

7672

2011-2012 Regular Sessions

I N A S S E M B L Y

May 12, 2011

Introduced by M. of A. SWEENEY, CAHILL, JAFFEE, MAISEL, M. MILLER, SPANO
-- Multi-Sponsored by -- M. of A. McENENY, P. RIVERA, THIELE -- read
once and referred 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 ASSEM-
BLY, 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 TEN THOUSAND DOLLARS PER INCI-
15 DENT; PROVIDED, HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT BE CONSTRUED
16 TO LIMIT ANY REIMBURSEMENT THAT MAY BE AVAILABLE PURSUANT TO SECTION ONE
17 HUNDRED EIGHTY-ONE OF THE NAVIGATION LAW. EXPENDABLE MATERIALS SHALL
18 INCLUDE, BUT NOT BE LIMITED TO, FOAMS AND GELS USED TO ABSORB THE
19 HAZARDOUS MATERIALS RELEASED, THE REPLACEMENT OR CLEANING OF PROTECTIVE
20 CLOTHING USED IN RESPONDING TO THE INCIDENT, AND THE REPLACEMENT OR
21 CLEANING OF STORAGE CONTAINERS, DETECTION SUPPLIES AND OTHER EQUIPMENT
22 USED IN RESPONDING TO THE INCIDENT; PROVIDED HOWEVER, THAT SUCH
23 REIMBURSEMENT SHALL NOT INCLUDE THE COSTS OF PERSONNEL, VEHICLES, OR

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

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1 OTHER DURABLE EQUIPMENT USED IN RESPONSE TO THE INCIDENT. SUCH
2 REIMBURSEMENT SHALL BE MADE DIRECTLY FROM SUCH TRANSPORTER OF HAZARDOUS
3 MATERIALS TO THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS
4 WITH OR CONTROLS SUCH FIRE COMPANY AND THE MUNICIPAL CORPORATION OR FIRE
5 DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE COMPANY IS HEREBY
6 AUTHORIZED TO BILL SUCH TRANSPORTER OF HAZARDOUS MATERIALS FOR SUCH
7 COSTS. FOR PURPOSES OF THIS SECTION, THE TERM "HAZARDOUS MATERIALS"
8 SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION ONE OF SECTION
9 FOURTEEN-F OF THE TRANSPORTATION LAW. FOR PURPOSES OF THIS SECTION, THE
10 TERM "TRANSPORTER" SHALL NOT INCLUDE RAILROADS AS DEFINED IN SUBDIVI-
11 SIONS TWENTY-FOUR, TWENTY-FIVE AND TWENTY-NINE OF SECTION TWO OF THE
12 TRANSPORTATION LAW.

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

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

37 S 3. This act shall take effect immediately.