1110

2009-2010 Regular Sessions

IN SENATE

January 26, 2009

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the safe handling by workers of pressure-treated wood

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

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 29 to read as follows:

TITLE 29

WORKERS SAFE HANDLING OF TREATED WOOD ENFORCEMENT

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5 SECTION 27-2901. MANDATORY COMPLIANCE WITH EXISTING SAFE HANDLING AND 6 PERSONAL PROTECTIVE MEASURES.

7 S 27-2901. MANDATORY COMPLIANCE WITH EXISTING SAFE HANDLING AND PERSONAL 8 PROTECTIVE MEASURES.

9 1. ANY PERSON WHO EMPLOYS A WORKER WHO COMES INTO OCCUPATIONAL CONTACT WITH PRESSURE-TREATED WOOD MARINE PILING SHALL REQUIRE THAT ALL SUCH 10 WORKERS ON THE WORKSITE COMPLY WITH ALL APPLICABLE PRECAUTIONARY MEAS-11 PERSONAL PROTECTIVE EQUIPMENT AND CLOTHING REQUIREMENTS, AND SAFE 12 URES, 13 HANDLING AND USE PROCEDURES, SET FORTH ON THE: (I) SUPPLIER MATERIAL SAFETY DATA SHEET (MSDS) ACCOMPANYING PRESSURE-TREATED MARINE PILING, OR 14 AS MAY BE REQUIRED BY ANY OTHER APPLICABLE FEDERAL OR STATE OCCUPATIONAL 15 16 SAFETY AND HEALTH REGULATION; AND (II) CONSUMER INFORMATION SHEET 17 APPROVED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR SAFE 18 AND PROPER HANDLING AND USE OF PRESSURE-TREATED WOOD PRODUCTS. THE EMPLOYER SHALL POST A SIGN IN CONSPICUOUS VIEW AT OR NEAR THE 19 WORKSITE WHICH STATES THE SAFETY AND HEALTH PROTECTION PROCEDURES REQUIRED TO BE 20 FOLLOWED PURSUANT TO THIS SUBDIVISION. 21

22 2. ANY WORKER WHO COMES INTO OCCUPATIONAL CONTACT WITH PRESSURE-TREAT-23 ED MARINE PILING SHALL COMPLY WITH ALL APPLICABLE PRECAUTIONARY MEAS-24 URES, PERSONAL PROTECTIVE EQUIPMENT AND CLOTHING REQUIREMENTS AND SAFE

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

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1 2	HANDLING AND USE PROCEDURES PROVIDED PURSUANT TO SUBDIVISION ONE OF THIS SECTION.
3	S 2. Article 71 of the environmental conservation law is amended by
4	adding a new title 28 to read as follows:
5	TITLE 28
6	ENFORCEMENT OF TITLE 29 OF ARTICLE 27
7	SECTION 71-2801. APPLICABILITY OF THIS TITLE.
8	71-2803. ENFORCEMENT OF TITLE 29 OF ARTICLE 27.
9	S 71-2801. APPLICABILITY OF THIS TITLE.
10	IN ADDITION TO THE PROVISIONS OF SECTIONS 71-0101 AND 71-0301 OF THIS
11	ARTICLE, THE PROVISIONS OF THIS TITLE SHALL APPLY TO THE ENFORCEMENT OF
12	TITLE 29 OF ARTICLE 27 OF THIS CHAPTER.
13	S 71-2803. ENFORCEMENT OF TITLE 29 OF ARTICLE 27.
14	FOR ANY FIRST VIOLATION BY ANY PERSON WHO VIOLATES ANY OF THE
15	PROVISIONS OF, OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY TITLE 29 OF
16	ARTICLE 27 OR ANY REGULATION PROMULGATED BY THE COMMISSIONER PURSUANT TO
17	SUCH TITLE 29, IN LIEU OF A PENALTY, THERE SHALL BE ISSUED A WRITTEN
18	WARNING BY THE DEPARTMENT AND THERE SHALL ALSO BE ISSUED EDUCATIONAL
19	MATERIALS AT THE DISCRETION OF THE DEPARTMENT REGARDING THE REQUIREMENTS
20	OF SUCH TITLE 29. SUCH PERSON SHALL, HOWEVER, FOR ANY SUBSEQUENT
21	VIOLATION THEREAFTER, BE LIABLE TO A CIVIL PENALTY OF NOT MORE THAN
22	TWENTY-FIVE HUNDRED DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL
23	PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH
24	SUCH VIOLATION CONTINUES AND, IN ADDITION THERETO, SUCH PERSON MAY BE
25	ENJOINED FROM CONTINUING SUCH VIOLATION. PENALTIES AND INJUNCTIVE RELIEF
26	PROVIDED PURSUANT TO THIS TITLE SHALL BE RECOVERABLE IN AN ACTION
27	BROUGHT BY THE ATTORNEY GENERAL AT THE REQUEST OF THE COMMISSIONER.
28	S 3. This act shall take effect immediately.