STATE OF NEW YORK

4532

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

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:

Section 1. Section 71-2711 of the environmental conservation law, as amended by chapter 26 of the laws of 1998, is 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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§ 2. Section 71-2712 of the environmental conservation law, as amended by chapter 26 of the laws of 1998, subdivision 4 as amended by chapter 332 of the laws of 2020, and subdivision 5 as amended by chapter 29 of the laws of 2021, is amended to read as follows:

§ 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 or she~~] **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. With intent to dispose of construction and demolition debris, [~~he or she~~] **such person** 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 debris, as defined in section 71-2702 of this title**; or**

6. 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.

§ 3. Section 71-2713 of the environmental conservation law, as amended by chapter 26 of the laws of 1998, subdivision 6 as amended by chapter 332 of the laws of 2020 and subdivisions 7, 8 and 9 as amended by chapter 29 of the laws of 2021, is amended to read as follows:

§ 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 thou-

sand 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 or she~~] **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. With intent to dispose of construction and demolition debris, [~~he or she~~] **such person** 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 debris, as defined in section 71-2702 of this title; or

8. With intent to dispose of a hazardous substance on the property of another [~~he or she~~] **such person** intentionally engages in conduct that causes the unlawful disposal or release of a hazardous substance; or

9. [~~He or she~~] **Such person** recklessly disposes of any acutely hazardous substance on any property**; or**

10. 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.

§ 4. Section 71-2714 of the environmental conservation law, as amended by chapter 26 of the laws of 1998, subdivision 2 as amended by chapter 332 of the laws of 2020, and subdivision 3 as amended by chapter 29 of the laws of 2021, is amended to read as follows:

§ 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 or she~~] **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 or she~~] **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. With intent to dispose of an acutely hazardous substance, [~~he or she~~] **such person** intentionally engages in conduct that causes the unlawful disposal or release of an acutely hazardous substance on any property**; or**

4. 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.

§ 5. 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.

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