STATE OF NEW YORK

2823

2017-2018 Regular Sessions

IN SENATE

January 17, 2017

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:

Section 1. Subdivision 2 of section 23-1713 of the environmental conservation law, as added by chapter 892 of the laws of 1976, is amended to read as follows:

2. [~~The department of transportation in consultation with the department of environmental conservation shall establish criteria for the safe~~] **All** transportation of such liquefied natural and petroleum gas[~~. Such criteria shall take into consideration the proximity of the route or routes to contiguous populations, the capability of municipal fire departments to protect communities and contiguous populations against fire cloud damage attendant upon vapor release of the gas from its cryogenic state due to accident or malfunction in equipment, and the risk of further accident related thereto and conflagration attendant upon its ignition. Such department's criteria shall be no less restrictive than existing federal regulations. Such department shall within one year from the effective date of this section, adopt regulations prescribing the forms and procedures to be followed, which shall include notice to all affected municipal police and fire departments, for the certification of routes to be used for the safe intrastate transportation of such liquefied natural and petroleum gas~~] **shall comply with all applicable federal and state laws, rules and regulations and be conducted by carriers with a hazardous materials safety permit issued by the federal motor carrier safety administration**.

§ 2. Subdivisions 1, 3 and 4 of section 23-1713 of the environmental conservation law are REPEALED.

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

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

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

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

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

4. The report of the department shall detail the capability and preparedness, or lack thereof, of such fire department or departments effectively to prevent or extinguish a fire at or related to any of the reported facilities[~~, or in connection with the transportation~~] of liquefied natural or petroleum gas; proposals for further training and qualification of personnel which, if implemented, would enable such fire department or departments effectively to carry out such responsibilities; and a detailed analysis of the cost of training and qualification of such municipal fire department personnel to do so, including those related to additional manpower, new or additional equipment, or training of such personnel, although not limited thereto. Such report, in its cost analysis and in making recommendations with respect thereto, shall report separately with regard to projected hiring of additional personnel, the purchase of new or additional equipment and supplies, and necessary training courses, on an initial and continuing basis, together with any other proposals in implementation of this section; and, in addition, shall make specific finding, with regard to the particular municipal fire department or departments involved, which of said proposals is or are required to be implemented to be carried out to comply with the requirements of subdivision three of this section, together with the reasonable cost thereof.

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

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

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

§ 5. This act shall take effect immediately.