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2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. HOYT, BRODSKY, CAHILL, ENGLEBRIGHT, GLICK, JOHN, MILLMAN, ROBINSON -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to oil or natural gas drilling operations or pipelines under certain water bodies

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

1 Section 1. Paragraph b of subdivision 1 of section 15-0503 of the
2 environmental conservation law, as amended by chapter 364 of the laws of
3 1999, is amended and a new subdivision 6 is added to read as follows:
4 b. Except where a lease or other appropriate conveyance of an interest
5 authorizing the use and occupancy of state-owned lands underwater has
6 been obtained from the commissioner of general services pursuant to
7 subdivision seven of section seventy-five of the public lands law, no
8 dock, wharf, platform, breakwater, mooring, or other structure in, on
9 [or], above OR BELOW waters shall be erected, placed, constructed,
10 reconstructed, or expanded after the effective date of this paragraph by
11 any person or local public corporation without a permit issued pursuant
12 to subdivision 2 of this section. The term "reconstructed" as used in
13 relation to docks, wharves, platforms, breakwaters, mooring or other
14 structures pursuant to this paragraph shall mean the substantial
15 rebuilding of structures or facilities and shall not apply to ordinary
16 maintenance or repair of existing functional structures or facilities,
17 such as repainting, redriving pilings or replacing broken boards in
18 docks.
19 6. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO
20 THE CONTRARY, NO DRILLING OPERATIONS OR PIPELINES FOR THE EXPLORATION,
21 PRODUCTION OR REMOVAL OF OIL OR NATURAL GAS SHALL BE PERMITTED ON OR
22 BENEATH THE LANDS UNDER THE WATERS OF LAKE ERIE OR LAKE ONTARIO, THE

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

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1 CONNECTING BAYS AND HARBORS OF SUCH LAKES, THE CONNECTING WATERWAYS OF
2 SUCH LAKES OR ALONG THEIR SHORELINES.

3 S 2. Subdivision 6 of section 15-0505 of the environmental conserva-
4 tion law, as amended by chapter 233 of the laws of 1979, is amended and
5 a new subdivision 8 is added to read as follows:

6 6. The provisions of subdivisions 1, 2, 3 [and], 4 AND 8 of this
7 section shall not apply to emergency work in waters described in subdi-
8 vision 1 of this section which is immediately necessary to protect the
9 health, safety and well-being of any person or persons or to prevent
10 damage to personal or real property, provided that the department is
11 given written notification by registered mail or telegraph within
12 forty-eight hours after the commencement of the work and within forty-
13 eight hours following the completion of the work. Whenever such emergen-
14 cy work is performed as provided in this subdivision, it shall be
15 performed in a manner that will cause the least change, modification,
16 disturbance or damage to the environment.

17 8. NOTWITHSTANDING THE PROVISIONS OF THIS CHAPTER OR ANY OTHER LAW TO
18 THE CONTRARY, NO PERSON, LOCAL PUBLIC CORPORATION OR INTERSTATE AUTHORI-
19 TY SHALL EXCAVATE OR PLACE FILL FROM OR BENEATH THE LANDS UNDER THE
20 WATERS OF LAKE ERIE OR LAKE ONTARIO, THE CONNECTING BAYS AND HARBORS OF
21 SUCH LAKES, THE CONNECTING WATERWAYS OF SUCH LAKES OR ALONG THEIR SHORE-
22 LINES.

23 S 3. Paragraphs a and b of subdivision 1 and the opening paragraph of
24 subdivision 3 of section 23-1101 of the environmental conservation law,
25 as added by chapter 722 of the laws of 1977, are amended to read as
26 follows:

27 a. The exploration, development and production of gas in state-owned
28 lands, except state park lands and the lands under the waters of Lake
29 Ontario OR LAKE ERIE, THE CONNECTING BAYS AND HARBORS OF SUCH LAKES, THE
30 CONNECTING WATERWAYS OF SUCH LAKES or along [its shoreline] THEIR SHORE-
31 LINES; and

32 b. The exploration, development and production of oil in state-owned
33 lands, except state park lands and the lands under the waters of Lake
34 Erie and Lake Ontario, THE CONNECTING BAYS AND HARBORS OF SUCH LAKES,
35 THE CONNECTING WATERWAYS OF SUCH LAKES or along their shorelines.

36 In addition to the requirements contained in paragraphs a, c and e of
37 subdivision two of this section, all gas leases, IN FORCE OR ENTERED
38 INTO PRIOR TO JANUARY FIRST, TWO THOUSAND TEN, with respect to the lands
39 under the waters of Lake Erie shall:

40 S 4. Paragraphs a and b of subdivision 12 of section 23-0305 of the
41 environmental conservation law, as amended by chapter 722 of the laws of
42 1977 and such subdivision as renumbered by chapter 846 of the laws of
43 1981, are amended to read as follows:

44 a. This state shall indemnify all municipalities adjacent to Lake Erie
45 within the state of New York for expenses of restoration of fresh water
46 supplies, cleanup of beaches, piers and similar facilities, and for
47 liability claims arising from any discharge or spill occasioned by
48 exploration, drilling or production of operations COMMENCED UNDER A
49 CONTRACT, INCLUDING A LEASE, IN FORCE OR ENTERED INTO PRIOR TO JANUARY
50 FIRST, TWO THOUSAND TEN.

51 b. If any oil or other hazardous substance is discharged in the course
52 of drilling for or piping natural gas COMMENCED UNDER A CONTRACT,
53 INCLUDING A LEASE, IN FORCE OR ENTERED INTO PRIOR TO JANUARY FIRST, TWO
54 THOUSAND TEN so as to pollute the waters or endanger other natural
55 resources of the state, the department shall immediately act to remove
56 or arrange for the removal of such substance and to terminate or arrange

1 for the termination of such discharge, unless the department determines
2 that such removal or termination will be done properly and expeditiously
3 by the lessee, owner or operator of the drilling or piping operation.
4 S 5. This act shall take effect January 1, 2010 and shall apply to all
5 contracts, including leases, entered into or renewed on and after such
6 date and shall not apply to contracts, including leases, then in force
7 and those entered into before such date; provided that any rules or
8 regulations necessary for the timely implementation of the provisions of
9 this act on its effective date shall be promulgated on or before such
10 date.