



**Representative Robert F. Hagan**  
**58<sup>th</sup> Ohio House District**

Sponsor Testimony HB 93  
Representative Robert F. Hagan  
House Agriculture Committee  
Tuesday, June 25, 2013

Mr. Chairman, Vice Chair Thompson, and ranking minority member Cera: thank you for allowing me the opportunity to present sponsor testimony on yet another important bill that will protect our environment and our communities from bad actors in the oil and gas industry. House Bill 93, similar to Senate Bill 46 from Senators Schiavoni and LaRose, will stiffen the criminal penalties for violating state oil and gas law relating to the improper disposal, transport and management of brine so the punishment matches federal law.

In January of this year, acting on an anonymous tip, EPA investigators arrived at the headquarters of D&L Energy to find thousands of gallons of drilling waste and brine being dumped down a storm drain that leads to a tributary of the Mahoning River. In the weeks that followed, the EPA uncovered through interviews and investigation that over 250,000 gallons of brine may have been dumped into the storm drain over an extended period of time, in what amounts to an egregious violation of Ohio environmental regulations.

While I shared the outrage felt by the entire Youngstown community, I was also shocked to learn that this incident was not the first violation by D&L Energy and its owner, Mr. Ben Lupo; records show that D&L Energy alone has 120 environmental and regulatory violations at 32 injection and extraction wells across Ohio and Pennsylvania. In addition, archival records from the Youngstown Vindicator show that Lupo and his companies have been accused of other violations before, but were able to escape with only small fines and continue operating in Ohio.

Clearly, a company or individual with such a blatant disregard for Ohio law and a history of violating environmental regulations should not be permitted to continue to conduct business in our state. Thankfully, since the January revelations, Mr. Lupo's permits have been revoked and he has been charged at the federal level for violating the Clean Water Act, which comes with greater penalties than our state laws. However, I believe Ohio must strengthen its oversight and penalties to discourage future violations and show that Ohio will not tolerate such transgressions. And so, this bill includes the following provisions:

- Requires the Chief of the Division of Oil and Gas Resources Management to revoke, and deny future applications for, a permit or registration certificate if the holder is convicted of or pleads guilty to violations of that Law relating to improper disposal of brine or prohibited actions involving a brine transporter's daily log



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- Raises the penalties for knowingly disposing of oil and gas waste illegally to the levels found in the Federal Clean Water Act, which is a felony and a fine of not less than \$10,000 nor more than \$50,000 or imprisonment for 3 years, or both for the first offense, or no less than \$20,000 nor more than \$100,000 or imprisonment for 6 years on subsequent offenses. Current Ohio law only provides for a fine of up to \$20,000 and two years in prison for repeated violations.
- Also raises the penalties for negligently disposing of oil and gas waste illegally to the levels found in the Federal Clean Water Act, which is a felony and a fine of not less than \$5,000 nor more than \$25,000 or imprisonment up to 1 year, or both for the first offense, or no less than \$10,000 nor more than \$50,000 or imprisonment for 2 years, or both, on subsequent offenses. Again, current Ohio law is substantially weaker than federal law, and only provides for a fine up to \$5,000.
- Establishes a criminal penalty for a negligent violation of certain provisions of the Solid, Hazardous, and Infectious Wastes Law relating to permitting and the proper storage, treatment, disposal, and transportation of hazardous waste. Violations would be punishable by a fine of not more than \$10,000, imprisonment for not more than two years, or both.

Since the introduction of this bill, further evidence that we need tougher sanctions and additional oversight has been provided to us via reports of a brine-hauling company illegally dumping brine on a Belmont County farm. While Mr. Lupo and now this additional company in Belmont County may represent the bad apples of the industry, it is imperative that we send a strong and clear message that such reckless conduct will not be tolerated in Ohio.

Thank you again for the opportunity to testify on this bill. I will be happy to take any questions the committee members may have.