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:

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

dd. Consult with the United States Coast Guard, the board of commissioners of pilots, the department of state, the office of parks, recreation and historic preservation, the chairperson of the petroleum-bearing vessel advisory commission, at least one licensed Hudson river pilot and appropriate officials of any state or country, to establish standards for the purpose of carrying out the provisions of sections seventy and seventy-a of the navigation law. The commissioner is authorized to promulgate any rules, regulations or procedures which may be necessary, convenient, or desirable to implement the provisions of such sections of law.

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

§ 70-a. Minimum conditions for petroleum-bearing vessels on the Hudson river; tanker-avoidance zones. 1. The commissioner of environmental conservation in consultation with the United States Coast Guard, the board of commissioners of pilots, the department of state, the office of 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.

LBD10512-12-7

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

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

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

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

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

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

4-a. "Navigable waters of the Hudson river" shall mean the portions of the Hudson river within the boundaries of the state and not privately owned, which are navigable in fact or upon which vessels are operated.

§ 4. This act shall take effect immediately.