

5444

2011-2012 Regular Sessions

I N S E N A T E

May 23, 2011

Introduced by Sen. ZELDIN -- 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 providing reimbursement to fire companies for costs associated with responding to releases of hazardous materials

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

1 Section 1. Section 27-0901 of the environmental conservation law is
2 amended by adding a new subdivision 16 to read as follows:
3 16. "FIRE COMPANY" MEANS A FIRE COMPANY AS DEFINED IN SUBDIVISION TWO
4 OF SECTION ONE HUNDRED OF THE GENERAL MUNICIPAL LAW.
5 S 2. The environmental conservation law is amended by adding a new
6 section 27-0927 to read as follows:
7 S 27-0927. HAZARDOUS MATERIALS RELEASE RESPONSE COSTS.
8 1. ANY MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH CONTRACTS WITH OR
9 CONTROLS A FIRE COMPANY SHALL BE ENTITLED TO REIMBURSEMENT FOR COSTS
10 ASSOCIATED WITH THE RESPONSE OF SUCH FIRE COMPANY TO ANY INCIDENT
11 INVOLVING THE RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS BY A
12 TRANSPORTER OF HAZARDOUS MATERIALS AFTER APPROVAL BY THE STATE FIRE
13 ADMINISTRATOR. REIMBURSEMENT SHALL BE LIMITED TO EXPENDABLE MATERIALS
14 USED IN THE RESPONSE AND BE LIMITED TO TEN THOUSAND DOLLARS PER INCIDENT;
15 PROVIDED, HOWEVER, THAT SUCH REIMBURSEMENT SHALL NOT BE CONSTRUED
16 TO LIMIT ANY REIMBURSEMENT THAT MAY BE AVAILABLE PURSUANT TO SECTION ONE
17 HUNDRED EIGHTY-ONE OF THE NAVIGATION LAW. EXPENDABLE MATERIALS SHALL
18 INCLUDE, BUT NOT BE LIMITED TO, FOAMS AND GELS USED TO ABSORB THE
19 HAZARDOUS MATERIALS RELEASED, THE REPLACEMENT OR CLEANING OF PROTECTIVE
20 CLOTHING USED IN RESPONDING TO THE INCIDENT, AND THE REPLACEMENT OR
21 CLEANING OF STORAGE CONTAINERS, DETECTION SUPPLIES AND OTHER EQUIPMENT
22 USED IN RESPONDING TO THE INCIDENT; PROVIDED HOWEVER, THAT SUCH
23 REIMBURSEMENT SHALL NOT INCLUDE THE COSTS OF PERSONNEL, VEHICLES, OR
24 OTHER DURABLE EQUIPMENT USED IN RESPONSE TO THE INCIDENT. SUCH

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

LBD02874-02-1

1 REIMBURSEMENT SHALL BE MADE DIRECTLY FROM SUCH TRANSPORTER OF HAZARDOUS
2 MATERIALS TO THE MUNICIPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS
3 WITH OR CONTROLS SUCH FIRE COMPANY AND THE MUNICIPAL CORPORATION OR FIRE
4 DISTRICT THAT CONTRACTS WITH OR CONTROLS SUCH FIRE COMPANY IS HEREBY
5 AUTHORIZED TO BILL SUCH TRANSPORTER OF HAZARDOUS MATERIALS FOR SUCH
6 COSTS. FOR PURPOSES OF THIS SECTION, THE TERM "HAZARDOUS MATERIALS"
7 SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION ONE OF SECTION
8 FOURTEEN-F OF THE TRANSPORTATION LAW. FOR PURPOSES OF THIS SECTION, THE
9 TERM "TRANSPORTER" SHALL NOT INCLUDE RAILROADS AS DEFINED IN SUBDIVI-
10 SIONS TWENTY-FOUR, TWENTY-FIVE AND TWENTY-NINE OF SECTION TWO OF THE
11 TRANSPORTATION LAW.

12 2. THE STATE FIRE ADMINISTRATOR SHALL ADOPT RULES AND REGULATIONS TO
13 IMPLEMENT THE PROVISIONS OF THIS SECTION AND DEVELOP AND MAKE AVAILABLE
14 REIMBURSEMENT FORMS TO ENABLE A MUNICIPAL CORPORATION OR FIRE DISTRICT
15 THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY TO BILL A TRANSPORTER OF
16 HAZARDOUS MATERIALS FOR COSTS INCURRED IN RESPONDING TO A RELEASE OR
17 THREATENED RELEASE OF HAZARDOUS MATERIALS. THE FIRE COMPANIES OF THE
18 STATE SHALL BE PROVIDED ACCESS TO THE FORMS. PRIOR TO SUBMITTING SUCH
19 FORM TO A TRANSPORTER FOR REIMBURSEMENT OF SUCH COSTS INCURRED, A MUNIC-
20 IPAL CORPORATION OR FIRE DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE
21 COMPANY SHALL SUBMIT SUCH FORM TO THE STATE FIRE ADMINISTRATOR, WHO
22 SHALL APPROVE OR DENY SUCH REQUEST FOR REIMBURSEMENT AUTHORITY WITHIN
23 THIRTY DAYS OF RECEIPT OF THE REQUEST. A MUNICIPAL CORPORATION OR FIRE
24 DISTRICT THAT CONTRACTS WITH OR CONTROLS A FIRE COMPANY MAY SEEK
25 REIMBURSEMENT FROM A TRANSPORTER ONLY AFTER THE STATE FIRE ADMINISTRATOR
26 HAS APPROVED SUCH REQUEST FOR REIMBURSEMENT.

27 3. ONCE THE STATE FIRE ADMINISTRATOR HAS APPROVED THE REQUEST FOR
28 REIMBURSEMENT, THE MUNICIPAL CORPORATION OR FIRE DISTRICT WHICH
29 CONTRACTS WITH OR CONTROLS THE FIRE COMPANY SHALL HAVE A CAUSE OF ACTION
30 TO RECOVER UNPAID MONIES TO WHICH THEY ARE ENTITLED UNDER SUBDIVISION
31 ONE OF THIS SECTION. RECOVERY OF UNPAID MONIES UNDER A CAUSE OF ACTION
32 BROUGHT UNDER THIS SECTION SHALL BE LIMITED TO THE AMOUNT SET FORTH IN
33 SUBDIVISION ONE OF THIS SECTION. THE REIMBURSEMENT AUTHORITY AND CAUSE
34 OF ACTION SHALL BE THE EXCLUSIVE ENFORCEMENT REMEDIES AVAILABLE UNDER
35 THIS SECTION.

36 S 3. This act shall take effect immediately.