

4921

2013-2014 Regular Sessions

I N   S E N A T E

May 1, 2013

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Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to the protection of public health from exposure to radon in natural gas

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

1     Section 1. This act shall be known as the "protection of public health  
2     from exposure to radon in natural gas act".

3     S 2. The public health law is amended by adding a new article 35-B to  
4     read as follows:

5                             ARTICLE 35-B

6                                     RADON

7     SECTION 3560. PROTECTION FROM RADON.

8             3561. LOCAL DISTRIBUTION REQUIREMENTS.

9     S 3560. PROTECTION FROM RADON. 1. IT IS THE RESPONSIBILITY OF THE  
10    DEPARTMENT, ACTING THROUGH ITS BUREAU OF ENVIRONMENTAL RADIATION  
11    PROTECTION, TO MINIMIZE, THROUGH THE APPLICATION OF THE ALARA (AS LOW AS  
12    REASONABLY ACHIEVABLE) PRINCIPLE, THE RISK TO MEMBERS OF THE PUBLIC  
13    POSED BY EXPOSURE TO RADON AND ITS RADIOACTIVE PROGENY. TO ACHIEVE THIS  
14    GOAL, THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION MAY CALL FOR THE  
15    ASSISTANCE OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVA-  
16    TION AND THE NEW YORK STATE PUBLIC UTILITIES COMMISSION AS NECESSARY TO  
17    SUPPORT PERMITTING, MONITORING, COMPLIANCE AUDITING AND ENFORCEMENT  
18    ACTION AS DIRECTED BY THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION.

19    2. IN ORDER TO ACHIEVE THE GOALS ESTABLISHED IN THIS SECTION, THE  
20    BUREAU OF ENVIRONMENTAL RADIATION PROTECTION SHALL REQUIRE EACH LOCAL  
21    GAS DISTRIBUTION ENTITY SELLING OR OTHERWISE PROVIDING GAS TO CUSTOMERS  
22    IN NEW YORK TO ESTABLISH A PROGRAM TO CONTINUOUSLY MONITOR THE LEVEL OF  
23    RADON AND ITS RADIOACTIVE PROGENY, MEASURED AS GROSS ALPHA ACTIVITY, IN  
24    THE NATURAL GAS DELIVERED TO THE LOCAL DISTRIBUTION ENTITY AT EACH CITY

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

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1 GATE CONNECTION, REPORTING SUCH LEVELS THROUGH A PUBLICLY-ACCESSIBLE  
2 WEBSITE ON A REAL TIME BASIS.

3 3. THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION SHALL ESTABLISH A  
4 COMPLIANCE ASSURANCE SYSTEM TO MONITOR THE LEVELS OF RADON AND ITS  
5 PROGENY AT EACH CITY GATE LOCATION, THROUGH BOTH THE REAL TIME ONLINE  
6 MONITORING SYSTEM REQUIRED PURSUANT TO SUBDIVISION TWO OF THIS SECTION  
7 AND A PERIODIC PHYSICAL INSPECTION AND MEASUREMENT PROGRAM TO BE IMPE-  
8 MENTED BY THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION AT THE VARI-  
9 OUS CITY GATES WHERE NATURAL GAS IS DELIVERED TO A LOCAL DISTRIBUTION  
10 ENTITY. THIS PROGRAM SHALL BE DESIGNED SO THAT EACH CITY GATE IS  
11 INSPECTED AND SAMPLED AT LEAST ONCE PER YEAR BY THE BUREAU OF ENVIRON-  
12 MENTAL RADIATION PROTECTION.

13 4. THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION SHALL ESTABLISH A  
14 PROGRAM TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE. AS PART OF THIS  
15 ENFORCEMENT PROGRAM, WHENEVER THE BUREAU OF ENVIRONMENTAL RADIATION  
16 PROTECTION DETERMINES THAT A LOCAL DISTRIBUTION ENTITY IS NOT IN COMPLI-  
17 ANCE WITH THE REQUIREMENTS OF THIS ARTICLE, IT SHALL ISSUE AN ORDER  
18 REQUIRING SUCH LOCAL DISTRIBUTION ENTITY TO COMPLY AND SHALL DIRECT THAT  
19 THE FLOW OF NATURAL GAS AT ANY CITY GATE THAT IS NOT IN COMPLIANCE WITH  
20 THE REQUIREMENTS OF THIS ARTICLE BE SHUT OFF UNTIL A LOCAL DISTRIBUTION  
21 ENTITY BRINGS THAT CITY GATE BACK INTO COMPLIANCE WITH THIS ARTICLE. IN  
22 ADDITION, THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION MAY IMPOSE A  
23 FINE OF UP TO \$25,000.00 PER DAY PER CITY GATE ON THE LOCAL DISTRIBUTION  
24 ENTITY UNTIL THE RADON AND ITS PROGENY LEVELS AT EACH CITY GATE THAT IS  
25 OUT OF COMPLIANCE HAVE BEEN BROUGHT BACK INTO COMPLIANCE WITH THIS ARTI-  
26 CLE. THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION MAY COMMENCE A  
27 CIVIL ACTION WHENEVER A LOCAL DISTRIBUTION ENTITY FAILS TO COMPLY WITH  
28 AN ORDER ISSUED BY THE BUREAU UNDER THIS ARTICLE.

