

4242

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sen. O'MARA -- 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 the transportation of liquefied natural and petroleum gas, and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision 2 of section 23-1713 of the environmental
2 conservation law, as added by chapter 892 of the laws of 1976, is
3 amended to read as follows:
4 2. [The department of transportation in consultation with the depart-
5 ment of environmental conservation shall establish criteria for the
6 safe] ALL transportation of such liquefied natural and petroleum gas[.
7 Such criteria shall take into consideration the proximity of the route
8 or routes to contiguous populations, the capability of municipal fire
9 departments to protect communities and contiguous populations against
10 fire cloud damage attendant upon vapor release of the gas from its cryo-
11 genic state due to accident or malfunction in equipment, and the risk of
12 further accident related thereto and conflagration attendant upon its
13 ignition. Such department's criteria shall be no less restrictive than
14 existing federal regulations. Such department shall within one year from
15 the effective date of this section, adopt regulations prescribing the
16 forms and procedures to be followed, which shall include notice to all
17 affected municipal police and fire departments, for the certification of
18 routes to be used for the safe intrastate transportation of such lique-
19 fied natural and petroleum gas] SHALL COMPLY WITH ALL APPLICABLE FEDERAL
20 AND STATE LAWS, RULES AND REGULATIONS AND BE CONDUCTED BY CARRIERS WITH
21 A HAZARDOUS MATERIALS SAFETY PERMIT ISSUED BY THE FEDERAL MOTOR CARRIER
22 SAFETY ADMINISTRATION.
23 S 2. Subdivisions 1, 3 and 4 of section 23-1713 of the environmental
24 conservation law are REPEALED.

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

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1 S 3. Subdivisions 1 and 4 of section 23-1715 of the environmental
2 conservation law, as amended by chapter 233 of the laws of 1979, are
3 amended to read as follows:

4 1. The department shall have continuing responsibility of inspection
5 to insure compliance with the terms of an environmental safety permit
6 issued under section 23-1707[, of route certification under section
7 23-1713,] and with regard to non-conforming facilities under section
8 23-1719, all in accordance with the terms of this title. It may do so
9 either with its own personnel exclusively, or by contract with one or
10 more of the affected municipalities, utilizing municipal inspection
11 personnel, or with one or more private firms qualified to monitor
12 compliance and certify with respect thereto, or by a combination of the
13 foregoing means as it may by regulation provide.

14 4. In the event of the failure of the holder of an environmental safe-
15 ty permit issued under section 23-1707[, of route certification under
16 section 23-1713,] or of a non-conforming facility under section 23-1719
17 to comply with the terms thereof or the provisions of the rules and
18 regulations adopted under article 70 of this chapter, the department may
19 revoke said permit or certificate pursuant to the provisions of article
20 70 of this chapter and impose upon the holder of such permit or certif-
21 icate a civil penalty of up to one thousand dollars for each day the
22 holder thereof has failed to comply with this title or a permit or
23 certificate issued hereunder, together with the allocated costs of the
24 revocation and enforcement proceeding itself.

25 S 4. Subdivisions 4, 6 and 8 of section 23-1717 of the environmental
26 conservation law, subdivisions 4 and 8 as added by chapter 892 of the
27 laws of 1976, and subdivision 6 as amended by chapter 233 of the laws of
28 1979, are amended to read as follows:

29 4. The report of the department shall detail the capability and
30 preparedness, or lack thereof, of such fire department or departments
31 effectively to prevent or extinguish a fire at or related to any of the
32 reported facilities[, or in connection with the transportation] of
33 liquefied natural or petroleum gas; proposals for further training and
34 qualification of personnel which, if implemented, would enable such fire
35 department or departments effectively to carry out such responsibil-
36 ities; and a detailed analysis of the cost of training and qualification
37 of such municipal fire department personnel to do so, including those
38 related to additional manpower, new or additional equipment, or training
39 of such personnel, although not limited thereto. Such report, in its
40 cost analysis and in making recommendations with respect thereto, shall
41 report separately with regard to projected hiring of additional person-
42 nel, the purchase of new or additional equipment and supplies, and
43 necessary training courses, on an initial and continuing basis, together
44 with any other proposals in implementation of this section; and, in
45 addition, shall make specific finding, with regard to the particular
46 municipal fire department or departments involved, which of said
47 proposals is or are required to be implemented to be carried out to
48 comply with the requirements of subdivision three of this section,
49 together with the reasonable cost thereof.

50 6. Upon application for an environmental safety permit under section
51 23-1707 [or for certification of a transportation route under section
52 23-1713], the procedure of notification, consultation, and report and
53 determination with regard to municipal fire department training program
54 and cost thereof shall be integrated with the application and the deter-
55 mination of the department, if to grant the permit or certificate or
56 certificates, shall include the determination thereof with regard to

1 implementation of the training and qualification requirements of this
2 section and the allocation of the cost thereof, with respect to the
3 particular permit or certificate or certificates granted, to the utility
4 or other person subject to the requirements of this title.

5 8. The storage[, transportation,] and conversion of liquefied natural
6 and petroleum gas within the state, in view of its extreme volatility,
7 high flammability, and dangerous qualities if mishandled resulting in
8 accidental release, is determined to be hazardous and entails strict
9 liability on the part of any person, as defined under this title, that
10 undertakes such activities in the state. Neither compliance with the
11 requirements of this title, nor the exercise of due care, shall excuse
12 any such person from liability for personal or property damage deter-
13 mined to be caused by the accidental release of liquefied natural or
14 petroleum gas within the state, and neither proof of means of ignition
15 nor distinctions between direct and consequential damage shall relieve
16 such person of absolute liability without regard to intent or negligence
17 for any personal or property damage thereby caused.

18 S 5. This act shall take effect immediately.