

2009-2010 Regular Sessions

I N S E N A T E

January 18, 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 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 FIVE THOUSAND DOLLARS PER INCI-
15 DENT. EXPENDABLE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, FOAMS
16 AND GELS USED TO ABSORB THE HAZARDOUS MATERIALS RELEASED, THE REPLACE-
17 MENT OR CLEANING OF PROTECTIVE CLOTHING USED IN RESPONDING TO THE INCI-
18 DENT, AND THE REPLACEMENT OR CLEANING OF STORAGE CONTAINERS, DETECTION
19 SUPPLIES AND OTHER EQUIPMENT USED IN RESPONDING TO THE INCIDENT;
20 PROVIDED HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT INCLUDE THE COSTS OF
21 PERSONNEL, VEHICLES, OR OTHER DURABLE EQUIPMENT USED IN RESPONSE TO THE
22 INCIDENT. SUCH REIMBURSEMENT SHALL BE MADE DIRECTLY FROM SUCH TRANSPOR-
23 TER OF HAZARDOUS MATERIALS TO THE MUNICIPAL CORPORATION OR FIRE DISTRICT

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

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

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

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

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

46 S 3. This act shall take effect immediately.