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

8434

2009-2010 Regular Sessions

I N A S S E M B L Y

May 20, 2009

Introduced by M. of A. SCOZZAFAVA, BURLING, ERRIGO, FINCH, McDONOUGH, SAYWARD, FIELDS -- Multi-Sponsored by -- M. of A. CALHOUN, CROUCH, DUPREY, GALEF, JOHN, McKEVITT, O'DONNELL, THIELE, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to directing the commissioner of environmental conservation to approve or deny adequacy of source evaluations; and to amend the public health law, in relation to regulating the business of selling bottled drinking water

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

Section 1. Section 3-0301 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. THE COMMISSIONER SHALL APPROVE OR DENY EACH ADEQUACY OF SOURCE EVALUATION SUBMITTED BY AN APPLICANT FOR CERTIFICATION OR RECERTIFICATION PURSUANT TO SECTION ELEVEN HUNDRED SEVENTY-TWO OF THE PUBLIC HEALTH LAW.

S 2. Article 11 of the public health law is amended by adding a new title 5 to read as follows:

TITLE V

REGULATION OF THE BUSINESS OF SELLING BOTTLED IN-STATE WATER

SECTION 1170. DEFINITION.
1171. CERTIFICATION OF IN-STATE BOTTLED WATER FACILITIES; RECERTIFICATION; TIMING OF SOURCE EVALUATIONS.
1172. ADEQUACY OF SOURCE EVALUATIONS.
1173. APPLICABILITY TO OUT-OF-STATE WATER BOTTLERS.

S 1170. DEFINITION. FOR PURPOSES OF THIS TITLE, THE TERM "IN-STATE WATER SOURCE" SHALL MEAN ANY SOURCE OF WATER INCLUDING LAKES, BAYS, SOUNDS, PONDS, IMPOUNDING RESERVOIRS, SPRINGS, WELLS, RIVERS, STREAMS, CREEKS, ESTUARIES, MARSHES, INLETS, CANALS, THE ATLANTIC OCEAN WITHIN THE TERRITORIAL LIMITS OF THE STATE OF NEW YORK, AND ALL OTHER BODIES OF

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

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SURFACE OR UNDERGROUND WATER, NATURAL OR ARTIFICIAL, INLAND OR COASTAL, FRESH OR SALT, PUBLIC OR PRIVATE, WHICH ARE WHOLLY OR PARTIALLY WITHIN OR BORDERING THE STATE OR WITHIN ITS JURISDICTION.

S 1171. CERTIFICATION OF IN-STATE BOTTLED WATER FACILITIES; RECERTIFICATION; TIMING OF SOURCE EVALUATIONS. 1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL NOT ISSUE A CERTIFICATION TO ESTABLISH A BOTTLED WATER FACILITY, WHOSE WATER SOURCE IS AN IN-STATE WATER SOURCE, UNLESS THE APPLICANT: (A) CONFORMS WITH EXISTING LAWS, RULES AND REGULATIONS, AND STANDARDS FOR BOTTLED AND BULK WATER UNDER THE STATE SANITARY CODE; AND (B) SUBMITS AN ADEQUACY OF SOURCE EVALUATION, AS PROVIDED IN SECTION ELEVEN HUNDRED SEVENTY-TWO OF THIS TITLE.

2. EACH APPLICANT FOR RECERTIFICATION SHALL SUBMIT AN ADEQUACY OF SOURCE EVALUATION AS PROVIDED IN SECTION ELEVEN HUNDRED SEVENTY-TWO OF THIS TITLE, EACH TIME AN APPLICATION FOR RECERTIFICATION IS SUBMITTED, OR WITH A FREQUENCY AS DETERMINED BY THE COMMISSIONER.

S 1172. ADEQUACY OF SOURCE EVALUATIONS. 1. EACH APPLICANT FOR CERTIFICATION SHALL SUBMIT AN ADEQUACY OF SOURCE EVALUATION, APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, OR HIS OR HER DESIGNEE, THAT SHALL ASSESS THE POTENTIAL IMPACT ON THE EXISTING WATER SOURCE AND PROVIDE REASONABLE ASSURANCES THAT THE PROPOSED EXTRACTIONS:

(A) WILL NOT CAUSE QUANTITY OR QUALITY CHANGES WHICH ADVERSELY IMPACT THE WATER SOURCE, INCLUDING BOTH SURFACE AND GROUND WATERS INCLUDING AQUIFERS, AS WELL AS NEARBY RESOURCES, SUCH AS STREAMS AND WETLANDS;

(B) WILL NOT VIOLATE THE PROPERTY RIGHTS OF EXISTING RIPARIAN OWNERS OR NEIGHBORING PROPERTY OWNERS THAT RELY UPON THE AQUIFER THAT IS THE PROPOSED WATER SOURCE;

(C) WILL NOT INDUCE SALINE WATER INTRUSION INTO THE AQUIFER;

(D) WILL NOT CAUSE POLLUTION OF THE AQUIFER;

(E) WILL NOT ADVERSELY IMPACT OFF-SITE LAND USES EXISTING AT THE TIME OF THE APPLICATION;

(F) WILL NOT ADVERSELY IMPACT AN EXISTING LEGAL EXTRACTION;

(G) WILL INCORPORATE WATER CONSERVATION MEASURES;

(H) WILL INCORPORATE REUSE MEASURES TO THE GREATEST EXTENT PRACTICABLE; AND

(I) WILL NOT OTHERWISE BE HARMFUL TO THE WATER RESOURCES WITHIN THE WATERSHED.

2. THE COMMISSIONER SHALL APPROVE OR DENY IN WRITING SUCH APPLICATION FOR CERTIFICATION OR RECERTIFICATION WITHIN THIRTY DAYS OF SUBMISSION. A DENIAL OF CERTIFICATION OR RECERTIFICATION BASED ON ADEQUACY OF SOURCE EVALUATIONS IS SUBJECT TO THE ADMINISTRATIVE PROCEEDINGS AND REMEDIES AS PROMULGATED BY THE COMMISSIONER.

S 1173. APPLICABILITY TO OUT-OF-STATE WATER BOTTLERS. THIS TITLE SHALL NOT APPLY TO OUT-OF-STATE WATER BOTTLE FACILITIES TO THE EXTENT THAT SUCH FACILITY DOING BUSINESS IN THIS STATE IS NOT USING AN IN-STATE WATER SOURCE.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.