

2295--A

2013-2014 Regular Sessions

I N   S E N A T E

January 15, 2013

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Introduced by Sens. BALL, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to unlawful defilement of a water supply

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

1     Section 1. The penal law is amended by adding a new section 270.08 to  
2     read as follows:  
3     S 270.08 UNLAWFUL DEFILEMENT OF A WATER SUPPLY.  
4     1. AS USED IN THIS SECTION:  
5     (A) "WATER SUPPLY" MEANS ANY PUBLIC OR PRIVATE TRANSMISSION FACILITY,  
6     TREATMENT FACILITY, SOURCE OF SUPPLY FACILITY, WELL OR RESERVOIR, WHICH  
7     PROVIDES POTABLE WATER FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND/OR  
8     FIRE SERVICE NEEDS.  
9     (B) "DEFILING AGENT" MEANS ANY CHEMICAL, BIOLOGICAL OR RADIOACTIVE  
10    AGENT OR SUBSTANCE, WHICH IS CAPABLE, WHEN INTRODUCED OR PLACED INTO A  
11    WATER SUPPLY, OF CAUSING THE SICKNESS, PHYSICAL INJURY, SEVERE DISFIG-  
12    UREMENT, OR DEATH OF A HUMAN BEING, OR CAUSING IRREPARABLE HARM TO SUCH  
13    WATER SUPPLY, OR CAUSING A DISTURBANCE TO THE PUBLIC PEACE; AND SHALL  
14    INCLUDE ANY SUBSTANCE WHICH IS THE BY-PRODUCT OF THE PRACTICE OF  
15    CONDUCTING HYDRAULIC FRACTURING FOR THE ACQUISITION OF NATURAL GAS OR  
16    OIL. A DEFILING AGENT SHALL NOT INCLUDE A SUBSTANCE WHICH IS INTRODUCED  
17    OR PLACED INTO A WATER SUPPLY BY ANY MUNICIPAL OR STATE ENTITY, OR WHICH  
18    IS INTRODUCED OR PLACED INTO A WATER SUPPLY BY ANY AGRICULTURAL OR  
19    INDUSTRIAL ENTITY AS A RESULT OF ITS ORDINARY LAWFUL OPERATIONS.  
20    2. A PERSON IS GUILTY OF UNLAWFUL DEFILEMENT OF A WATER SUPPLY WHEN HE  
21    OR SHE, AS AN INDIVIDUAL OR ACTING IN THE COURSE OF AN INDUSTRIAL PRAC-  
22    TICE, INTENTIONALLY INTRODUCES, PLACES, OR CAUSES TO BE INTRODUCED OR

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

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1 PLACED, INTO A WATER SUPPLY, A DEFILING AGENT WITH THE INTENT TO CAUSE  
2 THE SICKNESS, PHYSICAL INJURY, SEVERE DISFIGUREMENT OR DEATH OF ANOTHER  
3 HUMAN BEING, OR WITH THE RECKLESS DISREGARD OF CAUSING THE SICKNESS,  
4 PHYSICAL INJURY, SEVERE DISFIGUREMENT OR DEATH OF ANOTHER HUMAN BEING,  
5 OR WITH THE INTENT TO CAUSE IRREPARABLE HARM TO SUCH WATER SUPPLY, OR TO  
6 DISTURB THE PUBLIC PEACE.

7 UNLAWFUL DEFILEMENT OF A WATER SUPPLY SHALL BE A CLASS B FELONY.

8 S 2. This act shall take effect on the first of November next succeed-  
9 ing the date on which it shall have become a law.