

# STATE OF NEW YORK

5197--A

2017-2018 Regular Sessions

## IN SENATE

March 13, 2017

Introduced by Sens. SERINO, ALCANTARA, AMEDORE, AVELLA, CARLUCCI, KRUEGER, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the navigation law, in relation to consideration of environmental conditions when permitting petroleum-bearing vessels to enter navigable waters

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

1 Section 1. Subdivision 2 of section 3-0301 of the environmental  
2 conservation law is amended by adding a new paragraph dd to read as  
3 follows:

4 dd. Consult with the United States Coast Guard, the board of commis-  
5 sioners of pilots, the department of state, the office of parks, recre-  
6 ation and historic preservation, the chairperson of the petroleum-bear-  
7 ing vessel advisory commission, at least one licensed Hudson river pilot  
8 and appropriate officials of any state or country, to establish stand-  
9 ards for the purpose of carrying out the provisions of sections seventy  
10 and seventy-a of the navigation law. The commissioner is authorized to  
11 promulgate any rules, regulations or procedures which may be necessary,  
12 convenient, or desirable to implement the provisions of such sections of  
13 law.

14 § 2. The navigation law is amended by adding a new section 70-a to  
15 read as follows:

16 § 70-a. Minimum conditions for petroleum-bearing vessels on the Hudson  
17 river; tanker-avoidance zones. 1. The commissioner of environmental  
18 conservation in consultation with the United States Coast Guard, the  
19 board of commissioners of pilots, the department of state, the office of  
20 parks, recreation and historic preservation, at least one licensed

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

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1 Hudson river pilot and appropriate officials of any state which might be  
2 affected, may establish guidelines setting forth:

3 (a) the minimum conditions under which petroleum-bearing vessels as  
4 defined in section one hundred seventy-two of this chapter may enter or  
5 move upon the navigable waters of the Hudson river. Such conditions may  
6 include, but not be limited to: (i) visibility; (ii) the tide and wind  
7 conditions; (iii) weather; (iv) environmental conditions; (v) the exist-  
8 ence of designated significant coastal fish and wildlife habitats; (vi)  
9 proximity to waterfront communities; (vii) disproportionate impacts on  
10 communities; (viii) environmental justice communities impacts; (ix)  
11 federally or state identified environmental remediation sites; and (x)  
12 consideration of an affected community's waterfront revitalization plan  
13 or comprehensive plan; and

14 (b) the minimum conditions under which petroleum-bearing vessels may  
15 enter or leave any major facility, port or harbor along the Hudson  
16 river. Such conditions may include, but are not be limited to: (i) visi-  
17 bility; (ii) the tide and wind conditions; (iii) weather; (iv) environ-  
18 mental conditions; (v) the existence of designated significant coastal  
19 fish and wildlife habitats; (vi) proximity to waterfront communities;  
20 (vii) disproportionate impacts on communities; (viii) environmental  
21 justice communities impacts; (ix) federally or state identified environ-  
22 mental remediation sites; and (x) consideration of an affected communi-  
23 ty's waterfront revitalization plan or comprehensive plan.

24 2. The commissioner of environmental conservation may, in consultation  
25 with the United States Coast Guard, the board of commissioners of  
26 pilots, the department of state, the office of parks, recreation and  
27 historic preservation, at least one Hudson river pilot and appropriate  
28 officials of any state which might be affected, establish tanker-avoid-  
29 ance zones, where it shall be unlawful for petroleum-bearing vessels as  
30 defined in section one hundred seventy-two of this chapter, to enter,  
31 move or anchor upon the navigable waters of the Hudson river, except in  
32 cases of great emergency. Such tanker-avoidance zones may be based upon  
33 physical and environmental conditions which may include, but are not  
34 limited to: (i) navigational hazards; (ii) environmental conditions;  
35 (iii) the existence of designated significant coastal fish and wildlife  
36 habitats; (iv) proximity to waterfront communities; (v) disproportionate  
37 impacts on communities; and (vi) federally or state identified environ-  
38 mental remediation sites; and may consider an affected community's  
39 waterfront revitalization plan or comprehensive plan and the environ-  
40 mental justice communities impacts, which may be triggered by the enter-  
41 ing, moving or anchoring of such petroleum-bearing vessels, to communi-  
42 ties which border the Hudson River.

43 3. The commissioner of environmental conservation in consultation with  
44 the United States Coast Guard, the board of commissioners of pilots, the  
45 department of state, the office of parks, recreation and historic pres-  
46 ervation, at least one licensed Hudson river pilot and appropriate offi-  
47 cial of any state which might be affected, shall submit a report to the  
48 governor, the temporary president of the senate, and the speaker of the  
49 assembly within one hundred twenty days of the effective date of this  
50 section regarding recommendations on plans, policies and programs  
51 affecting petroleum-bearing vessels on the navigable waters of the  
52 Hudson river, as well as on any proposed rulemaking from the United  
53 States Coast Guard which would impact the Hudson river.

54 § 3. Section 2 of the navigation law is amended by adding a new subdivi-  
55 sion 4-a to read as follows:

1 4-a. "Navigable waters of the Hudson river" shall mean the portions of  
2 the Hudson river within the boundaries of the state and not privately  
3 owned, which are navigable in fact or upon which vessels are operated.  
4 § 4. This act shall take effect immediately.