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

2616

2009-2010 Regular Sessions

I N S E N A T E

February 25, 2009

Introduced by Sen. SAMPSON -- 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 prohibiting the establishment or conversion of medical waste treatment, storage, transfer or disposal facilities within one-half mile of any residential area, prohibiting the issuance of permits to such facilities, and providing for the annual review of permits issued to previously-existing medical waste treatment, storage, transfer or disposal facilities located within one mile of any residential area

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

Section 1. Section 27-1517 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. A. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY: (I) NO FACILITY PROVIDING FOR THE STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL OF REGULATED MEDICAL WASTE SHALL BE CONSTRUCTED WITHIN ANY AREA WITHIN THE STATE WHERE LOCAL ZONING LAWS PROHIBIT THE OPERATION OF SUCH FACILITY OR IN ANY AREA WHICH IS WITHIN ONE-HALF MILE OF A RESIDENTIAL AREA LOCATED WITHIN THE STATE; AND

(II) NO EXISTING FACILITY LOCATED WITHIN THE STATE SHALL BE CONVERTED TO A FACILITY PROVIDING FOR THE STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL OF REGULATED MEDICAL WASTE UNLESS THE FACILITY IS LOCATED IN AN AREA WHERE LOCAL ZONING LAWS PERMIT THE OPERATION OF SUCH FACILITY AND SUCH AREA IS NOT WITHIN ONE-HALF MILE OF A RESIDENTIAL AREA LOCATED WITHIN THE STATE.

B. NO PERMIT AUTHORIZING THE STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL OF REGULATED MEDICAL WASTE SHALL BE ISSUED TO ANY FACILITY DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION BY THE DEPARTMENT OR BY ANY REGIONAL, DISTRICT OR COUNTY OFFICES OF THE STATE DEPARTMENT OF HEALTH, OR LOCAL HEALTH DEPARTMENT TO WHICH THE DEPARTMENT HAS DELEGATED RESPONSIBILITY TO ISSUE OR REVIEW PERMITS.

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

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C. (I) ALL PERMITS FOR WHICH CONDITIONAL OR FINAL APPROVAL HAS BEEN GRANTED OR WHICH HAVE BEEN ISSUED TO FACILITIES PROVIDING FOR THE STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL OF REGULATED MEDICAL WASTE AND LOCATED WITHIN AREAS OF THE STATE NOT ZONED FOR USE BY SUCH FACILITY PRIOR TO THE EFFECTIVE DATE OF THIS SECTION SHALL BE SUBJECT TO ANNUAL REVIEW BY THE DEPARTMENT OR BY ANY REGIONAL, DISTRICT OR COUNTY OFFICES OF THE STATE DEPARTMENT OF HEALTH, OR LOCAL HEALTH DEPARTMENT TO WHICH THE DEPARTMENT HAS DELEGATED RESPONSIBILITY TO ISSUE OR REVIEW PERMITS. ANY PERMIT, RENEWAL PERMIT OR MODIFIED PERMIT ISSUED FOLLOWING SUCH REVIEW SHALL BE VALID FOR A PERIOD NOT TO EXCEED ONE YEAR.

(II) THE COMMISSIONER MAY, CONSISTENT WITH ARTICLES TWENTY-THREE AND TWENTY-THREE-A OF THE CORRECTION LAW, AND THE PROVISIONS OF SECTION 70-0115 OF THIS CHAPTER, DENY, SUSPEND, REVOKE OR MODIFY ANY PERMIT, RENEWAL OR MODIFICATION THERETO FOR THE STORAGE, TRANSPORTATION, TREATMENT OR DISPOSAL OF REGULATED MEDICAL WASTE, UPON A WRITTEN DETERMINATION THAT SUCH ACTION IS REQUIRED TO PROTECT THE PUBLIC HEALTH AND SAFETY AND THAT ANY OF THE PROVISIONS OF PARAGRAPH A, B, C OR D OF SUBDIVISION ONE OF THIS SECTION APPLY.

D. ANY ACTION INVOLVING THE CONSTRUCTION OR EXPANSION OF A SOLID WASTE TRANSFER STATION WITHIN ONE-HALF MILE OF A RESIDENTIAL ZONED AREA SHALL BE DEEMED TO HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT REQUIRING THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT PURSUANT TO SECTION 8-0109 OF THIS CHAPTER. SUCH STATEMENT SHALL MEET THE REQUIREMENTS OF THE MOST DETAILED ENVIRONMENTAL IMPACT STATEMENT REQUIRED BY SUCH SECTION 8-0109 OR BY ANY SUCH RULE OR REGULATION PROMULGATED PURSUANT TO SUCH SECTION AND SHALL INCLUDE THE HOLDING OF A PUBLIC HEARING OR HEARINGS.

E. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO HOSPITALS AND OTHER FACILITIES WHICH PROVIDE MEDICAL SERVICES AND GENERATE MEDICAL WASTE FROM THEIR OPERATIONS AND WHICH PROVIDE ON-SITE STORAGE OF OR PERFORM ON-SITE TREATMENT AND DISPOSAL OF REGULATED MEDICAL WASTE.

F. AS USED IN THIS SUBDIVISION, "RESIDENTIAL AREA" MEANS ANY AREA ZONED FOR RESIDENTIAL USE, REGARDLESS OF WHETHER SUCH AREA IS ALSO ZONED FOR OTHER USE.

G. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS AS HE OR SHE DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.