

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. JAFFEE, SWEENEY, ENGLEBRIGHT, LANCMAN, ZEBROWSKI, LUPARDO, KAVANAGH, CALHOUN, McDONOUGH, CASTRO, SCHIMEL, LIFTON -- Multi-Sponsored by -- M. of A. BOYLAND, GALEF, MAGEE, MOLINARO, RAMOS, RUSSELL, THIELE -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the real property law, in relation to enacting the "well water education act"

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

- 1 Section 1. Short title. This act shall be known and may be cited as  
2 the "well water education act".  
3 S 2. Section 206 of the public health law is amended by adding a new  
4 subdivision 28 to read as follows:  
5 28. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO ESTABLISH AND MAIN-  
6 TAIN A PUBLIC EDUCATION PROGRAM TO INFORM THE PUBLIC AND APPROPRIATE  
7 PROFESSIONAL DISCIPLINES OF THE POTENTIAL HEALTH EFFECTS OF CONSUMING  
8 WATER THAT DOES NOT MEET STATE DRINKING WATER STANDARDS. AS PART OF THIS  
9 EDUCATION PROGRAM, THE DEPARTMENT SHALL PREPARE MATERIALS TO EDUCATE  
10 CONSUMERS WHO OBTAIN DRINKING WATER FROM PRIVATE WELLS ON THE IMPORTANCE  
11 OF REGULARLY TESTING FOR CONTAMINATION.  
12 (A) SUCH EDUCATIONAL MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED TO:  
13 (I) INFORMATION ON POTENTIAL CONTAMINANTS INCLUDING: COLIFORM BACTE-  
14 RIA, CHLORIDES, SODIUM, ARSENIC, NITRATES, IRON, MANGANESE, LEAD, PH,  
15 VOLATILE ORGANIC COMPOUNDS FOR WHICH MAXIMUM CONTAMINANT LEVELS HAVE  
16 BEEN ESTABLISHED PURSUANT TO PUBLIC HEALTH REGULATIONS, VINYL CHLORIDE,  
17 MTBE, AND RADON;  
18 (II) AN EXPLANATION THAT CONTAMINATION OF GROUNDWATER CAN OCCUR FROM  
19 MIGRATION OF CONTAMINANTS THAT MAY NOT YET HAVE BEEN IDENTIFIED.  
20 FURTHER, IT SHOULD BE EMPHASIZED THAT CONTAMINATED WATER DOES NOT NECES-  
21 SARILY RESULT IN OBVIOUS ODORS OR COLOR CHANGES IN DRINKING WATER AND

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

1 THAT THE ONLY WAY TO ENSURE THAT WATER MEETS STATE DRINKING WATER STAND-  
2 ARDS IS TO HAVE IT TESTED BY A STATE CERTIFIED LABORATORY;

3 (III) INFORMATION ON THE MAXIMUM CONTAMINANT LEVELS, OR PUBLIC HEALTH  
4 STANDARDS, FOR THOSE CONTAMINANTS IDENTIFIED IN SUBPARAGRAPH (I) OF THIS  
5 PARAGRAPH AND THE POTENTIAL HEALTH IMPACTS OF EXPOSURE TO SUCH CONTAM-  
6 INANTS ABOVE SUCH LEVELS;

7 (IV) A RECOMMENDATION THAT ANY WATER TEST CONDUCTED SHOULD BE  
8 CONDUCTED BY A LABORATORY CERTIFIED BY THE DEPARTMENT TO TEST FOR DRINK-  
9 ING WATER CONTAMINANTS;

10 (V) INFORMATION ON THE IMPORTANCE OF TESTING PRIVATE WELLS REGULARLY  
11 FOR CONTAMINANTS THAT EXCEED STATE STANDARDS;

12 (VI) ENCOURAGING RESIDENTS TO PROVIDE THEIR LOCAL AND STATE HEALTH  
13 DEPARTMENT WITH ANY RESULTS OF TESTS THAT EXCEED STATE STANDARDS; AND

14 (VII) INFORMATION ON WATER TREATMENT TECHNIQUES AND EQUIPMENT.

15 (B) (I) THE DEPARTMENT SHALL MAKE SUCH EDUCATIONAL MATERIALS AVAILABLE  
16 TO THE PUBLIC ON THEIR WEBSITE AND UPON REQUEST TO THE GENERAL PUBLIC.

