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2011-2012 Regular Sessions

I N A S S E M B L Y

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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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The environmental conservation law is amended by adding a
2 new section 3-0319 to read as follows:
3 S 3-0319. RECORD OF COMPLIANCE.
4 EVERY APPLICATION FOR A PERMIT UNDER THIS CHAPTER SHALL INCLUDE AN
5 INQUIRY ON THE FOLLOWING INFORMATION REGARDING THE APPLICANT'S RECORD OF
6 COMPLIANCE:
7 1. DOES THE APPLICANT HOLD ANY PERMIT UNDER THIS CHAPTER?
8 2. HAS THE APPLICANT BEEN DENIED A PERMIT OR HAS THE APPLICANT HAD A
9 PERMIT REVOKED OR SUSPENDED UNDER THIS CHAPTER?
10 3. IS THE APPLICANT CURRENTLY THE SUBJECT OF AN ENFORCEMENT ACTION
11 UNDER THIS CHAPTER?
12 4. HAS THE APPLICANT, AND IF THE APPLICANT IS A CORPORATION, HAS ANY
13 OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE STOCK) OF
14 THE CORPORATION, EVER BEEN:
15 A. FOUND IN AN ADMINISTRATIVE, CIVIL OR CRIMINAL PROCEEDING TO HAVE
16 VIOLATED ANY PROVISION OF ANY RELATED ORDER OR DETERMINATION OF THE
17 COMMISSIONER, ANY REGULATION PROMULGATED PURSUANT TO THIS CHAPTER, THE
18 CONDITION OF ANY PERMIT ISSUED THEREUNDER, OR ANY SIMILAR STATUTE, REGU-
19 LATION, ORDER OR PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY,
20 FOREIGN OR DOMESTIC?
21 B. AN OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE
22 STOCK) OF A CORPORATION WHICH, DURING THE TIME SUCH PERSON WAS AN OFFI-
23 CER, DIRECTOR OR LARGE STOCKHOLDER, WAS DETERMINED IN AN ADMINISTRATIVE,
24 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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1 CHAPTER, ANY RELATED ORDER OR DETERMINATION OF THE COMMISSIONER, ANY
2 REGULATION PROMULGATED PURSUANT TO THIS CHAPTER, THE CONDITION OF ANY
3 PERMIT ISSUED THEREUNDER, OR ANY SIMILAR STATUTE, REGULATION, ORDER OR
4 PERMIT CONDITION OF ANY OTHER GOVERNMENT AGENCY, FOREIGN OR DOMESTIC?

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

10 D. AN OFFICER, DIRECTOR OR LARGE STOCKHOLDER (OWNER OF 25% OR MORE
11 STOCK) OF A CORPORATION WHICH, DURING THE TIME SUCH PERSON WAS AN OFFI-
12 CER, DIRECTOR, OR LARGE STOCKHOLDER, WAS CONVICTED OF A CRIMINAL OFFENSE
13 UNDER THE LAWS OF ANY STATE OR THE UNITED STATES OR OF ANY OTHER GOVERN-
14 MENT, FOREIGN OR DOMESTIC, WHICH INVOLVES ENVIRONMENTAL STATUTES OR
15 REGULATIONS OR FRAUD, BRIBERY, PERJURY, THEFT OR AN OFFENSE AGAINST
16 PUBLIC ADMINISTRATION AS THAT TERM IS USED IN ARTICLE ONE HUNDRED NINE-
17 TY-FIVE OF THE PENAL LAW?

18 5. DOES THE APPLICANT CURRENTLY OWE ANY REGULATORY FEES TO THE DEPART-
19 MENT?

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

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