

3178

2011-2012 Regular Sessions

I N A S S E M B L Y

January 24, 2011

Introduced by M. of A. PRETLOW, COLTON -- read once and referred to the  
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to  
repeat violators

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

1 Section 1. Sections 71-2711, 71-2712, 71-2713 and 71-2714 of the envi-  
2 ronmental conservation law, as amended by chapter 26 of the laws of  
3 1998, are amended to read as follows:

4 S 71-2711. Endangering public health, safety or the environment in the  
5 fourth degree.

6 A person is guilty of endangering public health, safety or the envi-  
7 ronment in the fourth degree when:

8 1. With criminal negligence, [he] SUCH PERSON engages in conduct which  
9 causes the release of a substance acutely hazardous to public health,  
10 safety or the environment; or

11 2. With criminal negligence, [he] SUCH PERSON engages in conduct which  
12 causes the release of more than one hundred gallons or one thousand  
13 pounds, whichever is less, of an aggregate weight or volume of a  
14 substance hazardous to public health, safety or the environment; or

15 3. [He] SUCH PERSON knowingly or recklessly engages in conduct which  
16 causes the release of a substance hazardous to public health, safety or  
17 the environment; OR

18 4. SUCH PERSON COMMITS THE CRIME OF ENDANGERING THE PUBLIC HEALTH,  
19 SAFETY OR THE ENVIRONMENT IN THE FIFTH DEGREE AS DEFINED IN SECTION  
20 71-2710 OF THIS TITLE AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME  
21 DEFINED IN SECTION 71-2710, 71-2712, 71-2713 OR 71-2714 OF THIS TITLE  
22 WITHIN THE PRECEDING TEN YEARS.

23 Endangering public health, safety or the environment in the fourth  
24 degree is a class A misdemeanor.

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

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1 S 71-2712. Endangering public health, safety or the environment in the  
2 third degree.

3 A person is guilty of endangering public health, safety or the envi-  
4 ronment in the third degree when:

5 1. [He] SUCH PERSON recklessly engages in conduct which causes the  
6 release of a substance acutely hazardous to public health, safety or the  
7 environment; or

8 2. [He] SUCH PERSON recklessly engages in conduct which causes the  
9 release of more than two hundred gallons or two thousand pounds, which-  
10 ever is less, of an aggregate weight or volume of a substance hazardous  
11 to public health, safety or the environment; or

12 3. [He] SUCH PERSON recklessly engages in conduct which causes the  
13 release of more than one hundred gallons or one thousand pounds, which-  
14 ever is less, of an aggregate weight or volume of a substance hazardous  
15 to public health, safety or the environment and such release creates a  
16 substantial risk of physical injury to any person who is not a partic-  
17 ipant in the crime; or

18 4. [He] SUCH PERSON knowingly engages in conduct which causes the  
19 release of more than one hundred gallons or one thousand pounds, which-  
20 ever is less, of an aggregate weight or volume of a substance hazardous  
21 to public health, safety or the environment; OR

22 5. SUCH PERSON COMMITS THE CRIME OF ENDANGERING THE PUBLIC HEALTH,  
23 SAFETY OR THE ENVIRONMENT IN THE FOURTH DEGREE AS DEFINED IN SECTION  
24 71-2711 OF THIS TITLE AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME  
25 DEFINED IN SECTION 71-2710, 71-2711, 71-2713 OR 71-2714 OF THIS TITLE  
26 WITHIN THE PRECEDING TEN YEARS.

27 Endangering public health, safety or the environment in the third  
28 degree is a class E felony.

29 S 71-2713. Endangering public health, safety or the environment in the  
30 second degree.

31 A person is guilty of endangering public health, safety or the envi-  
32 ronment in the second degree when:

33 1. [He] SUCH PERSON knowingly engages in conduct which causes the  
34 release of a substance hazardous to public health, safety or the envi-  
35 ronment and such release causes physical injury to any person who is not  
36 a participant in the crime; or

37 2. [He] SUCH PERSON knowingly engages in conduct which causes the  
38 release of a substance acutely hazardous to public health, safety or the  
39 environment or the release of a substance which at the time of the  
40 conduct [he] SUCH PERSON knows to meet any of the criteria set forth in  
41 paragraph (b) of subdivision one of section 37-0103 of this chapter; or

42 3. [He] SUCH PERSON knowingly engages in conduct which causes the  
43 release of more than one thousand five hundred gallons or fifteen thou-  
44 sand pounds, whichever is less, of an aggregate weight or volume of a  
45 substance hazardous to public health, safety or the environment; or

46 4. [He] SUCH PERSON recklessly engages in conduct which causes the  
47 release of a substance acutely hazardous to public health, safety or the  
48 environment and such release causes physical injury to any person who is  
49 not a participant in the crime; or

50 5. [He] SUCH PERSON knowingly engages in conduct which causes the  
51 release of more than one hundred gallons or one thousand pounds, which-  
52 ever is less, of an aggregate weight or volume of a substance hazardous  
53 to public health, safety or the environment and such substance enters  
54 water; or

1 6. [He] SUCH PERSON knowingly or recklessly engages in conduct which  
2 causes the release of a substance hazardous to public health, safety or  
3 the environment and such substance enters a primary water supply; OR

4 7. SUCH PERSON COMMITS THE CRIME OF ENDANGERING THE PUBLIC HEALTH,  
5 SAFETY OR THE ENVIRONMENT IN THE THIRD DEGREE AS DEFINED IN SECTION  
6 71-2712 OF THIS TITLE AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME  
7 DEFINED IN SECTION 71-2710, 71-2711, 71-2712 OR 71-2714 OF THIS TITLE  
8 WITHIN THE PRECEDING TEN YEARS.

