STATE OF NEW YORK

890

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. KAMINSKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to the unlawful disposing of construction and demolition debris

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

Section 1. Subdivision 15 of section 71-2702 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, is amended to read as follows:

15. For the purposes of section 27-3101 of this chapter and subdivision five of section 71-2712, subdivisions seven, eight and nine of section 71-2713 and subdivision three of section 71-2714 of this title:

(a) [~~"property of another" shall include all property in which another person has an ownership interest, whether or not a person who disposes on such property, or any other person, may also have an interest in such property; and~~

~~(b) "construction and demolition waste" shall mean waste resulting from the alteration, construction, destruction, rehabilitation, or repair of any man-made structure, including houses, buildings, industrial or commercial facilities and roadways and restricted or limited use fill and shall not include municipal solid waste.~~] "construction and demolition debris" shall mean waste resulting from construction, remodeling, repair and demolition of structures, buildings and roads, including but not limited to excavated material. Construction and demolition debris shall not include, even if generated from construction, remodeling, repair and demolition activities, municipal solid waste and such

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

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other materials that may be listed for exclusion from this definition pursuant to regulations promulgated by the department.

(b) "excavated material" means excess soil, rock, fill, or other material excavated during construction or maintenance activities. "Fill" shall include soil or other granular, compactible material that is authorized for use pursuant to regulations promulgated by the department.

§ 2. Subdivision 5 of section 71-2712 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, is amended to read as follows:

5. With intent to dispose of construction and demolition [~~waste on the property of another and having no right to do so nor any reasonable grounds to believe he or she has such right, he or she unlawfully disposes~~] debris, he or she intentionally engages in conduct that causes the unlawful disposal or release of either ten cubic yards or more, or twenty thousand pounds or more, of construction and demolition [~~waste~~] debris, as defined in section 71-2702 of this title[~~, on such property~~].

§ 3. Subdivisions 7, 8 and 9 of section 71-2713 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, are amended to read as follows:

7. With intent to dispose of construction and demolition [~~waste on the property of another and having no right to do so nor any reasonable grounds to believe he or she has such right~~] debris, he or she [~~unlawfully disposes~~] intentionally engages in conduct that causes the unlawful disposal or release of either seventy cubic yards or more, or one hundred forty thousand pounds or more, of construction and demolition [~~waste~~] debris, as defined in section 71-2702 of this title[~~, on such property~~]; or

8. With intent to dispose of a hazardous substance on the property of another [~~and having no right to do so nor any reasonable grounds to believe he or she has such right, he or she unlawfully disposes~~] he or she intentionally engages in conduct that causes the unlawful disposal or release of a hazardous substance; or

9. He or she recklessly disposes of any acutely hazardous substance on [~~the~~] any property [~~of another~~].

§ 4. Subdivision 3 of section 71-2714 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, is amended to read as follows:

3. With intent to dispose of an acutely hazardous substance [~~on the property of another and having no right to do so nor any reasonable grounds to believe he or she has such right~~], he or she [~~unlawfully disposes~~] intentionally engages in conduct that causes the unlawful disposal or release of an acutely hazardous substance on [~~such~~] any property.

§ 5. The title heading of title 31 of article 27 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, is amended to read as follows:

CONSTRUCTION AND DEMOLITION [~~WASTE~~] **DEBRIS**

§ 6. Section 27-3101 of the environmental conservation law, as added by a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, is amended to read as follows:

§ 27-3101. Waste tracking documents.

1. All generators in a city with a population of one million or more that generate construction and demolition [~~waste~~] **debris**, as defined in section 71-2702 of this chapter, shall provide waste transporters with a waste tracking document for each construction and demolition [~~waste~~] **debris** shipment, in a form prescribed or approved by the department, specifying the quantity and type of construction and demolition [~~waste~~] **debris**, and signed and dated by an authorized representative of the generator **and with a certification in a form prescribed by the department, which shall contain a certification by the generator that the information therein is true, accurate and complete**. [~~The waste tracking documentation shall state: "I certify, under penalty of law, that the information provided in this waste tracking document has been prepared under my direction and supervision and further certify that the information contained herein is true and accurate. I am aware that any false statement made on this form is punishable pursuant to section 210.45 of the Penal Law."~~]

2. All transporters of construction and demolition [~~waste~~] **debris** generated in a city with a population of one million or more shall:

(a) not accept a shipment of [~~waste~~] **debris** that does not match the quantity or type listed on the [~~waste~~] **debris** tracking document;

(b) have the [~~waste~~] **debris** tracking document signed by the receiving location or facility upon delivery of the solid [~~waste~~] **debris** and provide a copy of the tracking document to the receiving location or facility.

3. Failure to maintain such tracking documents is a class A misdemeanor.

§ 7. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020 amending the environmental conservation law relating to the disposal of construction and demolition waste and amending the penal law relating to creating the crime of scheme to defraud by disposal of solid waste, as proposed in legislative bills numbers S. 6758-B and A. 10803-A, takes effect.