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

5412

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. GIPSON -- 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 banning the acceptance of wastewater from oil or natural gas extraction activities at wastewater treatment facilities and landfills

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

Section 1. Subdivision 20 of section 23-0101 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, is amended to read as follows:

20. "Waste" means

a. Physical waste, as that term is generally understood in the oil and gas industry;

b. The inefficient, excessive or improper use of, or the unnecessary dissipation of reservoir energy;

c. The locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

d. The inefficient storing of oil or gas; [and]

e. The flaring of gas produced from an oil or condensate well after the department has found that the use of the gas, on terms that are just and reasonable, is, or will be economically feasible within a reasonable time[.]; AND

F. ANY WASTE THAT IS GENERATED AS A RESULT OF OIL OR NATURAL GAS EXTRACTION ACTIVITIES, WHICH INCLUDES, BUT IS NOT LIMITED TO, LEACHATE FROM SOLID WASTE ASSOCIATED WITH NATURAL GAS EXTRACTION ACTIVITIES. THIS WASTE MAY CONSIST OF AMONG OTHER SUBSTANCES, WATER, CHEMICAL ADDI-

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

LBD10823-02-3

TIVES, OR NATURALLY OCCURRING RADIOACTIVE MATERIALS (NORM) AND HEAVY METALS.

S 2. Section 23-0101 of the environmental conservation law is amended by adding a new subdivision 21 to read as follows:

21. "NATURAL GAS EXTRACTION ACTIVITIES" MEANS ALL GEOLOGIC OR GEOPHYSICAL ACTIVITIES RELATED TO THE EXPLORATION FOR OR EXTRACTION OF NATURAL GAS OR OTHER SUBSURFACE HYDROCARBON DEPOSITS, INCLUDING, BUT NOT LIMITED TO, CORE AND ROTARY DRILLING AND HYDRAULIC FRACTURING.

S 3. Section 23-0305 of the environmental conservation law is amended by adding a new subdivision 15 to read as follows:

15. THE DEPARTMENT SHALL PROHIBIT THE APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES ON ANY STATE-OWNED REAL PROPERTY, FOR ANY PURPOSE.

S 4. Subdivision 4 of section 17-1905 of the environmental conservation law is amended by adding a new paragraph f to read as follows:

F. ENSURE THAT THE INTRODUCTION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES INTO ANY WASTE WATER TREATMENT FACILITY WITHIN THE STATE IS PROHIBITED.

S 5. Section 27-0703 of the environmental conservation law is amended by adding a new subdivision 7 to read as follows:

7. THE DEPARTMENT SHALL ADOPT REGULATIONS PROHIBITING WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES, AS SUCH TERMS ARE DEFINED IN ARTICLE TWENTY-THREE OF THIS CHAPTER, FROM BEING DEPOSITED IN A SOLID WASTE MANAGEMENT FACILITY.

S 6. Subdivision 3 of section 71-1307 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, is amended to read as follows:

3. Criminal sanctions. Any person who, having any of the culpable mental states defined in sections 15.05 and 20.20 of the penal law, violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed eight thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION FIFTEEN OF SECTION 23-0305 OF THIS CHAPTER SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR BY IMPRISONMENT FOR A TERM OF NOT MORE THAN ONE YEAR. EACH INTRODUCTION AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

S 7. Section 71-1933 of the environmental conservation law is amended by adding a new subdivision 5-a to read as follows:

5-A. ANY PERSON WHO KNOWINGLY, AS DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES THE RULES OR REGULATIONS PROMULGATED PURSUANT TO PARAGRAPH F OF SUBDIVISION FOUR OF SECTION 17-1905 OF THIS CHAPTER SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR UP TO THIRTY DAYS IMPRISONMENT. EACH INTRODUCTION AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

S 8. Subdivision 2 of section 71-2703 of the environmental conservation law is amended by adding a new paragraph d to read as follows:

D. ANY PERSON WHO KNOWINGLY, AS DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES THE RULES OR REGULATIONS PROMULGATED PURSUANT TO SUBDIVISION SEVEN OF SECTION 27-0703 OF THIS CHAPTER SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR UP TO THIRTY DAYS IMPRISONMENT. EACH INTRODUCTION AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

S 9. This act shall take effect on the one hundred eightieth day after it shall have become a law.