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2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. BUCHWALD, ENGLEBRIGHT, LUPARDO, RUSSELL, COLTON,  
MOSLEY, GUNTHER -- Multi-Sponsored by -- M. of A. THIELE -- read once  
and referred 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 ASSEM-  
BLY, 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.

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

LBD00071-01-5

1 THIS WASTE MAY CONSIST OF AMONG OTHER SUBSTANCES, WATER, CHEMICAL ADDI-  
2 TIVES, OR NATURALLY OCCURRING RADIOACTIVE MATERIALS (NORM) AND HEAVY  
3 METALS.

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

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

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

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

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

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

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

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

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

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

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

50 5-A. ANY PERSON WHO KNOWINGLY, AS DEFINED IN SECTION 15.05 OF THE  
51 PENAL LAW, VIOLATES THE RULES OR REGULATIONS PROMULGATED PURSUANT TO  
52 PARAGRAPH F OF SUBDIVISION FOUR OF SECTION 17-1905 OF THIS CHAPTER SHALL  
53 BE PUNISHABLE BY A FINE NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS PER  
54 VIOLATION AND/OR UP TO THIRTY DAYS IMPRISONMENT. EACH INTRODUCTION  
55 AND/OR APPLICATION OF WASTE FROM OIL OR NATURAL GAS EXTRACTION ACTIV-  
56 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.