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

5023

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. BRODSKY -- Multi-Sponsored by -- M. of A. WEISENBERG -- read once and referred to the Committee on Transportation

AN ACT to amend the transportation law, in relation to identification of vehicles carrying contaminated blood and other blood

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

Section 1. The transportation law is amended by adding a new section 14-n to read as follows:

S 14-N. TRANSPORTATION OF CONTAMINATED BLOOD. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:

(A) "VEHICLE" SHALL MEAN EVERY DEVICE IN WHICH PROPERTY MAY BE TRANSPORTED UPON A HIGHWAY, STATIONARY RAILS OR TRACKS, OR ON THE NAVIGABLE WATERWAYS OF THE STATE.

(B) "BLOOD" SHALL MEAN HUMAN BLOOD AND PRODUCTS OF BLOOD, INCLUDING SERUM, PLASMA, AND OTHER BLOOD COMPONENTS.

2. VEHICLES CARRYING ANY QUANTITY OF BLOOD WHICH IS KNOWN TO BE A REGULATED MEDICAL WASTE AS DEFINED IN SECTION 27-1501 OF THE ENVIRONMENTAL CONSERVATION LAW SHALL HAVE CONSPICUOUS MARKINGS INDICATING THAT THEY ARE TRANSPORTING SUCH WASTES. THE NATURE OF THE MARKINGS REQUIRED SHALL BE SPECIFIED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION IN CONSULTATION WITH THE COMMISSIONER. SUCH REGULATIONS SHALL PERMIT THE USE OF MAGNETIC OR OTHER SUITABLE, REMOVABLE MARKINGS AND THE REMOVAL OF SUCH MARKINGS WHEN THE VEHICLE IS NOT CARRYING SUCH BLOOD.

3. VEHICLES CARRYING BLOOD WHICH HAS NOT BEEN TESTED TO DETERMINE IF IT IS A REGULATED MEDICAL WASTE OR WHICH IS NOT KNOWN TO BE A REGULATED MEDICAL WASTE SHALL HAVE A CONSPICUOUS MARKING ON THE VEHICLE INDICATING THAT THERE IS BLOOD ON BOARD OR, IF THE TOTAL QUANTITY OF BLOOD IS LESS THAN ONE POUND, SHALL TRANSPORT SUCH BLOOD IN A CONTAINER WITH A CONSPICUOUS MARKING INDICATING THAT THE CONTENTS OF SUCH CONTAINER IS BLOOD WHICH HAS NOT BEEN TESTED. THE NATURE OF THE MARKING REQUIRED SHALL BE SPECIFIED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION IN CONSULTATION WITH THE COMMISSIONER. SUCH REGULATIONS SHALL PROVIDE FOR SUFFICIENT MARKINGS TO INDICATE THAT SUCH

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

LBD08190-01-9

VEHICLE IS TRANSPORTING BLOOD AND SHALL PERMIT THE USE OF MAGNETIC OR OTHER SUITABLE, REMOVABLE MARKINGS AND THE REMOVAL OF SUCH MARKINGS WHEN THE VEHICLE IS NOT CARRYING SUCH BLOOD. VEHICLES OWNED AND OPERATED BY ANY ORGANIZATION WHICH AS A REGULAR PART OF ITS BUSINESS TRANSPORTS BLOOD, INCLUDING BUT NOT LIMITED TO THE AMERICAN RED CROSS, THE CHAPTERS THEREOF, OR THE GREATER NEW YORK BLOOD PROGRAM, INC., WHICH ARE CLEARLY AND CONSPICUOUSLY MARKED AS BELONGING TO SUCH ORGANIZATIONS AND WHICH GIVE SUITABLE NOTICE THAT THE VEHICLE IS TRANSPORTING BLOOD, SHALL BE DEEMED TO BE IN COMPLIANCE WITH THIS SUBDIVISION.

4. VEHICLES CARRYING BLOOD WHICH HAS BEEN TESTED AND FOUND NOT TO BE A REGULATED MEDICAL WASTE AND SUITABLE FOR USE IN A MEDICAL PROCEDURE SHALL CARRY, IN THE SAME COMPARTMENT AS THE DRIVER, A MANIFEST, OR OTHER DOCUMENT REQUIRED BY REGULATIONS OF THE DEPARTMENT OF HEALTH, WHICH INDICATES THAT SAID BLOOD HAS BEEN DETERMINED NOT TO BE A REGULATED MEDICAL WASTE, THE QUANTITY OF BLOOD ON BOARD, AND THAT IT HAS BEEN DETERMINED NOT TO BE A REGULATED MEDICAL WASTE. A COPY OF SUCH MANIFEST OR DOCUMENT SHALL BE MAINTAINED FIFTEEN DAYS OR LONGER, AS REQUIRED BY REGULATIONS OF THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, AT A POINT OF ORIGIN FOR THE BLOOD. THE FORM OF SUCH MANIFEST AND THE MANNER IN WHICH IT IS CARRIED SHALL BE PRESCRIBED BY REGULATION OF SUCH COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER. VEHICLES IN COMPLIANCE WITH REGULATIONS PROMULGATED BY THE DEPARTMENT OF HEALTH WITH RESPECT TO THE TRANSPORTATION OF SUCH BLOOD SHALL BE DEEMED IN COMPLIANCE WITH THIS SUBDIVISION WHEN A COPY OF SUCH DOCUMENTATION, INDICATING THE BLOOD HAS BEEN DETERMINED NOT TO BE A REGULATED MEDICAL WASTE, IS CARRIED IN THE SAME COMPARTMENT AS THE DRIVER OF THE VEHICLE.

5. WHERE TRANSPORTATION OF BLOOD IN A MANNER NOT APPROVED BY THIS SECTION IS NECESSARY TO MEET A MEDICAL EMERGENCY, AS DEFINED BY REGULATIONS PROMULGATED BY THE COMMISSIONER OF HEALTH, SUCH TRANSPORTATION SHALL NOT BE A VIOLATION SUBJECT TO THE PENALTIES OF SUBDIVISION SIX OF THIS SECTION.

6. (A) ANY PERSON WHO OWNS AND OPERATES A VEHICLE ENGAGED IN THE TRANSPORTATION OF BLOOD OR WHO DIRECTS ANOTHER PERSON TO ENGAGE IN THE TRANSPORTATION OF BLOOD AND WHO VIOLATES OR CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION, AND SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN TWO THOUSAND FIVE HUNDRED DOLLARS FOR A SUBSEQUENT VIOLATION.

(B) ANY PERSON WHO OWNS AND OPERATES A VEHICLE ENGAGED IN THE TRANSPORTATION OF BLOOD OR WHO DIRECTS ANOTHER PERSON TO ENGAGE IN THE TRANSPORTATION OF BLOOD AND WHO WILLFULLY VIOLATES OR WILLFULLY CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS B MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR A TERM NOT TO EXCEED NINETY DAYS IN ADDITION TO ANY OTHER PENALTIES FOR VIOLATION OF THIS SECTION.

7. WITH RESPECT TO THE TRANSPORTATION OF BLOOD KNOWN TO BE A REGULATED MEDICAL WASTE, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE OR AFFECT THE PROVISIONS OF ANY FEDERAL OR STATE STATUTE OR LOCAL ORDINANCE, REGULATION, OR RESOLUTION WHICH ARE MORE RESTRICTIVE THAN, OR WHICH SUPERSEDE, THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the commissioner of environmental conservation and the commissioner of health shall severally promulgate the rules and regulations necessary to effectuate the provisions of this act prior to such effective date.