

5113

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sen. FOLEY -- 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 providing reimbursement to fire companies for costs associated with responding to releases of hazardous materials

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

1     Section 1. Section 27-0901 of the environmental conservation law is  
2     amended by adding a new subdivision 16 to read as follows:  
3     16. "FIRE COMPANY" MEANS A FIRE COMPANY AS DEFINED IN SUBDIVISION TWO  
4     OF SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL LAW.  
5     S 2. The environmental conservation law is amended by adding a new  
6     section 27-0927 to read as follows:  
7     S 27-0927. HAZARDOUS MATERIALS RELEASE RESPONSE COSTS.  
8     1. ANY MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH CONTRACTS WITH OR  
9     CONTROLS A FIRE COMPANY SHALL BE ENTITLED TO REIMBURSEMENT FOR COSTS  
10    ASSOCIATED WITH THE RESPONSE OF SUCH FIRE COMPANY TO ANY INCIDENT  
11    INVOLVING THE RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY A  
12    TRANSPORTER OF HAZARDOUS MATERIALS AFTER APPROVAL BY THE STATE FIRE  
13    ADMINISTRATOR. REIMBURSEMENT SHALL BE LIMITED TO EXPENDABLE MATERIALS  
14    USED IN THE RESPONSE AND BE LIMITED TO SEVEN THOUSAND FIVE HUNDRED  
15    DOLLARS PER INCIDENT. EXPENDABLE MATERIALS SHALL INCLUDE, BUT NOT BE  
16    LIMITED TO, FOAMS AND GELS USED TO ABSORB THE HAZARDOUS MATERIALS  
17    RELEASED, THE REPLACEMENT OR CLEANING OF PROTECTIVE CLOTHING USED IN  
18    RESPONDING TO THE INCIDENT, AND THE REPLACEMENT OR CLEANING OF STORAGE  
19    CONTAINERS, DETECTION SUPPLIES AND OTHER EQUIPMENT USED IN RESPONDING TO  
20    THE INCIDENT; PROVIDED HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT  
21    INCLUDE THE COSTS OF PERSONNEL, VEHICLES, OR OTHER DURABLE EQUIPMENT  
22    USED IN RESPONSE TO THE INCIDENT. SUCH REIMBURSEMENT SHALL BE MADE  
23    DIRECTLY FROM SUCH TRANSPORTER OF HAZARDOUS MATERIALS TO THE MUNICIPAL  
24    CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE

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

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1 COMPANY AND THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS  
2 WITH OR CONTROLS SUCH FIRE COMPANY IS HEREBY AUTHORIZED TO BILL SUCH  
3 TRANSPORTER OF HAZARDOUS MATERIALS FOR SUCH COSTS. FOR PURPOSES OF THIS  
4 SECTION, THE TERM "HAZARDOUS MATERIALS" SHALL HAVE THE SAME MEANING AS  
5 SET FORTH IN SUBDIVISION ONE OF SECTION FOURTEEN-F OF THE TRANSPORTATION  
6 LAW. FOR PURPOSES OF THIS SECTION, THE TERM "TRANSPORTER" SHALL NOT  
7 INCLUDE RAILROADS AS DEFINED IN SUBDIVISIONS TWENTY-FOUR, TWENTY-FIVE  
8 AND TWENTY-NINE OF SECTION TWO OF THE TRANSPORTATION LAW.

9 2. THE STATE FIRE ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO  
10 IMPLEMENT THE PROVISIONS OF THIS SECTION AND DEVELOP AND MAKE AVAILABLE  
11 REIMBURSEMENT FORMS TO ENABLE A MUNICIPAL CORPORATION OR FIRE DISTRICT  
12 THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY TO BILL A TRANSPORTER OF  
13 HAZARDOUS MATERIALS FOR COSTS INCURRED IN RESPONDING TO A RELEASE OR  
14 THREATENED RELEASE OF HAZARDOUS MATERIALS. THE FIRE COMPANIES OF THE  
15 STATE SHALL BE PROVIDED ACCESS TO THE FORMS. PRIOR TO SUBMITTING SUCH  
16 FORM TO A TRANSPORTER FOR REIMBURSEMENT OF SUCH COSTS INCURRED, A MUNIC-  
17 IPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE  
18 COMPANY SHALL SUBMIT SUCH FORM TO THE STATE FIRE ADMINISTRATOR, WHO  
19 SHALL APPROVE OR DENY SUCH REQUEST FOR REIMBURSEMENT AUTHORITY WITHIN  
20 THIRTY DAYS OF RECEIPT OF THE REQUEST. A MUNICIPAL CORPORATION OR FIRE  
21 DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY MAY SEEK  
22 REIMBURSEMENT FROM A TRANSPORTER ONLY AFTER THE STATE FIRE ADMINISTRATOR  
23 HAS APPROVED SUCH REQUEST FOR REIMBURSEMENT.

24 3. ONCE THE STATE FIRE ADMINISTRATOR HAS APPROVED THE REQUEST FOR  
25 REIMBURSEMENT, THE MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH  
26 CONTRACTS WITH OR CONTROLS THE FIRE COMPANY SHALL HAVE A CAUSE OF ACTION  
27 TO RECOVER UNPAID MONIES TO WHICH THEY ARE ENTITLED UNDER SUBDIVISION  
28 ONE OF THIS SECTION. RECOVERY OF UNPAID MONIES UNDER A CAUSE OF ACTION  
29 BROUGHT UNDER THIS SECTION SHALL BE LIMITED TO THE AMOUNT SET FORTH IN  
30 SUBDIVISION ONE OF THIS SECTION. THE REIMBURSEMENT AUTHORITY AND CAUSE  
31 OF ACTION SHALL BE THE EXCLUSIVE ENFORCEMENT REMEDIES AVAILABLE UNDER  
32 THIS SECTION.

33 4. BY JULY FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER, IN CONSULTA-  
34 TION WITH THE COMMISSIONER OF HEALTH, THE SECRETARY OF STATE, THE DIREC-  
35 TOR OF THE STATE EMERGENCY MANAGEMENT OFFICE, AND THE STATE FIRE ADMIN-  
36 ISTRATOR, SHALL IDENTIFY RESOURCES AND FUNDING FROM ALREADY EXISTING  
37 SOURCES, FOR REIMBURSEMENT OF FIRE COMPANIES THAT EXPEND FUNDING AND  
38 COSTS PURSUANT TO SUBDIVISION ONE OF THIS SECTION AT RELEASES OF HAZARD-  
39 OUS SUBSTANCES AND MATERIALS WHERE THERE IS NO KNOWN RESPONSIBLE PARTY  
40 FOR THE DISCHARGE OF SUCH HAZARDOUS SUBSTANCES OR MATERIALS, OR WHERE  
41 ACTIONS ARE TAKEN FOR EMERGENCY MITIGATION AND A KNOWN RESPONSIBLE PARTY  
42 DOES NOT HAVE FINANCIAL MEANS TO REIMBURSE THE RESPONSE COSTS. THE STATE  
43 FIRE ADMINISTRATOR SHALL DISTRIBUTE SUCH FINDINGS AND DETAILS ON ACCESS-  
44 ING SUCH FUNDS TO FIRE COMPANIES.

45 S 3. This act shall take effect immediately.