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

7261

I N S E N A T E

March 26, 2010

Introduced by Sen. ADDABBO -- 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 increasing civil penalties for subsequent violations of title 3 or title 7 of article 27 of the environmental conservation law relating to waste transporter permits and solid waste management and resource recovery facilities

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

Section 1. Subdivision 1 of section 71-2703 of the environmental conservation law, as amended by chapter 508 of the laws of 1995, paragraph a as amended by section 25 and subparagraphs i and ii of paragraph b as amended by section 26 of part C of chapter 62 of the laws of 2003, is amended to read as follows:

1. Civil and administrative sanctions. a. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 3 or 7 of article 27 of this chapter or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable for a civil penalty not to exceed seven thousand five hundred dollars for each such violation and an additional penalty of not more than one thousand five hundred dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied. IN THE CASE OF A SECOND VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED FIFTEEN THOUSAND DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED THREE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES. IN THE CASE OF A THIRD AND ANY FURTHER VIOLATION, THE LIABILITY SHALL BE FOR A

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

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CIVIL PENALTY NOT TO EXCEED THIRTY THOUSAND DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED SIX THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES.

b. i. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 of article 27 of this chapter, or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto and thereby causes the release of solid waste into the environment, shall be liable for a civil penalty not to exceed eleven thousand two hundred fifty dollars for each such violation and an additional penalty of not more than eleven thousand two hundred fifty dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied. IN THE CASE OF A SECOND VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES. IN THE CASE OF A THIRD AND ANY FURTHER VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED FORTY-FIVE THOUSAND DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED FORTY-FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES.

ii. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 of article 27 of this chapter, or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto and thereby causes the release of more than ten cubic yards of solid waste into the environment, shall be liable for a civil penalty not to exceed twenty-two thousand five hundred dollars for each such violation and an additional penalty of not more than twenty-two thousand five hundred dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied. IN THE CASE OF A SECOND VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED FORTY-FIVE THOUSAND DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED FORTY-FIVE THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES. IN THE CASE OF A THIRD AND ANY FURTHER VIOLATION, THE LIABILITY SHALL BE FOR A CIVIL PENALTY NOT TO EXCEED NINETY THOUSAND DOLLARS FOR EACH SUCH VIOLATION AND AN ADDITIONAL PENALTY NOT TO EXCEED NINETY THOUSAND DOLLARS FOR EACH DAY DURING WHICH SUCH VIOLATION CONTINUES.

c. The court in any action or proceeding pursuant to section 71-2727 of this chapter may exercise all powers exercisable by the commissioner.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.