S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

February 1, 2013

Introduced by Sens. GIPSON, DILAN, LATIMER, SAMPSON, TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation 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 environmental conservation law, in relation to prohibiting the use of waste from oil or natural gas extraction activities on any highway

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

Section 1. Section 23-0305 of the environmental conservation law is amended by adding two new subdivisions 15 and 16 to read as follows:

15. THE DEPARTMENT SHALL PROHIBIT THE USE OF WASTE GENERATED FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES ON ANY HIGHWAY, AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION TWO OF THE TRANSPORTATION LAW, FOR ANY PURPOSE, INCLUDING BUT NOT LIMITED TO USE FOR DE-ICING, DUST SUPPRESSION OR ANY OTHER USE. SUCH PROHIBITION SHALL EXTEND TO ALL WASTE FROM OIL OR NATURAL GAS WHETHER OR NOT SUCH WASTE RECEIVED A BENEFICIAL USE DETERMINATION PURSUANT TO 6 NYCRR PART 360.

16. THE DEPARTMENT SHALL PROHIBIT THE USE OF WASTE GENERATED FROM THE STORAGE OF OIL OR NATURAL GAS ON ANY HIGHWAY AS DEFINED IN SUBDIVISION FOURTEEN OF SECTION TWO OF THE TRANSPORTATION LAW, FOR ANY PURPOSE INCLUDING, BUT NOT LIMITED TO, DE-ICING, DUST SUPPRESSION OR ANY OTHER USE. SUCH PROHIBITION SHALL EXTEND TO ALL WASTE FROM OIL OR NATURAL GAS WHETHER OR NOT SUCH WASTE RECEIVED A BENEFICIAL USE DETERMINATION PURSUANT TO 6 NYCRR PART 360.

S 2. Paragraphs d and e of subdivision 20 of section 23-0101 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, are amended and two new paragraphs f and g are added to read as follows:

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

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d. The inefficient storing of oil or gas; [and]

e. The flaring of gas produced from an oil or condensate well after the department has found that the use of the gas, on terms that are just and reasonable, is, or will be economically feasible within a reasonable time[.];

F. ANY WASTE THAT IS GENERATED AS A RESULT OF OIL OR NATURAL GAS EXTRACTION ACTIVITIES WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO, LEACHATE FROM SOLID WASTE ASSOCIATED WITH NATURAL GAS ACTIVITIES. THIS WASTE MAY CONSIST OF, AMONG OTHER SUBSTANCES, WATER, BRINE CHEMICAL ADDITIVES OR NATURALLY OCCURRING RADIOACTIVE MATERIALS (NORM) AND HEAVY METALS; AND

G. ANY WASTE THAT IS GENERATED FROM THE STORAGE OF OIL OR NATURAL GAS.

S 3. Section 23-0101 of the environmental conservation law is amended by adding a new subdivision 21 to read as follows:

21. "NATURAL GAS EXTRACTION ACTIVITIES" MEANS ALL GEOLOGIC OR GEOPHYSICAL ACTIVITIES RELATED TO THE EXPLORATION OR EXTRACTION OF OIL OR NATURAL GAS OR OTHER SUBSURFACE HYDROCARBON DEPOSITS, INCLUDING, BUT NOT LIMITED TO, CORE AND ROTARY DRILLING AND HYDRAULIC FRACTURING.

S 4. Subdivision 3 of section 71-1307 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, is amended to read as follows:

3. Criminal sanctions. Any person who, having any of the culpable mental states defined in sections 15.05 and 20.20 of the penal law, violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed eight thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBDIVISION FIFTEEN OR SIXTEEN OF SECTION 23-0305 OF THIS CHAPTER SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR BY IMPRISONMENT FOR A TERM OF NOT MORE THAN ONE YEAR. EACH INTRODUCTION OR USE AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES AND/OR WASTE FROM THE STORAGE OF OIL OR NATURAL GAS SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

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