

8486

I N   S E N A T E

September 10, 2010

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Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, in relation to creating the crime of environmental damage of property

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

1     Section 1. The penal law is amended by adding a new section 145.24 to  
2     read as follows:  
3     S 145.24 ENVIRONMENTAL DAMAGE OF PROPERTY.  
4     1. A PERSON IS GUILTY OF ENVIRONMENTAL DAMAGE OF PROPERTY WHEN, IN THE  
5     COURSE OF THE COMMISSION OF ANOTHER FELONY ACT, HE OR SHE INTENTIONALLY  
6     OR RECKLESSLY CAUSES ANY PROPERTY DAMAGE THAT ALTERS, DILUTES, OR  
7     DESTROYS WATER, SOIL, OR AIR, AND SUCH DAMAGE NECESSITATES REMEDIATION  
8     COSTS IN EXCESS OF ONE HUNDRED THOUSAND DOLLARS.  
9     2. IT SHALL BE AN AFFIRMATIVE DEFENSE TO THE CRIME OF ENVIRONMENTAL  
10    DAMAGE OF PROPERTY THAT THE DEFENDANT WAS ACTING UNDER A REASONABLE  
11    BELIEF THAT HE OR SHE HAD A RIGHT TO ALTER, DILUTE OR DESTROY DUE TO  
12    LICENSE AND/OR OWNERSHIP OF SAID PROPERTY, OR THAT THE UNDERLYING ACT  
13    WAS NOT A VIOLATION OF THIS CHAPTER.  
14    ENVIRONMENTAL DAMAGE OF PROPERTY IS A CLASS C FELONY. ANY SENTENCE  
15    IMPOSED PURSUANT TO A CONVICTION UNDER THIS SECTION IS TO BE SERVED  
16    CONSECUTIVE TO ANY SENTENCE IMPOSED FOR THE UNDERLYING FELONY.  
17    S 2. This act shall take effect immediately.

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

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