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I N   S E N A T E

January 18, 2012

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Introduced by Sen. GRISANTI -- 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 establishing the sewage pollution right to know 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 "sewage pollution right to know act".

3     S 2. Legislative intent.     Spills or discharges of: sewage; waste;  
4     substandard effluent or wastewater; contaminants and pollutants; sludge;  
5     suspended and settable solids; chemicals such as ammonia and chlorine;  
6     excessive nutrients, pathogens, bacteria or toxins such as mercury;  
7     non-indigenous compounds; and any related violations or exceedance of  
8     presiding environmental law all raise public health, safety, and envi-  
9     ronmental concerns. Prompt notification of such events will initiate  
10    proactive and preventative measures to alert the public of all such  
11    concerns that may affect waterway uses and activities including but not  
12    limited to risks to commercial and recreational fishing and shellfish  
13    harvesting, as well as recreational uses such as swimming, diving and  
14    water skiing.

15    The New York State Department of Health and the New York State Depart-  
16    ment of Environmental Conservation (DEC) shall be notified so necessary  
17    remedial action by the DEC may be reviewed and implemented.

18    S 3. The environmental conservation law is amended by adding a new  
19    section 17-0826-a to read as follows:

20    S 17-0826-A. SEWAGE POLLUTION MANDATORY NOTIFICATION.

21    1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE  
22    THE FOLLOWING MEANINGS:

23    (A) "SEWAGE TREATMENT PLANT" SHALL MEAN ANY SEWAGE TREATMENT PLANT,  
24    WATER POLLUTION CONTROL PLANT, RELATED PUMPING STATION, UTILITY OR OTHER  
25    PUBLIC WORKS FACILITY.

26    (B) "SEWAGE SPILL" SHALL MEAN ANY DISCHARGE OF: WASTE; SUBSTANDARD  
27    EFFLUENT OR WASTEWATER; CONTAMINANTS OR POLLUTANTS; SLUDGE, SUSPENDED  
28    AND SETTABLE SOLIDS; AND CHEMICALS, NUTRIENTS, PATHOGENS, TOXINS,

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

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NON-INDIGENOUS COMPOUNDS; AND ALL RELATED VIOLATIONS, EXCURSIONS OR INFRACTIONS OF THIS CHAPTER, INITIATING PUBLIC HEALTH, SAFETY, WELFARE OR ENVIRONMENTAL CONCERNS, TO A WATERWAY SITUATED, TOUCHING OR OTHERWISE EXISTING WITHIN THE BOUNDARIES AND ENVIRONMENTS OF THE STATE.

(C) "SPDES PERMIT" SHALL MEAN A STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT ISSUED PURSUANT TO THIS TITLE TO A SEWAGE TREATMENT PLANT.

(D) "VIOLATION OR EXCEEDANCE" SHALL MEAN AND INCLUDE ANY AND ALL VISIBLE DEMONSTRATIVE, QUANTITATIVELY DETERMINABLE INFRACTIONS, EXCURSIONS, OR OTHERWISE MARKED INCREASE IN PARAMETERS MEASURED PURSUANT TO THIS CHAPTER INCLUDING BUT NOT LIMITED TO SPDES REGULATIONS, LIMITATIONS AND RESTRICTIONS, RESULTING FROM A SEWAGE SPILL THAT MAY INITIATE PUBLIC HEALTH, SAFETY, WELFARE OR ENVIRONMENTAL CONCERNS ORIGINATING AT A SEWAGE TREATMENT PLANT, WATER POLLUTION CONTROL PLANT, WASTEWATER TREATMENT FACILITY, RELATED PUMPING STATION, UTILITY OR OTHER PUBLIC WORKS FACILITY.

2. (A) THE OWNER OR OPERATOR OF ANY SEWAGE TREATMENT PLANT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF ANY VIOLATION OR EXCEEDANCE.

(B) WITHIN TWENTY-FOUR HOURS OF A VIOLATION OR EXCEEDANCE, THE COMMISSIONER SHALL, VIA ALL REASONABLE AND PRUDENT MEANS POSSIBLE, NOTIFY:

(I) THE COMMISSIONER OF HEALTH OF THE STATE OF NEW YORK;

(II) ALL AFFECTED CITIES, TOWNS, COMMUNITIES AND/OR VILLAGE MUNICIPALITIES WHERE THE VIOLATION OR EXCEEDANCE OCCURRED; AND

(III) THE GENERAL PUBLIC BY POSTING ELECTRONICALLY SUCH NOTIFICATION ON THE DEPARTMENT'S WEBSITE.

