

98--A

2017-2018 Regular Sessions

I N S E N A T E

(PREFILED)

January 4, 2017

Introduced by Sens. HOYLMAN, ADDABBO, DILAN, KRUEGER, LATIMER, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Subdivision 20 of section 23-0101 of the environmental  
2 conservation law, as amended by chapter 846 of the laws of 1981, is  
3 amended to read as follows:  
4 20. "Waste" means  
5 a. Physical waste, as that term is generally understood in the oil and  
6 gas industry;  
7 b. The inefficient, excessive or improper use of, or the unnecessary  
8 dissipation of reservoir energy;  
9 c. The locating, spacing, drilling, equipping, operating, or producing  
10 of any oil or gas well or wells in a manner which causes or tends to  
11 cause reduction in the quantity of oil or gas ultimately recoverable  
12 from a pool under prudent and proper operations, or which causes or  
13 tends to cause unnecessary or excessive surface loss or destruction of  
14 oil or gas;  
15 d. The inefficient storing of oil or gas; [and]  
16 e. The flaring of gas produced from an oil or condensate well after  
17 the department has found that the use of the gas, on terms that are just  
18 and reasonable, is, or will be economically feasible within a reasonable  
19 time[.];

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

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1 F. ANY WASTE THAT IS GENERATED AS A RESULT OF OIL OR NATURAL GAS  
2 EXTRACTION ACTIVITIES, WHICH INCLUDES, BUT IS NOT LIMITED TO, DRILL  
3 CUTTINGS AND DRILLING MUD FROM WELL CONSTRUCTION AND LEACHATE FROM SOLID  
4 WASTE ASSOCIATED WITH NATURAL GAS EXTRACTION ACTIVITIES. THIS WASTE MAY  
5 CONSIST OF AMONG OTHER SUBSTANCES, WATER, CHEMICAL ADDITIVES, OR  
6 NATURALLY OCCURRING RADIOACTIVE MATERIALS (NORM) AND HEAVY METALS; AND

7 G. ANY WASTE THAT IS GENERATED AS A RESULT OF OR IN ASSOCIATION WITH  
8 THE UNDERGROUND STORAGE OF GAS OR LIQUEFIED PETROLEUM GAS.

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

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

15 S 3. Section 23-0305 of the environmental conservation law is amended  
16 by adding three new subdivisions 15, 16 and 17 to read as follows:

17 15. THE DEPARTMENT SHALL PROHIBIT THE APPLICATION OF WASTE GENERATED  
18 FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES ON ANY HIGHWAY, AS DEFINED  
19 IN SUBDIVISION FOURTEEN OF SECTION TWO OF THE TRANSPORTATION LAW, FOR  
20 ANY PURPOSE, INCLUDING BUT NOT LIMITED TO USE FOR DE-ICING, DUST  
21 SUPPRESSION OR ANY OTHER USE. SUCH PROHIBITION SHALL EXTEND TO ALL WASTE  
22 FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES WHETHER OR NOT SUCH WASTE  
23 RECEIVED A BENEFICIAL USE DETERMINATION PURSUANT TO 6 NYCRR PART 360.

24 16. THE DEPARTMENT SHALL PROHIBIT THE USE OF WASTE GENERATED AS A  
25 RESULT OF OR IN ASSOCIATION WITH THE UNDERGROUND STORAGE OF GAS OR  
26 LIQUEFIED PETROLEUM GAS ON ANY HIGHWAY AS DEFINED IN SUBDIVISION FOUR-  
27 TEEN OF SECTION TWO OF THE TRANSPORTATION LAW, FOR ANY PURPOSE INCLUD-  
28 ING, BUT NOT LIMITED TO, DE-ICING, DUST SUPPRESSION OR ANY OTHER USE.  
29 SUCH PROHIBITION SHALL EXTEND TO ALL WASTE FROM GENERATION AS A RESULT  
30 OF OR IN ASSOCIATION WITH THE UNDERGROUND STORAGE OF GAS OR LIQUEFIED  
31 PETROLEUM GAS WHETHER OR NOT SUCH WASTE RECEIVED A BENEFICIAL USE DETER-  
32 MINATION PURSUANT TO 6 NYCRR PART 360.

33 17. THE DEPARTMENT SHALL PROHIBIT THE APPLICATION OF WASTE FROM OIL OR  
34 NATURAL GAS EXTRACTION ACTIVITIES OR WASTE GENERATED AS A RESULT OF OR  
35 IN ASSOCIATION WITH THE UNDERGROUND STORAGE OF GAS OR LIQUEFIED PETROLE-  
36 UM GAS ON ANY STATE-OWNED REAL PROPERTY.

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

39 F. THE DEPARTMENT SHALL ADOPT REGULATIONS PROHIBITING THE INTRODUCTION  
40 OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES, AS SUCH TERMS  
41 ARE DEFINED IN ARTICLE TWENTY-THREE OF THIS CHAPTER, INTO ANY WASTE  
42 WATER TREATMENT FACILITY WITHIN THE STATE.

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

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

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

52 3. Criminal sanctions. Any person who, having any of the culpable  
53 mental states defined in sections 15.05 and 20.20 of the penal law,  
54 violates any provision of article 23 of this chapter or commits any  
55 offense described in section 71-1305 of this title shall be guilty of a  
56 misdemeanor and, upon conviction thereof, shall be punished by a fine

1 not to exceed one thousand dollars for each day during which such  
2 violation continues or by imprisonment for a term of not more than one  
3 year, or by both such fine and imprisonment. If the conviction is for a  
4 subsequent offense committed after a first conviction of such person  
5 under this subdivision, punishment shall be by a fine not to exceed  
6 eight thousand dollars for each day during which such violation contin-  
7 ues or by imprisonment for a term of not more than one year, or by both  
8 such fine and imprisonment. NOTWITHSTANDING THE PROVISIONS OF THIS  
9 SUBDIVISION, ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION  
10 FIFTEEN OF SECTION 23-0305 OF THIS CHAPTER SHALL BE PUNISHABLE BY A FINE  
11 NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR BY  
12 IMPRISONMENT FOR A TERM OF NOT MORE THAN ONE YEAR. EACH INTRODUCTION  
13 AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIV-  
14 ITIES SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

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

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

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

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

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