17 (II) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF STATE,  
18 SHALL REQUIRE THAT:

19 (A) LICENSED HOME INSPECTORS, AS DEFINED IN SECTION FOUR HUNDRED  
20 FORTY-FOUR-B OF THE REAL PROPERTY LAW, ARE PROVIDED WITH SUCH MATERIALS,  
21 WHICH SHALL BE PROVIDED BY THE LICENSED HOME INSPECTOR TO EACH CLIENT  
22 WHOSE PROPERTY OR POTENTIAL PROPERTY IS SERVED BY A PRIVATE WELL THAT IS  
23 THE POTABLE WATER SUPPLY FOR SUCH PROPERTY; AND

24 (B) LICENSED REAL ESTATE SALESMAN, REAL ESTATE BROKERS OR ASSOCIATE  
25 REAL ESTATE BROKERS, AS DEFINED IN SECTION FOUR HUNDRED FORTY OF THE  
26 REAL PROPERTY LAW, PROVIDE SUCH INFORMATION TO THEIR CLIENTS WHOSE PROP-  
27 erty OR POTENTIAL PROPERTY IS SERVED BY A PRIVATE WELL THAT IS THE POTA-  
28 ble WATER SUPPLY FOR SUCH PROPERTY, AT THE TIME SUCH CLIENTS ENTER INTO  
29 A CONTRACT FOR THE SALE OF SUCH PROPERTY.

30 S 3. Section 444-g of the real property law is amended by adding a new  
31 subdivision 3-a to read as follows:

32 3-A. EVERY HOME INSPECTOR SHALL PROVIDE TO EACH CLIENT, WHO MAY BE AN  
33 OWNER, PROSPECTIVE BUYER OR OTHER INTERESTED INDIVIDUAL, WHOSE RESIDENCE  
34 OR POTENTIAL RESIDENCE IS SERVED BY A PRIVATE WELL THAT IS THE POTABLE  
35 WATER SUPPLY FOR SUCH PROPERTY, EDUCATIONAL MATERIALS PREPARED BY THE  
36 DEPARTMENT OF HEALTH PURSUANT TO SUBDIVISION TWENTY-EIGHT OF SECTION TWO  
37 HUNDRED SIX OF THE PUBLIC HEALTH LAW RELATING TO THE REGULAR TESTING OF  
38 THE QUALITY OF DRINKING WATER FROM WELLS.

39 S 4. Section 466 of the real property law, as added by chapter 456 of  
40 the laws of 2001, is amended to read as follows:

41 S 466. Duty of an agent. 1. An agent representing a seller of residen-  
42 tial real property as a listing broker shall have the duty to timely  
43 inform each seller represented by that agent of the seller's obligations  
44 under this article. An agent representing a buyer of residential real  
45 property, or, if the buyer is not represented by an agent, the agent  
46 representing a seller of residential real property and dealing with a  
47 prospective buyer, shall have the duty to timely (in any event, before  
48 the buyer signs a binding contract of sale) inform such buyer of the  
49 buyer's rights and obligations under this article[. If an agent performs  
50 the duties and obligations imposed upon him or her pursuant to this  
51 section, the agent shall have no further duties under this article and  
52 shall not be liable to any party for a violation of this article.]; AND

53 2. AN AGENT REPRESENTING A BUYER OR SELLER OF RESIDENTIAL REAL PROPER-  
54 TY AS A LISTING BROKER SHALL HAVE THE DUTY TO PROVIDE A PURCHASER OF  
55 REAL PROPERTY THAT IS SERVED BY A PRIVATE WELL WHICH IS THE POTABLE  
56 WATER SUPPLY FOR SUCH PROPERTY WITH PUBLIC EDUCATION INFORMATION CREATED

1 BY THE DEPARTMENT OF HEALTH UNDER SUBDIVISION TWENTY-EIGHT OF SECTION  
2 TWO HUNDRED SIX OF THE PUBLIC HEALTH LAW RELATED TO REGULAR TESTING OF  
3 THE QUALITY OF DRINKING WATER FROM SUCH WELLS, AT THE TIME SUCH PURCHAS-  
4 ER ENTERS INTO A CONTRACT FOR THE SALE OF SUCH PROPERTY.

5 3. IF AN AGENT PERFORMS THE DUTIES AND OBLIGATIONS IMPOSED UPON HIM OR  
6 HER BY SUBDIVISIONS ONE AND TWO OF THIS SECTION, THE AGENT SHALL HAVE NO  
7 FURTHER DUTIES UNDER THIS ARTICLE AND SHALL NOT BE LIABLE TO ANY PARTY  
8 FOR A VIOLATION OF THIS ARTICLE.

9 S 5. This act shall take effect on the one hundred eightieth day after  
10 it shall have become a law.