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

6272

2009-2010 Regular Sessions

I N A S S E M B L Y

February 27, 2009

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

AN ACT to amend the environmental conservation law, in relation to electronic equipment disposal and wireless telephone recycling; and to amend the state finance law, in relation to requiring fines and penalties for violations of provisions relating to electronic equipment disposal to be deposited in the solid waste account of the environmental protection fund

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 27-0721 to read as follows:

S 27-0721. ELECTRONIC EQUIPMENT DISPOSAL.

1. AS USED IN THIS SECTION:

(A) "ELECTRONIC EQUIPMENT" MEANS A DESKTOP OR LAPTOP COMPUTER, COMPUTER MONITOR, PORTABLE COMPUTER, CATHODE RAY TUBE, FLAT PANEL BASED TELEVISION OR WIRELESS TELEPHONE.

(B) "WIRELESS TELEPHONE" MEANS (I) A MOBILE TELEPHONE AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWELVE HUNDRED TWENTY-FIVE-C OF THE VEHICLE AND TRAFFIC LAW, OR (II) A WIRELESS COMMUNICATIONS DEVICE AS DEFINED IN SECTION THREE HUNDRED ONE OF THE COUNTY LAW.

2. (A) NO PERSON SHALL KNOWINGLY DISPOSE OF ANY ELECTRONIC EQUIPMENT IN MIXED SOLID WASTE.

(B) NO SOLID WASTE MANAGEMENT FACILITY SHALL KNOWINGLY ACCEPT FOR DISPOSAL OR INCINERATION ANY ELECTRONIC EQUIPMENT, OR ANY TRUCKLOAD OR CONTAINER OF SOLID WASTE WHICH INCLUDES ELECTRONIC EQUIPMENT.

S 2. Title 23 of article 27, and sections 27-2301, 27-2303 and 27-2305 of the environmental conservation law, as added by chapter 730 of the laws of 2006, are renumbered title 29, and sections 27-2901, 27-2903 and 27-2905.

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

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S 3. Subdivision 2 of section 27-2903 of the environmental conservation law, as added by chapter 730 of the laws of 2006, such section as renumbered by section two of this act, is amended to read as follows:

2. Every wireless telephone service supplier required to accept or pay for the shipment of used wireless telephones shall [take reasonable steps to ensure each used wireless telephone accepted or shipped pursuant to this section shall either be recycled, reused or disposed of in an environmentally sound manner] RECYCLE OR REUSE SUCH USED WIRELESS TELEPHONES.

S 4. Subdivision 7 of section 54-0701 of the environmental conservation law, as added by chapter 610 of the laws of 1993, is amended to read as follows:

7. "Household hazardous waste" shall mean solid waste, INCLUDING ELECTRONIC EQUIPMENT AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 27-0721 OF THIS CHAPTER, emanating from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas) which but for their point of generation, would be a hazardous waste under title 9 of article 27 of this chapter or a "pesticide" as defined in article 33 of this chapter.

S 5. Subdivision 1 of section 71-2703 of the environmental conservation law is amended by adding a new paragraph b-1 to read as follows:

B-1. I. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS A AND B OF THIS SUBDIVISION, ANY PERSON WHO KNOWINGLY OR INTENTIONALLY VIOLATES ANY PROVISION OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY SECTION 27-0721 OF THIS CHAPTER SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED FIFTY DOLLARS FOR EACH VIOLATION, PROVIDED THAT SUCH CIVIL PENALTY SHALL BE IN ADDITION TO ANY OTHER PENALTIES AUTHORIZED PURSUANT TO ANY OTHER PROVISION OF STATE OR LOCAL LAW GOVERNING THE ILLEGAL DISPOSAL OF ELECTRONIC EQUIPMENT.

II. THE PENALTIES AUTHORIZED BY THIS PARAGRAPH SHALL BE ASSESSED BY THE COMMISSIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, AND IN ADDITION THERETO, ANY PERSON FOUND TO HAVE VIOLATED THE PROVISIONS OF SECTION 27-0721 OF THIS CHAPTER MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION.

III. ALL CIVIL PENALTIES AND FINES COLLECTED FOR ANY VIOLATION OF SECTION 27-0721 OF THIS CHAPTER SHALL BE PAID OVER TO THE COMMISSIONER FOR DEPOSIT IN THE SOLID WASTE ACCOUNT OF THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED BY SECTION NINETY-TWO-S OF THE STATE FINANCE LAW, FOR THE FUNDING OF ELECTRONIC EQUIPMENT RECYCLING PROGRAMS.

S 6. Subdivision 3 of section 92-s of the state finance law, as amended by chapter 145 of the laws of 2004, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-l of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to

section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, THE AMOUNT OF FEES AND PENALTIES REQUIRED TO BE DEPOSITED THEREIN BY SUBPARAGRAPH III OF PARAGRAPH B-1 OF SUBDIVISION ONE OF SECTION 71-2703 OF THE ENVIRONMENTAL CONSERVATION LAW, and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

S 7. Paragraphs (a) and (b) of subdivision 6 of section 92-s of the state finance law, as amended by chapter 432 of the laws of 1997, are amended to read as follows:

(a) All moneys heretofore and hereafter deposited in the environmental protection transfer account shall be transferred by the comptroller to the solid waste account, the parks, recreation and historic preservation account or the open space account upon the request of the director of the budget; PROVIDED, HOWEVER, THAT THE COMPTROLLER SHALL IMMEDIATELY TRANSFER TO THE SOLID WASTE ACCOUNT, ALL MONEYS RECEIVED PURSUANT TO SUBPARAGRAPH III OF PARAGRAPH B-1 OF SUBDIVISION ONE OF SECTION 71-2703 OF THE ENVIRONMENTAL CONSERVATION LAW.

(b) Moneys from the solid waste account shall be available, pursuant to appropriation and upon certificate of approval of availability by the director of the budget, for any non-hazardous municipal landfill closure project; municipal waste reduction or recycling project, as defined in article fifty-four of the environmental conservation law; for the purposes of section two hundred sixty-one and section two hundred sixty-four of the economic development law; any project for the development, updating or revision of local solid waste management plans pursuant to sections 27-0107 and 27-0109 of the environmental conservation law; and for the development of the pesticide sales and use data base in conjunction with Cornell University pursuant to title twelve of article thirty-three of the environmental conservation law. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PARAGRAPH, MONEYS IN THE SOLID WASTE ACCOUNT DERIVED PURSUANT TO SUBPARAGRAPH III OF PARAGRAPH B-1 OF SUBDIVISION ONE OF SECTION 71-2703 OF THE ENVIRONMENTAL CONSERVATION LAW SHALL BE MADE AVAILABLE FOR APPROPRIATION FOR THE PURPOSE OF FUNDING ELECTRONIC EQUIPMENT RECYCLING PROGRAMS PURSUANT TO TITLE SEVEN OF ARTICLE FIFTY-FOUR OF THE ENVIRONMENTAL CONSERVATION LAW.

S 8. This act shall take effect immediately, except that sections one, four, five, six and seven of this act shall take effect one year after this act shall have become a law. Provided that the commissioner of environmental conservation is hereby directed to promulgate any rules and regulations necessary to implement the provisions of this act within 270 days of the effective date of this act.