S T A T E O F N E W Y O R K

702--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to creating the crime of environmental damage of property

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

Section 1. The penal law is amended by adding a new section 145.24 to read as follows:

S 145.24 ENVIRONMENTAL DAMAGE OF PROPERTY.

1. A PERSON IS GUILTY OF ENVIRONMENTAL DAMAGE OF PROPERTY WHEN, IN THE COURSE OF THE COMMISSION OF ANOTHER FELONY ACT, HE OR SHE INTENTIONALLY OR RECKLESSLY CAUSES ANY PROPERTY DAMAGE THAT ALTERS, CONTAMINATES, OR DESTROYS THE QUALITY OF WATER, SOIL, OR AIR, AND SUCH DAMAGE NECESSITATES REMEDIATION COSTS IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS.

2. IT SHALL BE AN AFFIRMATIVE DEFENSE TO THE CRIME OF ENVIRONMENTAL DAMAGE OF PROPERTY THAT THE DEFENDANT WAS ACTING UNDER A REASONABLE BELIEF THAT HE OR SHE HAD A RIGHT TO ALTER, CONTAMINATE OR DESTROY DUE TO LICENSE AND/OR OWNERSHIP OF SAID PROPERTY, OR THAT THE UNDERLYING ACT WAS NOT A VIOLATION OF THIS CHAPTER.

ENVIRONMENTAL DAMAGE OF PROPERTY IS A CLASS C FELONY. ANY SENTENCE IMPOSED PURSUANT TO A CONVICTION UNDER THIS SECTION IS TO BE SERVED CONSECUTIVE TO ANY SENTENCE IMPOSED FOR THE UNDERLYING FELONY.

S 2. This act shall take effect immediately.

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

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