

4041

2013-2014 Regular Sessions

I N   S E N A T E

March 5, 2013

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Introduced by Sen. GRISANTI -- (at request of the State Comptroller) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Environmental Conservation

AN ACT to amend the navigation law, in relation to claims against insurers for petroleum spills

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

1     Section 1. Section 190 of the navigation law, as added by chapter 845  
2     of the laws of 1977, is amended to read as follows:

3     S 190. Claims against insurers. 1. Any claims for costs of cleanup and  
4     removal, civil penalties or damages by the state and any claim for  
5     damages by any injured person, may be brought directly against the bond,  
6     the insurer, or any other person providing evidence of financial responsibility.  
7

8     2. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL HOMEOWN-  
9     ERS' POLICIES OF INSURANCE IN THIS STATE WHICH SHALL INSURE AGAINST  
10    DAMAGE TO PROPERTY SHALL CLEARLY PROVIDE THAT CLEANUP AND REMOVAL COSTS  
11    AND ALL DIRECT AND INDIRECT DAMAGES RELATING TO A DISCHARGE OF PETROLEUM  
12    SHALL CONSTITUTE PROPERTY DAMAGE AND SHALL BE INSURABLE WITHIN THE MEAN-  
13    ING OF THE GENERAL LIABILITY PORTIONS OF SUCH INSURANCE POLICY. THE RISK  
14    OF DAMAGES CAUSED BY SUCH DISCHARGES MAY NOT BE AN EXCLUSION IN ANY SUCH  
15    POLICY ISSUED IN THE STATE.

16    3. IN ANY CLAIM FOR COVERAGE OF THE COSTS AND DAMAGES RELATING TO A  
17    DISCHARGE OF PETROLEUM, THE INSURER MAY RAISE THE AFFIRMATIVE DEFENSE  
18    THAT THE INSURED HAD ACTUAL KNOWLEDGE OF A CONDITION WHICH A REASONABLE  
19    PERSON WOULD HAVE UNDERSTOOD TO POSE AN IMMINENT RISK OF A DISCHARGE OF  
20    PETROLEUM AND THAT THE INSURED FAILED TO TAKE REASONABLE STEPS TO  
21    PREVENT THE DISCHARGE.

22    4. INSURERS SHALL PROVIDE THE FOLLOWING NOTICE IN BOLD LETTERING OF AT  
23    LEAST TWELVE POINT TYPE FONT IN EVERY HOMEOWNER'S POLICY, NEWLY ISSUED  
24    OR RENEWED WHICH INSURES AGAINST DAMAGE TO PROPERTY:

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

LBD02598-01-3

1     YOU HAVE A RESPONSIBILITY TO PREVENT A DISCHARGE FROM YOUR PETROLEUM  
2     (OIL, KEROSENE, ETC.) TANKS AND ASSOCIATED PIPELINES. IF YOU KNOW OF A  
3     CONDITION WHICH COULD RESULT IN A DISCHARGE, YOUR FAILURE TO TAKE  
4     REASONABLE STEPS TO PREVENT THE DISCHARGE COULD VOID THE COVERAGE  
5     PROVIDED BY THIS POLICY.  
6     5. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY PRE-EXIST-  
7     ING RIGHT, WHETHER ACTUAL OR IMPLIED, IN WHICH THE INSURED MAY HAVE HAD  
8     COMPENSATION FROM THE INSURER FOR CLEANUP AND REMOVAL COSTS AND ALL  
9     DIRECT AND INDIRECT DAMAGES RELATING TO A DISCHARGE OF PETROLEUM.  
10    S 2. This act shall take effect on the first of January next succeed-  
11    ing the date on which it shall have become a law.