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

2692--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SWEENEY, CHRISTENSEN, JAFFEE, GUNTHER, LUPARDO, FIELDS, CAHILL, SCHROEDER, LIFTON -- Multi-Sponsored by -- M. of A. BOYLAND, CROUCH, JOHN, PHEFFER, WEISENBERG, WRIGHT -- read once and referred to the Committee on Environmental Conservation -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Section 27-0901 of the environmental conservation law is amended by adding a new subdivision 16 to read as follows:

16. "FIRE COMPANY" MEANS A FIRE COMPANY AS DEFINED IN SUBDIVISION TWO OF SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL LAW.

S 2. The environmental conservation law is amended by adding a new section 27-0927 to read as follows:

S 27-0927. HAZARDOUS MATERIALS RELEASE RESPONSE COSTS.

1. ANY MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH CONTRACTS WITH OR CONTROLS A FIRE COMPANY SHALL BE ENTITLED TO REIMBURSEMENT FOR COSTS ASSOCIATED WITH THE RESPONSE OF SUCH FIRE COMPANY TO ANY INCIDENT INVOLVING THE RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY A TRANSPORTER OF HAZARDOUS MATERIALS AFTER APPROVAL BY THE STATE FIRE ADMINISTRATOR. REIMBURSEMENT SHALL BE LIMITED TO EXPENDABLE MATERIALS USED IN THE RESPONSE AND BE LIMITED TO SEVEN THOUSAND FIVE HUNDRED DOLLARS PER INCIDENT. EXPENDABLE MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO, FOAMS AND GELS USED TO ABSORB THE HAZARDOUS MATERIALS RELEASED, THE REPLACEMENT OR CLEANING OF PROTECTIVE CLOTHING USED IN RESPONDING TO THE INCIDENT, AND THE REPLACEMENT OR CLEANING OF STORAGE CONTAINERS, DETECTION SUPPLIES AND OTHER EQUIPMENT USED IN RESPONDING TO

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

THE INCIDENT; PROVIDED HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT INCLUDE THE COSTS OF PERSONNEL, VEHICLES, OR OTHER DURABLE EQUIPMENT USED IN RESPONSE TO THE INCIDENT. SUCH REIMBURSEMENT SHALL BE MADE DIRECTLY FROM SUCH TRANSPORTER OF HAZARDOUS MATERIALS TO THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE COMPANY AND THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE COMPANY IS HEREBY AUTHORIZED TO BILL SUCH TRANSPORTER OF HAZARDOUS MATERIALS FOR SUCH COSTS. FOR PURPOSES OF THIS SECTION, THE TERM "HAZARDOUS MATERIALS" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION ONE OF SECTION FOURTEEN-F OF THE TRANSPORTATION LAW. FOR PURPOSES OF THIS SECTION, THE TERM "TRANSPORTER" SHALL NOT INCLUDE RAILROADS AS DEFINED IN SUBDIVISIONS TWENTY-FOUR, TWENTY-FIVE AND TWENTY-NINE OF SECTION TWO OF THE TRANSPORTATION LAW.

2. THE STATE FIRE ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION AND DEVELOP AND MAKE AVAILABLE REIMBURSEMENT FORMS TO ENABLE A MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY TO BILL A TRANSPORTER OF HAZARDOUS MATERIALS FOR COSTS INCURRED IN RESPONDING TO A RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS. THE FIRE COMPANIES OF THE STATE SHALL BE PROVIDED ACCESS TO THE FORMS. PRIOR TO SUBMITTING SUCH FORM TO A TRANSPORTER FOR REIMBURSEMENT OF SUCH COSTS INCURRED, A MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY SHALL SUBMIT SUCH FORM TO THE STATE FIRE ADMINISTRATOR, WHO SHALL APPROVE OR DENY SUCH REQUEST FOR REIMBURSEMENT AUTHORITY WITHIN THIRTY DAYS OF RECEIPT OF THE REQUEST. A MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY MAY SEEK REIMBURSEMENT FROM A TRANSPORTER ONLY AFTER THE STATE FIRE ADMINISTRATOR HAS APPROVED SUCH REQUEST FOR REIMBURSEMENT.

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

4. BY JULY FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, THE SECRETARY OF STATE, THE DIRECTOR OF THE STATE EMERGENCY MANAGEMENT OFFICE, AND THE STATE FIRE ADMINISTRATOR, SHALL IDENTIFY RESOURCES AND FUNDING FROM ALREADY EXISTING SOURCES, FOR REIMBURSEMENT OF FIRE COMPANIES THAT EXPEND FUNDING AND COSTS PURSUANT TO SUBDIVISION ONE OF THIS SECTION AT RELEASES OF HAZARDOUS SUBSTANCES AND MATERIALS WHERE THERE IS NO KNOWN RESPONSIBLE PARTY FOR THE DISCHARGE OF SUCH HAZARDOUS SUBSTANCES OR MATERIALS, OR WHERE ACTIONS ARE TAKEN FOR EMERGENCY MITIGATION AND A KNOWN RESPONSIBLE PARTY DOES NOT HAVE FINANCIAL MEANS TO REIMBURSE THE RESPONSE COSTS. THE STATE FIRE ADMINISTRATOR SHALL DISTRIBUTE SUCH FINDINGS AND DETAILS ON ACCESSING SUCH FUNDS TO FIRE COMPANIES.

S 3. This act shall take effect immediately.