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I N   S E N A T E

February 2, 2012

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Introduced by Sen. ESPAILLAT -- 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 eliminating certain discharges of chlorine compounds into state waters, and for other purposes

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

- 1     Section 1. Short title. This act may be cited as the "chlorine zero  
2 discharge act".
- 3     S 2. Legislative intent. The legislature finds that:
- 4     1. toxic substances that persist or bioaccumulate in the environment,  
5 build to higher and higher concentration over time, reaching their  
6 greatest levels in the tissues of species high on the food chain,  
7 including humans;
- 8     2. toxic substances that persist or bioaccumulate in the environment  
9 are biologically active in infinitesimal quantities, causing reproduc-  
10 tive failure, birth defects, developmental impairment, hormonal  
11 disruption, behavioral disorders, immune suppression and cancer at low  
12 doses, and mixtures of these substances may cause these effects at even  
13 lower doses;
- 14     3. regulatory approaches that permit even limited production and  
15 discharge of toxic substances that persist or bioaccumulate result in  
16 the accumulation of these substances in the environment and food chain  
17 over time and subsequent damage to the health of humans and other  
18 species;
- 19     4. the most favored method of preventing the continued contamination  
20 of the environment from persistent or bioaccumulative toxic substances  
21 is to phase out their production or use over time and replace these  
22 substances or the processes that produce them, or both, with safer  
23 alternatives;
- 24     5. among the persistent or bioaccumulative toxic substances of great-  
25 est concern are organochlorines discharged in the production of pulp and  
26 paper as a result of the use of chlorine or any other chlorinated  
27 oxidizing agents in the pulp and paper manufacturing process;

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

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1 6. the Great Lakes Water Quality Agreement between the United States  
2 and Canada concludes that the discharge of toxic substances in toxic  
3 amounts be prohibited and the discharge of any or all persistent toxic  
4 substances be virtually eliminated; and

5 7. in the Sixth Biennial Report on Great Lakes Water Quality, the  
6 International Joint Commission on Great Lakes Water Quality concluded  
7 that the concepts of virtual elimination and zero discharge are consist-  
8 ent and a clear statement or direction to take to achieve the Agree-  
9 ment's purpose. The overall strategy or aim regarding persistent toxic  
10 substances is virtual elimination, and the tactic or method to be used  
11 to achieve the aim is through zero input or discharge of those  
12 substances created as a result of human activity.

13 S 3. The environmental conservation law is amended by adding a new  
14 section 17-0830 to read as follows:

15 S 17-0830. DISCHARGE OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS, OR META-  
16 BOLITES.

17 1. (A) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION,  
18 EACH PULP AND PAPER MANUFACTURING FACILITY SHALL ACHIEVE ZERO DISCHARGE  
19 INTO WATER OF ORGANOCHLORINE COMPOUNDS, BYPRODUCTS OR METABOLITES FORMU-  
20 LATED AS A RESULT OF THE USE OF CHLORINE OR ANY OTHER CHLORINATED  
21 OXIDIZING AGENT IN THE PULP AND PAPER MANUFACTURING PROCESS.

22 (B) EFFECTIVE FOUR YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL  
23 EXISTING AND NEW PERMITS UNDER THIS CHAPTER FOR PAPER AND PULP MILLS  
24 WHICH USE CHLORINE OR ANY OTHER CHLORINATED OXIDIZING AGENT SHALL  
25 REQUIRE COMPLIANCE WITH THE ZERO DISCHARGE REQUIREMENT SET FORTH IN  
26 PARAGRAPH (A) OF THIS SUBDIVISION.

27 2. WITHIN ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
28 COMMISSIONER SHALL EVALUATE ALTERNATIVES TO THE USE OF ORGANOCHLORINES  
29 IN THE MANUFACTURING OF PULP AND PAPER, AND SHALL PUBLISH A REPORT ON  
30 THE TRANSFER OF TECHNOLOGY IN THE PULP AND PAPER INDUSTRY FROM ORGANO-  
31 CHLORINE TO CHLORINE-FREE TECHNOLOGY AS A MODEL FOR POLLUTION  
32 PREVENTION. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS  
33 SECTION, THE DEPARTMENT SHALL BEGIN PROVIDING TECHNICAL INFORMATION AND  
34 SUPPORT TO ASSIST PERMIT APPLICANTS IN THE USE OF ALTERNATIVES TO ORGA-  
35 NOCHLORINE COMPOUNDS IN THE PRODUCTION OF PULP AND PAPER.

36 3. WITHIN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION,  
37 THE COMMISSIONER SHALL COMPLETE A REPORT TO THE GOVERNOR AND THE LEGIS-  
38 LATURE ON NOT READILY IDENTIFIED SOURCES AND INDUSTRIAL DISCHARGES OF  
39 ORGANOCHLORINE COMPOUNDS AND THEIR BYPRODUCTS AND METABOLITES INTO  
40 WATER. THE REPORT SHALL INCLUDE A LISTING OF ALL TYPES OR CATEGORIES OF  
41 NONPOINT SOURCES AND INDUSTRIAL ORGANOCHLORINE DISCHARGES INTO WATER AND  
42 THEIR BYPRODUCTS AND METABOLITES. THE REPORT SHALL ALSO INCLUDE A LIST-  
43 ING OF THE ANNUAL QUANTITIES OF EACH ORGANOCHLORINE COMPOUND DISCHARGED  
44 INTO WATER STATEWIDE AND BY PERMITTED FACILITY, TOGETHER WITH A LIST OF  
45 EACH PERMITTED FACILITY'S LOCATION AND QUANTITIES OF COMBINED ORGANO-  
46 CHLORINE COMPOUND DISCHARGES INTO WATER. THE REPORT SHALL CONTAIN  
47 RECOMMENDATIONS FOR ACHIEVING A ZERO DISCHARGE POLICY FOR IMPORTANT  
48 CATEGORIES OF ORGANOCHLORINE POLLUTION SOURCES. IN ORDER TO DEVELOP SUCH  
49 RECOMMENDATIONS, THE COMMISSIONER SHALL CONVENE AN ADVISORY PANEL. THE  
50 ADVISORY PANEL SHALL CONDUCT PUBLIC HEARINGS AND SOLICIT PUBLIC AND  
51 EXPERT COMMENT. THE PANEL SHALL CONSIST OF FIFTEEN MEMBERS, INCLUDING AT  
52 LEAST ONE INDEPENDENT EXPERT IN EACH OF THE FIELDS OF PUBLIC HEALTH,  
53 OCCUPATIONAL HEALTH, TECHNOLOGY CHANGE, TOXICS USE REDUCTION, AND ECOLO-  
54 GY, TWO AFFECTED CITIZENS, AND TECHNICAL AND POLICY EXPERTS FROM INDUS-  
55 TRY, LABOR, PUBLIC INTEREST AND ENVIRONMENTAL GROUPS. MEMBERS SHALL NOT  
56 BE EMPLOYEES OF THE DEPARTMENT. MEMBERS SHALL NOT BE ENTITLED TO ANY

1   COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY  
2   EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3   4. FOR THE PURPOSES OF THIS SECTION, THE TERM "ZERO DISCHARGE" MEANS  
4   ABSOLUTELY NO OUTPUT OR RELEASE, INCLUDING NONPOINT SOURCE OUTPUT OR  
5   RELEASE, INTO WATER. THE TERM "ZERO DISCHARGE" DOES NOT MEAN A LESS THAN  
6   DETECTABLE OUTPUT OR RELEASE.

7   S 4. This act shall take effect immediately.