

5113

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to providing reimbursement to fire companies for costs associated with responding to releases of hazardous materials

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 27-0901 of the environmental conservation law is
2 amended by adding a new subdivision 16 to read as follows:
3 16. "FIRE COMPANY" MEANS A FIRE COMPANY AS DEFINED IN SUBDIVISION TWO
4 OF SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL LAW.
5 S 2. The environmental conservation law is amended by adding a new
6 section 27-0927 to read as follows:
7 S 27-0927. HAZARDOUS MATERIALS RELEASE RESPONSE COSTS.
8 1. ANY MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH CONTRACTS WITH OR
9 CONTROLS A FIRE COMPANY SHALL BE ENTITLED TO REIMBURSEMENT FOR COSTS
10 ASSOCIATED WITH THE RESPONSE OF SUCH FIRE COMPANY TO ANY INCIDENT
11 INVOLVING THE RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY A
12 TRANSPORTER OF HAZARDOUS MATERIALS AFTER APPROVAL BY THE STATE FIRE
13 ADMINISTRATOR. REIMBURSEMENT SHALL BE LIMITED TO EXPENDABLE MATERIALS
14 USED IN THE RESPONSE AND BE LIMITED TO SEVEN THOUSAND FIVE HUNDRED
15 DOLLARS PER INCIDENT. EXPENDABLE MATERIALS SHALL INCLUDE, BUT NOT BE
16 LIMITED TO, FOAMS AND GELS USED TO ABSORB THE HAZARDOUS MATERIALS
17 RELEASED, THE REPLACEMENT OR CLEANING OF PROTECTIVE CLOTHING USED IN
18 RESPONDING TO THE INCIDENT, AND THE REPLACEMENT OR CLEANING OF STORAGE
19 CONTAINERS, DETECTION SUPPLIES AND OTHER EQUIPMENT USED IN RESPONDING TO
20 THE INCIDENT; PROVIDED HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT
21 INCLUDE THE COSTS OF PERSONNEL, VEHICLES, OR OTHER DURABLE EQUIPMENT
22 USED IN RESPONSE TO THE INCIDENT. SUCH REIMBURSEMENT SHALL BE MADE
23 DIRECTLY FROM SUCH TRANSPORTER OF HAZARDOUS MATERIALS TO THE MUNICIPAL
24 CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 COMPANY AND THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS
2 WITH OR CONTROLS SUCH FIRE COMPANY IS HEREBY AUTHORIZED TO BILL SUCH
3 TRANSPORTER OF HAZARDOUS MATERIALS FOR SUCH COSTS. FOR PURPOSES OF THIS
4 SECTION, THE TERM "HAZARDOUS MATERIALS" SHALL HAVE THE SAME MEANING AS
5 SET FORTH IN SUBDIVISION ONE OF SECTION FOURTEEN-F OF THE TRANSPORTATION
6 LAW. FOR PURPOSES OF THIS SECTION, THE TERM "TRANSPORTER" SHALL NOT
7 INCLUDE RAILROADS AS DEFINED IN SUBDIVISIONS TWENTY-FOUR, TWENTY-FIVE
8 AND TWENTY-NINE OF SECTION TWO OF THE TRANSPORTATION LAW.

9 2. THE STATE FIRE ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO
10 IMPLEMENT THE PROVISIONS OF THIS SECTION AND DEVELOP AND MAKE AVAILABLE
11 REIMBURSEMENT FORMS TO ENABLE A MUNICIPAL CORPORATION OR FIRE DISTRICT
12 THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY TO BILL A TRANSPORTER OF
13 HAZARDOUS MATERIALS FOR COSTS INCURRED IN RESPONDING TO A RELEASE OR
14 THREATENED RELEASE OF HAZARDOUS MATERIALS. THE FIRE COMPANIES OF THE
15 STATE SHALL BE PROVIDED ACCESS TO THE FORMS. PRIOR TO SUBMITTING SUCH
16 FORM TO A TRANSPORTER FOR REIMBURSEMENT OF SUCH COSTS INCURRED, A MUNIC-
17 IPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE
18 COMPANY SHALL SUBMIT SUCH FORM TO THE STATE FIRE ADMINISTRATOR, WHO
19 SHALL APPROVE OR DENY SUCH REQUEST FOR REIMBURSEMENT AUTHORITY WITHIN
20 THIRTY DAYS OF RECEIPT OF THE REQUEST. A MUNICIPAL CORPORATION OR FIRE
21 DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY MAY SEEK
22 REIMBURSEMENT FROM A TRANSPORTER ONLY AFTER THE STATE FIRE ADMINISTRATOR
23 HAS APPROVED SUCH REQUEST FOR REIMBURSEMENT.

24 3. ONCE THE STATE FIRE ADMINISTRATOR HAS APPROVED THE REQUEST FOR
25 REIMBURSEMENT, THE MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH
26 CONTRACTS WITH OR CONTROLS THE FIRE COMPANY SHALL HAVE A CAUSE OF ACTION
27 TO RECOVER UNPAID MONIES TO WHICH THEY ARE ENTITLED UNDER SUBDIVISION
28 ONE OF THIS SECTION. RECOVERY OF UNPAID MONIES UNDER A CAUSE OF ACTION
29 BROUGHT UNDER THIS SECTION SHALL BE LIMITED TO THE AMOUNT SET FORTH IN
30 SUBDIVISION ONE OF THIS SECTION. THE REIMBURSEMENT AUTHORITY AND CAUSE
31 OF ACTION SHALL BE THE EXCLUSIVE ENFORCEMENT REMEDIES AVAILABLE UNDER
32 THIS SECTION.

33 4. BY JULY FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER, IN CONSULTA-
34 TION WITH THE COMMISSIONER OF HEALTH, THE SECRETARY OF STATE, THE DIREC-
35 TOR OF THE STATE EMERGENCY MANAGEMENT OFFICE, AND THE STATE FIRE ADMIN-
36 ISTRATOR, SHALL IDENTIFY RESOURCES AND FUNDING FROM ALREADY EXISTING
37 SOURCES, FOR REIMBURSEMENT OF FIRE COMPANIES THAT EXPEND FUNDING AND
38 COSTS PURSUANT TO SUBDIVISION ONE OF THIS SECTION AT RELEASES OF HAZARD-
39 OUS SUBSTANCES AND MATERIALS WHERE THERE IS NO KNOWN RESPONSIBLE PARTY
40 FOR THE DISCHARGE OF SUCH HAZARDOUS SUBSTANCES OR MATERIALS, OR WHERE
41 ACTIONS ARE TAKEN FOR EMERGENCY MITIGATION AND A KNOWN RESPONSIBLE PARTY
42 DOES NOT HAVE FINANCIAL MEANS TO REIMBURSE THE RESPONSE COSTS. THE STATE
43 FIRE ADMINISTRATOR SHALL DISTRIBUTE SUCH FINDINGS AND DETAILS ON ACCESS-
44 ING SUCH FUNDS TO FIRE COMPANIES.

45 S 3. This act shall take effect immediately.