29 5. ANY PERSON MAY COMMENCE A CIVIL ACTION AGAINST:

30 (A) ANY LOCAL DISTRIBUTION ENTITY THAT IS NOT IN COMPLIANCE WITH THE  
31 REQUIREMENTS OF THIS ARTICLE, AND

32 (B) AGAINST THE BUREAU OF ENVIRONMENTAL RADIATION PROTECTION IF IT  
33 FAILS TO ENFORCE THE REQUIREMENTS OF THIS ARTICLE, PROVIDED THAT THE  
34 BUREAU HAS RECEIVED NOTICE OF THE INTENT TO COMMENCE SUCH CIVIL ACTION  
35 AND HAS FAILED WITHIN THIRTY DAYS OF RECEIVING SUCH NOTICE TO TAKE  
36 ENFORCEMENT ACTION AGAINST A LOCAL DISTRIBUTION ENTITY THAT IS NOT IN  
37 COMPLIANCE WITH THIS ARTICLE.

38 THE COURT IN SUCH ACTION SHALL HAVE JURISDICTION TO ISSUE AN INJUNC-  
39 TION OR OTHER ORDER COMPELLING COMPLIANCE AND SHALL ENTER AN ORDER  
40 REQUIRING THE LOCAL DISTRIBUTION ENTITY AND/OR THE BUREAU TO PAY THE  
41 REASONABLE LEGAL FEES AND EXPENSES INCURRED BY THE INDIVIDUAL OR ORGAN-  
42 IZATION THAT COMMENCED THE CIVIL ACTION.

43 S 3561. LOCAL DISTRIBUTION REQUIREMENTS. 1. EACH LOCAL DISTRIBUTION  
44 ENTITY SHALL ESTABLISH AND IMPLEMENT A RADON MITIGATION RESPONSE PROGRAM  
45 AS FOLLOWS:

46 (A) IF THE LEVEL OF RADON AND ITS RADIOACTIVE PROGENY MONITORED AT ANY  
47 CITY GATE EQUALS OR EXCEEDS 4.0 PICOCURIES PER LITER OF AIR AVERAGED  
48 OVER ANY ONE HOUR PERIOD, THE LOCAL DISTRIBUTION ENTITY SHALL SHUT OFF  
49 THE ACCEPTANCE OF NATURAL GAS UNTIL SUCH LEVEL IS REDUCED TO LESS THAN  
50 4.0 PICOCURIES PER LITER OF AIR FOR AT LEAST SIX HOURS; OR

51 (B) IF THE LEVEL OF RADON AND ITS RADIOACTIVE PROGENY MONITORED AT ANY  
52 CITY GATE EQUALS OR EXCEEDS 2.0 PICOCURIES PER LITER OF AIR BUT IS LESS  
53 THAN 4.0 PICOCURIES PER LITER OF AIR AVERAGED OVER ANY TWENTY-FOUR HOUR  
54 PERIOD, THE LOCAL DISTRIBUTION ENTITY SHALL IMPLEMENT A MITIGATION  
55 PROGRAM TO REDUCE SUCH LEVEL TO LESS THAN 2.0 PICOCURIES PER LITER OF  
56 AIR FOR AT LEAST A SEVEN DAY PERIOD; OR

1 (C) IF THE LEVEL OF RADON AND ITS RADIOACTIVE PROGENY MONITORED AT ANY  
2 CITY GATE EQUALS OR EXCEEDS 1.0 PICOCURIES PER LITER OF AIR BUT IS LESS  
3 THAN 2.0 PICOCURIES PER LITER OF AIR AVERAGED OVER ANY SEVEN DAY PERIOD,  
4 THE LOCAL DISTRIBUTION ENTITY SHALL IMPLEMENT A MITIGATION PROGRAM TO  
5 REDUCE SUCH LEVEL TO LESS THAN 1.0 PICOCURIE PER LITER OF AIR FOR AT  
6 LEAST A THIRTY DAY PERIOD.

7 2. LOCAL GAS DISTRIBUTION ENTITIES ARE PROHIBITED FROM BUILDING NEW OR  
8 ADDITIONAL STORAGE FACILITIES TO MITIGATE RADON LEVELS.

9 3. IT IS UNLAWFUL FOR ANY LOCAL DISTRIBUTION ENTITY TO PASS HARMFUL  
10 EFFECTS OF MITIGATION TO OTHER REGIONS IN THE STATE.

11 S 3. This act shall take effect on the one hundred eightieth day after  
12 it shall have become a law. Effective immediately, the commissioner of  
13 health is authorized to promulgate any and all rules and regulations and  
14 take any other measures necessary to implement this act on its effective  
15 date.