STATE OF NEW YORK

6730

2023-2024 Regular Sessions

IN SENATE

May 5, 2023

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

AN ACT to amend the navigation law, in relation to the regulation of exhaust gas cleaning systems on vessels; and to amend the environmental conservation law, in relation to the powers of the department of environmental conservation

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

Section 1. The navigation law is amended by adding a new section 33-f to read as follows:

§ 33-f. Regulating exhaust gas cleaning systems. 1. As used in this section:

(a) "exhaust gas cleaning systems" means a mechanism intended to remove particulate matter from exhaust gasses generated as a result of the combustion process in marine engines, whose output is the discharge of wash water as water, spray, exhaust or other form of discharge; and

(b) "department" means the state department of environmental conservation.

2. (a) No exhaust gas cleaning system on any vessel used or operated upon navigable waters of this state shall be operated so as to discharge into said waters or air directly or indirectly except as required for safety reasons.

(b) Exhaust gas cleaning system overboard discharge valves shall be sealed while the vessel is in navigable waters of the state.

3. No exhaust gas cleaning system shall be used, sold, or physically offered for sale in this state.

4. The department shall require persons making application for a boat registration certificate for a vessel pursuant to the vehicle and traffic law to disclose whether such vessel has within or on it an exhaust gas cleaning system and if so, to certify that such device shall not be

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

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used in the waters of this state as required by this section. The department is further empowered to direct that the issuance of a boat registration certificate or a renewal thereof be withheld if such device is used in violation of this section.

5. All vessels located upon waters of this state shall be subject to boarding and inspection by the department or any lawfully designated agents or inspectors thereof, for the purpose of determining whether such vessel is in compliance with this section.

6. The department is hereby authorized and empowered to make, adopt, promulgate, amend and repeal such standards and rules and regulations as are necessary, or convenient for the carrying out of duties and obligations and powers conferred on the department by this section.

7. A copy of the regulations adopted pursuant to this section and any of the amendments thereto, shall be filed in the office of the department, the water resources commission, and in the office of the secretary of state. Rules, regulations and standards shall be published by the department in convenient form.

8. Any person who violates this section, shall be guilty of an offense and upon conviction shall be punished with a fine of up to twenty-five thousand dollars per violation; provided, however, that in the event any person violates this section more than twice during the same calendar year and is convicted of more than two such violations, the third and each subsequent violation shall be deemed a misdemeanor.

9. Any person who violates this section shall be strictly liable, without regard to fault, for all cleanup and removal costs and all direct and indirect damages, no matter by whom sustained for the following:

(a) the cost of restoration and replacement, where possible, of any natural resource damaged or destroyed by a discharge;

(b) the cost of restoring, repairing, or replacing any real or personal property damaged or destroyed by a discharge, any income lost from the time such property is damaged to the time such property is restored, repaired or replaced, any reduction in value of such property caused by such discharge by comparison with its value prior thereto;

(c) loss of income or impairment of earning capacity due to damage to real or personal property, including natural resources destroyed or damaged by a discharge; provided that such loss or impairment exceeds ten percent of the amount which claimant derives, based upon income or business records, exclusive of other sources of income, from activities related to the particular real or personal property or natural resources damaged or destroyed by such discharge during the week, month or year for which the claim is filed;

(d) loss of tax revenue by the state or local governments for a period of one year due to damage to real or personal property proximately resulting from a discharge; and

(e) interest on loans obtained or other obligations incurred by a claimant for the purpose of ameliorating the adverse effects of a discharge pending the payment of a claim in full as provided by this article.

10. If any court of competent jurisdiction shall find any subdivision or subdivisions of this section to be unconstitutional or otherwise invalid, such findings shall not affect the validity of this section which can be given effect.

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

ii. Monitor vessel exhaust gas cleaning systems as provided in section thirty-three-f of the navigation law and establishing rules, regulations and standards relating thereto.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.