underground injection of natural gas for the purpose of storage.'.

(b) Disclosure- Section 1421(b) of the Safe Drinking Water Act (42 U.S.C. 300h(b)) is amended--
(1) in paragraph (1)(C), by inserting before the semicolon the following: ', including a requirement that any person using hydraulic fracturing disclose to the State (or to the Administrator in any case in which the Administrator has primary enforcement responsibility in a State) the chemical constituents (but not the proprietary chemical formulas) used in the fracturing process'; and

(2) by adding at the end the following:

`(4) DISCLOSURES OF CHEMICAL CONSTITUENTS-

(A) IN GENERAL- The State (or the Administrator, as applicable) shall make available to the public the information contained in each disclosure of chemical constituents under paragraph (1)(C), including by posting the information on an appropriate Internet website.

(B) IMMEDIATE DISCLOSURE IN CASE OF EMERGENCY-

(i) IN GENERAL- Subject to clause (ii), the regulations promulgated pursuant to subsection (a) shall require that, in any case in which the State (or the Administrator, as applicable) or an appropriate treating physician or nurse determines that a medical emergency exists and the proprietary chemical formula or specific chemical identity of a trade-secret chemical used in hydraulic fracturing is necessary for emergency or first-aid treatment, the applicable person using hydraulic fracturing shall immediately disclose to the State (or the Administrator) or the treating physician or nurse the proprietary chemical formula or specific chemical identity of a trade-secret chemical, regardless of the existence of--

(I) a written statement of need; or

(II) a confidentiality agreement.

(ii) REQUIREMENT- A person using hydraulic fracturing that makes a disclosure required under clause (i) may require the execution of a written statement of need and a confidentiality agreement as soon as practicable after the determination by the State (or the Administrator) or the treating physician or nurse under that clause.'.