

STATE OF NEW YORK

1690

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. PRETLOW -- 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:

1 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:

2 § 71-2711. Endangering public health, safety or the environment in the fourth degree.

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

4 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

5 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

6 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

7 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.

8 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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1 § 71-2712. Endangering public health, safety or the environment in the
2 third degree.

3 A person is guilty of endangering public health, safety or the envi-
4 ronment in the third degree when:

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

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

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

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

22 5. Such person commits the crime of endangering the public health,
23 safety or the environment in the fourth degree as defined in section
24 71-2711 of this title and has been previously convicted of any crime
25 defined in section 71-2710, 71-2711, 71-2713 or 71-2714 of this title
26 within the preceding ten years.

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

29 § 71-2713. Endangering public health, safety or the environment in the
30 second degree.

31 A person is guilty of endangering public health, safety or the envi-
32 ronment in the second degree when:

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

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

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

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

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

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

4 7. Such person commits the crime of endangering the public health,
5 safety or the environment in the third degree as defined in section
6 71-2712 of this title and has been previously convicted of any crime
7 defined in section 71-2710, 71-2711, 71-2712 or 71-2714 of this title
8 within the preceding ten years.

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

11 § 71-2714. Endangering public health, safety or the environment in the
12 first degree.

13 A person is guilty of endangering public health, safety or the envi-
14 ronment in the first degree when:

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

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

30 3. Such person commits the crime of endangering the public health,
31 safety or the environment in the second degree as defined in section
32 71-2713 of this title and has been previously convicted of any crime
33 defined in section 71-2710, 71-2711, 71-2712 or 71-2713 of this title
34 within the preceding ten years.

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

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

40 § 71-2715. Unlawful dealing in hazardous wastes or substances in the
41 second degree.

42 No person shall:

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

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

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

1 § 71-2717. Unlawful dealing in hazardous wastes or substances in the
2 first degree.

3 No person shall:

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

10 2. Solicit, agree to receive or receive a benefit for possession or
11 disposal of hazardous wastes or substances hazardous or acutely hazard-
12 ous to public safety or the environment intending that the possession or
13 disposal is to be done without authorization; or

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

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

22 § 3. This act shall take effect on the first of November next succeed-
23 ing the date on which it shall have become a law.