9 Endangering public health, safety or the environment in the second  
10 degree is a class D felony.

11 S 71-2714. Endangering public health, safety or the environment in the  
12 first degree.

13 A person is guilty of endangering public health, safety or the envi-  
14 ronment in the first degree when:

15 1. [He] SUCH PERSON intentionally engages in conduct which causes the  
16 release of a substance acutely hazardous to public health, safety or the  
17 environment or the release of a substance which at the time of the  
18 conduct [he] SUCH PERSON knows to meet any of the criteria set forth in  
19 paragraph (b) of subdivision one of section 37-0103 of this chapter when  
20 [he] SUCH PERSON is aware that such conduct creates a substantial risk  
21 of serious physical injury to any person who is not a participant in the  
22 crime; or

23 2. [He] SUCH PERSON knowingly engages in conduct which causes the  
24 release of a substance acutely hazardous to public health, safety or the  
25 environment or the release of a substance which at the time of the  
26 conduct [he] SUCH PERSON knows to meet any of the criteria set forth in  
27 paragraph (b) of subdivision one of section 37-0103 of this chapter and  
28 such release causes physical injury to any person who is not a partic-  
29 ipant in the crime; OR

30 3. SUCH PERSON COMMITS THE CRIME OF ENDANGERING THE PUBLIC HEALTH,  
31 SAFETY OR THE ENVIRONMENT IN THE SECOND DEGREE AS DEFINED IN SECTION  
32 71-2713 OF THIS TITLE AND HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME  
33 DEFINED IN SECTION 71-2710, 71-2711, 71-2712 OR 71-2713 OF THIS TITLE  
34 WITHIN THE PRECEDING TEN YEARS.

35 Endangering public health, safety or the environment in the first  
36 degree is a class C felony.

37 S 2. Sections 71-2715 and 71-2717 of the environmental conservation  
38 law, as amended by chapter 671 of the laws of 1986, are amended to read  
39 as follows:

40 S 71-2715. Unlawful dealing in hazardous wastes OR SUBSTANCES in the  
41 second degree.

42 No person shall:

43 1. With intent that another person possess or dispose of hazardous  
44 wastes OR SUBSTANCES HAZARDOUS OR ACUTELY HAZARDOUS TO PUBLIC HEALTH,  
45 SAFETY OR THE ENVIRONMENT without authorization, solicit, request,  
46 command, importune or otherwise attempt to cause such other person to  
47 engage in such conduct; or

48 2. Believing it probable that [he] SUCH PERSON is rendering aid to [a]  
49 ANOTHER person who intends to possess or dispose of hazardous wastes OR  
50 SUBSTANCES HAZARDOUS OR ACUTELY HAZARDOUS TO PUBLIC HEALTH, SAFETY OR  
51 THE ENVIRONMENT without authorization, engage in conduct which provides  
52 such OTHER person with the means or opportunity for the commission ther-  
53 eof and which in fact aids such OTHER person to commit such act.

54 Unlawful dealing in hazardous [waste] WASTES OR SUBSTANCES in the  
55 second degree is a class A misdemeanor.

1 S 71-2717. Unlawful dealing in hazardous wastes OR SUBSTANCES in the  
2 first degree.

3 No person shall:

4 1. Remove, assist in the removal, or make available for removal, more  
5 than one hundred gallons or one thousand pounds, whichever is less, of  
6 an aggregate weight or volume of hazardous wastes OR SUBSTANCES HAZARD-  
7 OUS OR ACUTELY HAZARDOUS TO PUBLIC SAFETY OR THE ENVIRONMENT intending  
8 that such wastes OR SUBSTANCES are to be possessed or disposed of by a  
9 person who does not have authorization; or

10 2. Solicit, agree to receive or receive a benefit for possession or  
11 disposal of hazardous wastes OR SUBSTANCES HAZARDOUS OR ACUTELY HAZARD-  
12 OUS TO PUBLIC SAFETY OR THE ENVIRONMENT intending that the possession or  
13 disposal is to be done without authorization; or

14 3. Offer, agree to confer, confer upon another or authorize or direct  
15 anyone to offer, agree to confer or confer upon another a benefit for  
16 possession or disposal of hazardous wastes OR SUBSTANCES HAZARDOUS OR  
17 ACUTELY HAZARDOUS TO PUBLIC SAFETY OR THE ENVIRONMENT intending that the  
18 person who is to perform such possession or disposal does not have  
19 authorization.

20 Unlawful dealing in hazardous [waste] WASTES OR SUBSTANCES in the  
21 first degree is a class E felony.

22 S 3. This act shall take effect on the first of November next succeed-  
23 ing the date on which it shall have become a law.