

5412

2013-2014 Regular Sessions

I N S E N A T E

May 16, 2013

Introduced by Sen. GIPSON -- 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 banning the acceptance of wastewater from oil or natural gas extraction activities at wastewater treatment facilities and landfills

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

- 1 Section 1. Subdivision 20 of section 23-0101 of the environmental
2 conservation law, as amended by chapter 846 of the laws of 1981, is
3 amended to read as follows:
4 20. "Waste" means
5 a. Physical waste, as that term is generally understood in the oil and
6 gas industry;
7 b. The inefficient, excessive or improper use of, or the unnecessary
8 dissipation of reservoir energy;
9 c. The locating, spacing, drilling, equipping, operating, or producing
10 of any oil or gas well or wells in a manner which causes or tends to
11 cause reduction in the quantity of oil or gas ultimately recoverable
12 from a pool under prudent and proper operations, or which causes or
13 tends to cause unnecessary or excessive surface loss or destruction of
14 oil or gas;
15 d. The inefficient storing of oil or gas; [and]
16 e. The flaring of gas produced from an oil or condensate well after
17 the department has found that the use of the gas, on terms that are just
18 and reasonable, is, or will be economically feasible within a reasonable
19 time[.]; AND
20 F. ANY WASTE THAT IS GENERATED AS A RESULT OF OIL OR NATURAL GAS
21 EXTRACTION ACTIVITIES, WHICH INCLUDES, BUT IS NOT LIMITED TO, LEACHATE
22 FROM SOLID WASTE ASSOCIATED WITH NATURAL GAS EXTRACTION ACTIVITIES.
23 THIS WASTE MAY CONSIST OF AMONG OTHER SUBSTANCES, WATER, CHEMICAL ADDI-

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

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1 TIVES, OR NATURALLY OCCURRING RADIOACTIVE MATERIALS (NORM) AND HEAVY
2 METALS.

3 S 2. Section 23-0101 of the environmental conservation law is amended
4 by adding a new subdivision 21 to read as follows:

5 21. "NATURAL GAS EXTRACTION ACTIVITIES" MEANS ALL GEOLOGIC OR GEOPHY-
6 SICAL ACTIVITIES RELATED TO THE EXPLORATION FOR OR EXTRACTION OF NATURAL
7 GAS OR OTHER SUBSURFACE HYDROCARBON DEPOSITS, INCLUDING, BUT NOT LIMITED
8 TO, CORE AND ROTARY DRILLING AND HYDRAULIC FRACTURING.

9 S 3. Section 23-0305 of the environmental conservation law is amended
10 by adding a new subdivision 15 to read as follows:

11 15. THE DEPARTMENT SHALL PROHIBIT THE APPLICATION OF WASTE FROM OIL OR
12 NATURAL GAS EXTRACTION ACTIVITIES ON ANY STATE-OWNED REAL PROPERTY, FOR
13 ANY PURPOSE.

14 S 4. Subdivision 4 of section 17-1905 of the environmental conserva-
15 tion law is amended by adding a new paragraph f to read as follows:

16 F. ENSURE THAT THE INTRODUCTION OF WASTE FROM OIL OR NATURAL GAS
17 EXTRACTION ACTIVITIES INTO ANY WASTE WATER TREATMENT FACILITY WITHIN THE
18 STATE IS PROHIBITED.

19 S 5. Section 27-0703 of the environmental conservation law is amended
20 by adding a new subdivision 7 to read as follows:

21 7. THE DEPARTMENT SHALL ADOPT REGULATIONS PROHIBITING WASTE FROM OIL
22 OR NATURAL GAS EXTRACTION ACTIVITIES, AS SUCH TERMS ARE DEFINED IN ARTI-
23 CLE TWENTY-THREE OF THIS CHAPTER, FROM BEING DEPOSITED IN A SOLID WASTE
24 MANAGEMENT FACILITY.

25 S 6. Subdivision 3 of section 71-1307 of the environmental conserva-
26 tion law, as amended by chapter 99 of the laws of 2010, is amended to
27 read as follows:

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

47 S 7. Section 71-1933 of the environmental conservation law is amended
48 by adding a new subdivision 5-a to read as follows:

49 5-A. ANY PERSON WHO KNOWINGLY, AS DEFINED IN SECTION 15.05 OF THE
50 PENAL LAW, VIOLATES THE RULES OR REGULATIONS PROMULGATED PURSUANT TO
51 PARAGRAPH F OF SUBDIVISION FOUR OF SECTION 17-1905 OF THIS CHAPTER SHALL
52 BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER
53 VIOLATION AND/OR UP TO THIRTY DAYS IMPRISONMENT. EACH INTRODUCTION
54 AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIV-
55 ITIES SHALL CONSTITUTE A SEPARATE AND DISTINCT VIOLATION.

1 S 8. Subdivision 2 of section 71-2703 of the environmental conserva-
2 tion law is amended by adding a new paragraph d to read as follows:

3 D. ANY PERSON WHO KNOWINGLY, AS DEFINED IN SECTION 15.05 OF THE PENAL
4 LAW, VIOLATES THE RULES OR REGULATIONS PROMULGATED PURSUANT TO SUBDIVI-
5 SION SEVEN OF SECTION 27-0703 OF THIS CHAPTER SHALL BE PUNISHABLE BY A
6 FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER VIOLATION AND/OR UP
7 TO THIRTY DAYS IMPRISONMENT. EACH INTRODUCTION AND/OR APPLICATION OF
8 WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIVITIES SHALL CONSTITUTE A
9 SEPARATE AND DISTINCT VIOLATION.

10 S 9. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law.