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

2675

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. COLTON, ENGLEBRIGHT, CASTELLI -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, McDONOUGH, PHEFFER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to review of permit applicants on record of compliance

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

Section 1. The environmental conservation law is amended by adding a new section 3-0319 to read as follows:

S 3-0319. RECORD OF COMPLIANCE.

EVERY APPLICATION FOR A PERMIT UNDER THIS CHAPTER SHALL INCLUDE AN INQUIRY ON THE FOLLOWING INFORMATION REGARDING THE APPLICANT'S RECORD OF COMPLIANCE:

1. DOES THE APPLICANT HOLD ANY PERMIT UNDER THIS CHAPTER?

2. HAS THE APPLICANT BEEN DENIED A PERMIT OR HAS THE APPLICANT HAD A PERMIT REVOKED OR SUSPENDED UNDER THIS CHAPTER?

3. IS THE APPLICANT CURRENTLY THE SUBJECT OF AN ENFORCEMENT ACTION UNDER THIS CHAPTER?

4. HAS THE APPLICANT, AND IF THE APPLICANT IS A CORPORATION, HAS ANY OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE STOCK) OF THE CORPORATION, EVER BEEN:

A. FOUND IN AN ADMINISTRATIVE, CIVIL OR CRIMINAL PROCEEDING TO HAVE VIOLATED ANY PROVISION OF ANY RELATED ORDER OR DETERMINATION OF THE COMMISSIONER, ANY REGULATION PROMULGATED PURSUANT TO THIS CHAPTER, THE CONDITION OF ANY PERMIT ISSUED THEREUNDER, OR ANY SIMILAR STATUTE, REGULATION, ORDER OR PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY, FOREIGN OR DOMESTIC?

B. AN OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE STOCK) OF A CORPORATION WHICH, DURING THE TIME SUCH PERSON WAS AN OFFICER, DIRECTOR OR LARGE STOCKHOLDER, WAS DETERMINED IN AN ADMINISTRATIVE, CIVIL OR CRIMINAL PROCEEDING TO HAVE VIOLATED ANY PROVISION OF THIS

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

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CHAPTER, ANY RELATED ORDER OR DETERMINATION OF THE COMMISSIONER, ANY REGULATION PROMULGATED PURSUANT TO THIS CHAPTER, THE CONDITION OF ANY PERMIT ISSUED THEREUNDER, OR ANY SIMILAR STATUTE, REGULATION, ORDER OR PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY, FOREIGN OR DOMESTIC?

C. CONVICTED OF A CRIMINAL OFFENSE UNDER THE LAWS OF ANY STATE OR OF THE UNITED STATES OR OF ANY OTHER GOVERNMENT, FOREIGN OR DOMESTIC, WHICH INVOLVES ENVIRONMENTAL STATUTES OR REGULATIONS OR FRAUD, BRIBERY, PERJURY, THEFT OR AN OFFENSE AGAINST PUBLIC ADMINISTRATION AS THAT TERM IS USED IN ARTICLE ONE HUNDRED NINETY-FIVE OF THE PENAL LAW?

D. AN OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE STOCK) OF A CORPORATION WHICH, DURING THE TIME SUCH PERSON WAS AN OFFICER, DIRECTOR, OR LARGE STOCKHOLDER, WAS CONVICTED OF A CRIMINAL OFFENSE UNDER THE LAWS OF ANY STATE OR THE UNITED STATES OR OF ANY OTHER GOVERNMENT, FOREIGN OR DOMESTIC, WHICH INVOLVES ENVIRONMENTAL STATUTES OR REGULATIONS OR FRAUD, BRIBERY, PERJURY, THEFT OR AN OFFENSE AGAINST PUBLIC ADMINISTRATION AS THAT TERM IS USED IN ARTICLE ONE HUNDRED NINETY-FIVE OF THE PENAL LAW?

5. DOES THE APPLICANT CURRENTLY OWE ANY REGULATORY FEES TO THE DEPARTMENT?

THE AFOREMENTIONED INFORMATION MAY, CONSISTENT WITH ARTICLES TWENTY-THREE AND TWENTY-THREE-A OF THE CORRECTION LAW, BE CONSIDERED A BASIS FOR EXERCISING THE DEPARTMENT'S DISCRETION IN DENYING, SUSPENDING, MODIFYING OR REVOKING A PERMIT IN ORDER TO PROTECT THE ENVIRONMENT AND PRESERVE THE NATURAL RESOURCES OF THE STATE.

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