

109TH CONGRESS  
1ST SESSION

# H. R. 3977

To require owners of property to test and disclose the water quality of qualified wells before selling or leasing the property, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2005

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To require owners of property to test and disclose the water quality of qualified wells before selling or leasing the property, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Private Well  
5       Protection Act of 2005”.

6       **SEC. 2. TESTING OF QUALIFIED WELLS BEFORE SALE OR**  
7       **LEASE OF PROPERTY.**

8       (a) **REQUIREMENTS.**—Before selling or leasing any  
9       privately-owned property that includes a qualified well, the  
10      owner of such property shall—

1           (1) conduct tests with respect to each such well  
2           in accordance with subsection (b);

3           (2) disclose the results of such tests to the pro-  
4           spective buyer or lessee of the property; and

5           (3) provide the results of such tests to the En-  
6           vironmental Protection Agency.

7           (b) TESTING.—Tests described in subsection (a) shall  
8           be conducted in accordance with the following:

9           (1) The tests shall be conducted at the expense  
10          of the owner of the property.

11          (2) The tests shall be conducted separately for  
12          each qualified well on the property.

13          (3) The tests shall be conducted, and the sam-  
14          ples shall be gathered, by a laboratory that is ac-  
15          credited in accordance with the National Environ-  
16          mental Laboratory Accreditation Program.

17          (4) The tests shall be conducted at any time  
18          during the 6-month period preceding the sale or  
19          lease involved.

20          (5) The tests shall determine the level of con-  
21          taminants in the water of each qualified well on the  
22          property. At a minimum, the tests shall be for the  
23          following contaminants:

24                  (A) Total coliform bacteria.

25                  (B) Iron.

1 (C) Manganese.

2 (D) pH.

3 (E) All volatile organic compounds for  
4 which a maximum contaminant level has been  
5 established under the Safe Drinking Water Act  
6 (42 U.S.C. 300f et seq.).

7 (F) Nitrate.

8 (G) Lead.

9 (H) Mercury.

10 (c) CIVIL ACTION.—

11 (1) IN GENERAL.—If a person sells or leases a  
12 property in violation of subsection (a)(2), the buyer  
13 or lessee of the property may bring a civil action  
14 against such person in an appropriate United States  
15 district court or in a State court of competent juris-  
16 diction.

17 (2) DAMAGES.—In any action brought under  
18 paragraph (1), if the court finds that the defendant  
19 violated subsection (a)(2), the defendant shall be lia-  
20 ble to the plaintiff in an amount equal to the sum  
21 of—

22 (A) an amount equal to 1 percent of the  
23 appraised value of the property involved or  
24 \$10,000, whichever is greater;

1 (B) the amount of any actual, direct eco-  
2 nomic damages, including any remediation,  
3 legal, and medical costs, incurred by the plain-  
4 tiff as a proximate result of any contamination  
5 which the defendant failed to disclose as re-  
6 quired by subsection (a)(2); and

7 (C) the costs of the action under this sub-  
8 section.

9 (3) LIMITATION.—An action under this sub-  
10 section must be brought not later than 5 years after  
11 the sale or lease of the property involved.

12 (d) CIVIL PENALTY.—Any person found by the Ad-  
13 ministrator of the Environmental Protection Agency, after  
14 notice and an opportunity for a hearing, to have com-  
15 mitted a violation of subsection (a)(3) is liable to the  
16 United States Government for a civil penalty of not more  
17 than \$5,000 for each such violation.

18 (e) PUBLIC AVAILABILITY OF TEST RESULTS.—The  
19 Administrator of the Environmental Protection Agency  
20 shall—

21 (1) collect, compile, and maintain the results of  
22 tests provided to the Administrator pursuant to sub-  
23 section (a)(3); and

1           (2) make such results available to the public by  
2       request, together with an explanation of such results  
3       in lay language if requested.

4       (f) DEFINITION.—In this section, the term “qualified  
5 well” means a well that—

6           (1) has fewer than 15 service connections; and

7           (2) does not regularly serve at least 25 individ-  
8       uals for at least 60 days each year.

9       (g) EFFECTIVE DATE.—This section applies only  
10 with respect to the sale or lease of a property on or after  
11 the date that is 180 days after the date of the enactment  
12 of this section.

○