# STATE OF NEW YORK

3530

2017-2018 Regular Sessions

# IN ASSEMBLY

January 27, 2017

Introduced by M. of A. PRETLOW, COLTON -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to repeat violators

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Sections 71-2711, 71-2712, 71-2713 and 71-2714 of the environmental conservation law, as amended by chapter 26 of the laws of 1998, are amended to read as follows:

§ 71-2711. Endangering public health, safety or the environment in the fourth degree.

A person is guilty of endangering public health, safety or the environment in the fourth degree when:

1. With criminal negligence, [~~he~~] **such person** engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment; or

2. With criminal negligence, [~~he~~] **such person** engages in conduct which causes the release of more than one hundred gallons or one thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment; or

3. [~~He~~] **Such person** knowingly or recklessly engages in conduct which causes the release of a substance hazardous to public health, safety or the environment**; or**

**4. Such person commits the crime of endangering the public health, safety or the environment in the fifth degree as defined in section 71-2710 of this title and has been previously convicted of any crime defined in section 71-2710, 71-2712, 71-2713 or 71-2714 of this title within the preceding ten years**.

Endangering public health, safety or the environment in the fourth degree is a class A misdemeanor.

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

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§ 71-2712. Endangering public health, safety or the environment in the third degree.

A person is guilty of endangering public health, safety or the environment in the third degree when:

1. [~~He~~] **Such person** recklessly engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment; or

2. [~~He~~] **Such person** recklessly engages in conduct which causes the release of more than two hundred gallons or two thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment; or

3. [~~He~~] **Such person** recklessly engages in conduct which causes the release of more than one hundred gallons or one thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment and such release creates a substantial risk of physical injury to any person who is not a participant in the crime; or

4. [~~He~~] **Such person** knowingly engages in conduct which causes the release of more than one hundred gallons or one thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment**; or**

**5. Such person commits the crime of endangering the public health, safety or the environment in the fourth degree as defined in section 71-2711 of this title and has been previously convicted of any crime defined in section 71-2710, 71-2711, 71-2713 or 71-2714 of this title within the preceding ten years**.

Endangering public health, safety or the environment in the third degree is a class E felony.

§ 71-2713. Endangering public health, safety or the environment in the second degree.

A person is guilty of endangering public health, safety or the environment in the second degree when:

1. [~~He~~] **Such person** knowingly engages in conduct which causes the release of a substance hazardous to public health, safety or the environment and such release causes physical injury to any person who is not a participant in the crime; or

2. [~~He~~] **Such person** knowingly engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment or the release of a substance which at the time of the conduct [~~he~~] **such person** knows to meet any of the criteria set forth in paragraph (b) of subdivision one of section 37-0103 of this chapter; or

3. [~~He~~] **Such person** knowingly engages in conduct which causes the release of more than one thousand five hundred gallons or fifteen thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment; or

4. [~~He~~] **Such person** recklessly engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment and such release causes physical injury to any person who is not a participant in the crime; or

5. [~~He~~] **Such person** knowingly engages in conduct which causes the release of more than one hundred gallons or one thousand pounds, whichever is less, of an aggregate weight or volume of a substance hazardous to public health, safety or the environment and such substance enters water; or

6. [~~He~~] **Such person** knowingly or recklessly engages in conduct which causes the release of a substance hazardous to public health, safety or the environment and such substance enters a primary water supply**; or**

**7. Such person commits the crime of endangering the public health, safety or the environment in the third degree as defined in section 71-2712 of this title and has been previously convicted of any crime defined in section 71-2710, 71-2711, 71-2712 or 71-2714 of this title within the preceding ten years**.

Endangering public health, safety or the environment in the second degree is a class D felony.

§ 71-2714. Endangering public health, safety or the environment in the first degree.

A person is guilty of endangering public health, safety or the environment in the first degree when:

1. [~~He~~] **Such person** intentionally engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment or the release of a substance which at the time of the conduct [~~he~~] **such person** knows to meet any of the criteria set forth in paragraph (b) of subdivision one of section 37-0103 of this chapter when [~~he~~] **such person** is aware that such conduct creates a substantial risk of serious physical injury to any person who is not a participant in the crime; or

2. [~~He~~] **Such person** knowingly engages in conduct which causes the release of a substance acutely hazardous to public health, safety or the environment or the release of a substance which at the time of the conduct [~~he~~] **such person** knows to meet any of the criteria set forth in paragraph (b) of subdivision one of section 37-0103 of this chapter and such release causes physical injury to any person who is not a participant in the crime**; or**

**3. Such person commits the crime of endangering the public health, safety or the environment in the second degree as defined in section 71-2713 of this title and has been previously convicted of any crime defined in section 71-2710, 71-2711, 71-2712 or 71-2713 of this title within the preceding ten years**.

Endangering public health, safety or the environment in the first degree is a class C felony.

§ 2. Sections 71-2715 and 71-2717 of the environmental conservation law, as amended by chapter 671 of the laws of 1986, are amended to read as follows:

§ 71-2715. Unlawful dealing in hazardous wastes **or substances** in the second degree.

No person shall:

1. With intent that another person possess or dispose of hazardous wastes **or substances hazardous or acutely hazardous to public health, safety or the environment** without authorization, solicit, request, command, importune or otherwise attempt to cause such other person to engage in such conduct; or

2. Believing it probable that [~~he~~] **such person** is rendering aid to [~~a~~] **another** person who intends to possess or dispose of hazardous wastes **or substances hazardous or acutely hazardous to public health, safety or the environment** without authorization, engage in conduct which provides such **other** person with the means or opportunity for the commission thereof and which in fact aids such **other** person to commit such act.

Unlawful dealing in hazardous [~~waste~~] **wastes or substances** in the second degree is a class A misdemeanor.

§ 71-2717. Unlawful dealing in hazardous wastes **or substances** in the first degree.

No person shall:

1. Remove, assist in the removal, or make available for removal, more than one hundred gallons or one thousand pounds, whichever is less, of an aggregate weight or volume of hazardous wastes **or substances hazardous or acutely hazardous to public safety or the environment** intending that such wastes **or substances** are to be possessed or disposed of by a person who does not have authorization; or

2. Solicit, agree to receive or receive a benefit for possession or disposal of hazardous wastes **or substances hazardous or acutely hazardous to public safety or the environment** intending that the possession or disposal is to be done without authorization; or

3. Offer, agree to confer, confer upon another or authorize or direct anyone to offer, agree to confer or confer upon another a benefit for possession or disposal of hazardous wastes **or substances hazardous or acutely hazardous to public safety or the environment** intending that the person who is to perform such possession or disposal does not have authorization.

Unlawful dealing in hazardous [~~waste~~] **wastes or substances** in the first degree is a class E felony.

§ 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.