

# STATE OF NEW YORK

2686

2023-2024 Regular Sessions

## IN SENATE

January 24, 2023

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to prohibiting the use of ash from burning hazardous waste in products

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

1 Section 1. Legislative intent. The incineration of hazardous waste  
2 produces fly ash, flue gas emission control waste, and slag (hereinafter  
3 collectively as "hazardous waste ash"). Hazardous waste ash may contain  
4 chemicals and heavy metals such as arsenic, barium, cadmium, chromium,  
5 lead, mercury, and nickel, which are all potentially toxic to humans and  
6 are known to cause or contribute to cancer, lung and heart ailments,  
7 liver and kidney damage, neurological damage, and premature mortality.  
8 Hazardous waste ash may also contain mineralogical toxins such as fine  
9 crystalline when the feedstock to the industrial process contain silica.  
10 Fine particulate crystalline silica induces silicosis when inhaled and  
11 is a known respiratory health risk. Hazardous waste ash may be inhaled  
12 and become lodged in the deepest parts of the human respiratory system,  
13 leading to potentially fatal inflammation and immunological reactions.

14 Under certain existing commercial practices, hazardous waste ash is  
15 included in aggregate material used to formulate commonly encountered  
16 compounds such as concrete, pavement, and other compounds found in  
17 commerce. The inclusion of hazardous waste ash in aggregate material and  
18 commonly encountered compounds exposes the public to potentially toxic  
19 substances and endangers public health.

20 § 2. The environmental conservation law is amended by adding a new  
21 section 19-0304-a to read as follows:

22 § 19-0304-a. Prohibition on the use of hazardous waste ash in products.

23 1. No person shall mix, combine or blend ash with any product if the  
24 ash is from a commercial hazardous waste incinerator. This prohibition  
25 shall also apply to any material collected from fine-particle control  
26 devices serving as pollution control or containment systems at any  
27 hazardous waste incinerator or kiln that is permitted by the department  
28 to receive and combust hazardous waste with or without energy recovery.

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

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1 2. A person who violates the provisions of subdivision one of this  
2 section, or any regulation or order issued pursuant thereto, shall be  
3 liable under section 71-2103 of this chapter and/or may be enjoined from  
4 continuing such violation as provided in section 71-2107 of this chap-  
5 ter.

6 3. As used in this section:

7 a. "Aggregate" means any natural or artificial mixture typically  
8 consisting of but not limited to sand, gravel, crushed stone, vermicu-  
9 lite, clinker, expanded or sintered clay, foamed slag, or recycled  
10 concrete that is used as an ingredient in compound materials.

11 b. "Product" means any aggregate, compound, item, substance, material,  
12 component, system, or subsystem sold or traded or produced for sale or  
13 trade to the general public in the course of normal business operations.

14 c. "Compound" means asphalt concrete, Portland cement concrete,  
15 concrete block, structural concrete, unreinforced or lightweight  
16 concrete, or any other substance composed of aggregate that is used in  
17 construction and engineering applications.

18 d. "Fine-particle control device" means any apparatus, structure, or  
19 method of filtration that falls into any of the following general cate-  
20 gories:

21 (i) fabric filters, also known as baghouses or bag filters;

22 (ii) electrostatic collectors, including dry and wet electrostatic  
23 precipitators and ionizing wet scrubbers;

24 (iii) wet inertial-impaction collectors, including venturi scrubbers  
25 and advanced designs that use flux-force condensation-enhancement tech-  
26 niques; or

27 (iv) cyclone separators or any other apparatus, structure, or method  
28 that is capable of separating fine particles from gas.

29 e. "Flue gas emission control waste" means the particulate recovered  
30 from fine-particle control devices and other receptacles during the  
31 treatment of flue gas emitted by the combustion of hazardous solid  
32 waste.

33 f. "Fly ash" means the fine, lightweight particulate created as a  
34 by-product of incinerating hazardous waste that is transported from the  
35 combustion chamber by flue gases into exhaust stacks or other recepta-  
36 cles.

37 h. "Hazardous waste ash" means fly ash, flue gas emission control  
38 waste, and slag.

39 i. "Slag" means the molten or once-molten ash created as a by-product  
40 of incinerating hazardous waste that collects on fine-particle control  
41 devices or other receptacles.

42 § 3. Severability. If any clause, sentence, paragraph, subdivision,  
43 section or part of this act shall be adjudged by any court of competent  
44 jurisdiction to be invalid, such judgment shall not affect, impair, or  
45 invalidate the remainder thereof, but shall be confined in its operation  
46 to the clause, sentence, paragraph, subdivision, section or part thereof  
47 directly involved in the controversy in which such judgment shall have  
48 been rendered. It is hereby declared to be the intent of the legislature  
49 that this act would have been enacted even if such invalid provisions  
50 had not been included herein.

51 § 4. This act shall take effect on the ninetieth day after it shall  
52 have become a law. Effective immediately, the addition, amendment  
53 and/or repeal of any rule or regulation necessary for the implementation  
54 of this act on its effective date are authorized to be made and  
55 completed on or before such effective date.