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

1321

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. COLTON, KOON, ENGLEBRIGHT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting any solid waste polluter from procuring solid waste public contracts

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

Section 1. The environmental conservation law is amended by adding a new section 71-2729 to read as follows:

S 71-2729. ENFORCEMENT OF SOLID WASTE POLLUTION VIOLATIONS; PROHIBITION OF PROCUREMENT OF SOLID WASTE PUBLIC CONTRACTS.

1. WHEN USED IN THIS SECTION:

A. "SOLID WASTE" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 27-0701 OF THIS CHAPTER.

B. "PROCUREMENT OF A SOLID WASTE PUBLIC CONTRACT" MEANS ANY SUBMISSION OF BIDS, ENTRANCE INTO CONTRACTUAL RELATIONSHIPS, AND CONDUCTION OF ANY CONTRACTUAL BUSINESS WITH ANY PUBLIC ENTITY WITHIN THE STATE, THAT DEALS WITH SOLID WASTE, INCLUDING, BUT NOT LIMITED TO, ANY STATE OR LOCAL BOARD, AGENCY, COMMISSION, DEPARTMENT OR AUTHORITY.

2. ANY PERSON FOUND GUILTY OF A FELONY VIOLATION PURSUANT TO SECTION 71-2703 OF THIS TITLE SHALL BE PROHIBITED FROM PROCURING ANY SOLID WASTE PUBLIC CONTRACTS FOR THE FOLLOWING PERIODS:

A. AFTER ONE VIOLATION, THE PROHIBITION PERIOD SHALL BE FIVE YEARS FOLLOWING THE DATE OF THE JUDGMENT, VERDICT, DECISION OR ORDER IMPOSING SUCH VIOLATION.

B. AFTER TWO VIOLATIONS, THE PROHIBITION PERIOD SHALL BE TEN YEARS FOLLOWING THE DATE OF THE JUDGMENT, VERDICT, DECISION OR ORDER IMPOSING SUCH SECOND VIOLATION. SUCH PROHIBITION PERIOD SHALL BE IN ADDITION TO ANY OTHER PROHIBITION PERIOD ALREADY IMPOSED PURSUANT TO THIS SECTION.

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

LBD01349-02-9

C. AFTER THREE OR MORE VIOLATIONS, THE VIOLATING PERSON SHALL BE PERMANENTLY PROHIBITED FROM PROCURING ANY SOLID WASTE PUBLIC CONTRACTS.

3. ANY PERSON FOUND GUILTY OF A MISDEMEANOR PURSUANT TO SECTION 71-2703 OF THIS TITLE SHALL BE PROHIBITED FROM PROCURING ANY SOLID WASTE PUBLIC CONTRACTS FOR THE FOLLOWING PERIODS:

A. AFTER ONE VIOLATION, THE PROHIBITION PERIOD SHALL BE ONE YEAR FOLLOWING THE DATE OF THE JUDGMENT, VERDICT, DECISION OR ORDER IMPOSING SUCH VIOLATION.

B. AFTER TWO VIOLATIONS, THE PROHIBITION PERIOD SHALL BE TWO YEARS FOLLOWING THE DATE OF THE JUDGMENT, VERDICT, DECISION OR ORDER IMPOSING SUCH SECOND VIOLATION. SUCH PROHIBITION PERIOD SHALL BE IN ADDITION TO ANY OTHER PROHIBITION PERIOD ALREADY IMPOSED PURSUANT TO THIS SECTION.

C. AFTER THREE OR MORE VIOLATIONS, THE PROHIBITION PERIOD SHALL BE FIVE YEARS FOLLOWING THE DATE OF THE JUDGMENT, VERDICT, DECISION OR ORDER IMPOSING SUCH THIRD VIOLATION AND EACH SUBSEQUENT VIOLATION THEREAFTER. SUCH PROHIBITION PERIOD SHALL BE IN ADDITION TO ANY OTHER PROHIBITION PERIOD ALREADY IMPOSED PURSUANT TO THIS SECTION.

4. ANY PERSON WHO HAS BEEN FOUND GUILTY OF A VIOLATION PURSUANT TO SECTION 71-2703 OF THIS TITLE SHALL BE PROHIBITED FROM SERVING AS A MEMBER OF ANY BOARD OR OTHER CONTROLLING BODY OF ANY ENTITY ENGAGED IN THE BUSINESS OF SOLID WASTE REMOVAL AND DISPOSAL.

5. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION SHALL REMAIN APPLICABLE TO ANY VIOLATING ENTITY THAT REORGANIZES AND INCORPORATES AS A NEW ENTITY PURSUANT TO TITLE 11 OF THE UNITED STATES CODE.

6. ANY PROHIBITION PERIOD IMPOSED BY THIS SECTION SHALL BE IN ADDITION TO ANY OTHER PENALTY AUTHORIZED BY THIS CHAPTER OR ANY OTHER LAW.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the department of environmental conservation is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date, on or before such date.