3. THE MANDATORY NOTIFICATION REQUIRED PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) THE VOLUME AND TREATED STATE OF THE SEWAGE SPILL;

(B) THE DATE AND TIME OF THE SEWAGE SPILL;

(C) THE EXPECTED DURATION OF THE SEWAGE SPILL TO THE EXTENT IT IS KNOWABLE AND A BRIEF DESCRIPTION OF THE STEPS BEING TAKEN TO CONTAIN IT;

(D) THE LOCATION, WITH THE MAXIMUM SPECIFICITY THAT IS PRUDENTLY POSSIBLE, OF THE LOCATION OF THE SEWAGE SPILL, INCLUDING WHETHER IT IS CONTAINED WITHIN THE SEWAGE TREATMENT PLANT, HAS ESCAPED INTO SURROUNDING NEIGHBORHOODS OR THE ENVIRONMENT;

(E) ALL CHEMICALS AND AGENTS APPLIED TO ABSORB THE SEWAGE SPILL;

(F) THE MATERIAL SAFETY DATA SHEET FOR SUCH CHEMICALS OR AGENTS POSTED ON THE NEW YORK STATE DEPARTMENT OF HEALTH WEBSITE;

(G) ANY HEALTH, SAFETY, WELFARE OR ENVIRONMENTAL CONCERNS RELATING TO THE SEWAGE SPILL OR EXPOSURE THERETO INVOLVED IN THE SEWAGE SPILL;

(H) INFORMATION TO RESIDENTS AS TO SAFETY PRECAUTIONS;

(I) THE METHOD OF CONTAINMENT, IF ANY;

(J) THE WEBSITE ADDRESSES OF THE DEPARTMENT AND THE NEW YORK STATE DEPARTMENT OF HEALTH; AND

(K) ANY OTHER INFORMATION DEEMED RELEVANT BY THE DEPARTMENT OR THE NEW YORK STATE DEPARTMENT OF HEALTH.

4. THE DEPARTMENT, IN CONSULTATION WITH THE NEW YORK STATE DEPARTMENT OF HEALTH, SHALL PRODUCE AN ANNUAL REPORT ON VIOLATIONS AND EXCEEDANCES IN THE PRIOR CALENDAR YEAR. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) THE TOTAL NUMBER OF VIOLATIONS OR EXCEEDANCES AND WHETHER SUCH VIOLATIONS OR EXCEEDANCES HAVE BEEN RECTIFIED;

(B) DETAILS OF EACH VIOLATION OR EXCEEDANCE, INCLUDING, BUT NOT LIMITED TO:

(I) THE VOLUME AND TREATED STATE OF THE RESPECTIVE SEWAGE SPILL;

(II) THE DURATION OF SUCH VIOLATION OR EXCEEDANCE;

(III) THE LOCATION OF SUCH VIOLATION OR EXCEEDANCE;

1 (IV) ANY REMEDIAL RESPONSES TAKEN TO RECTIFY THE VIOLATION OR EXCEE-  
2 DANCE; AND

3 (V) ANY ACTIONS TAKEN TO MITIGATE IMPACTS AND AVOID FURTHER VIOLATIONS  
4 OR EXCEEDANCES AT THE SITE.

5 S 4. Severability. If any clause, sentence, paragraph, subdivision,  
6 section, or part of this act or the application thereof to any person,  
7 individual, corporation, firm, partnership, entity, or circumstance  
8 shall be adjudged by any court of competent jurisdiction to be invalid  
9 or unconstitutional, such order or judgment shall not affect, impair, or  
10 invalidate the remainder thereof, but shall be confined in its operation  
11 to the clause, sentence, paragraph, subdivision, section, or part of  
12 this act, or in its application to the person, individual, corporation,  
13 firm, partnership, entity, or circumstance directly involved in the  
14 controversy in which such order or judgement shall be rendered.

15 S 5. This act shall take effect on the one hundred twentieth day after  
16 it shall have become a law. Effective immediately, the addition, amend-  
17 ment and/or repeal of any rule or regulation necessary for the implemen-  
18 tation of this act on its effective date is authorized to be made on or  
19 before such date.