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Legislative report from the NYS Assembly Committee on Environmental Conservation

Consideration of Extreme Weather Events

(A.6558-B Sweeney; passed both Assembly and Senate)

According to the National Climate Assessment, “the Northeast has experienced a greater recent increase in extreme precipitation than any other region in the U.S.; between 1958 and 2010, the Northeast saw more than a 70% increase in the amount of precipitation falling in very heavy events (defined as the heaviest 1% of all daily events).” These statistics have been illustrated most recently by the devastating impacts of named storms such as Sandy, Lee and Irene. In addition to the tragic loss of life, property and environmental damage, there is also an economic cost of extreme weather events. For example, the financial toll of Superstorm Sandy on New York is estimated to be at least \$42 billion dollars.

This legislation is intended to encourage advance planning for severe weather events and to encourage the consideration of the effects of climate change. For example, the water and sewage treatment plants within the State sustained extensive damage as a result of Hurricane Sandy. As funding and permitting decisions are made regarding such plants in the future, decisions about the potential for damage from other extreme weather events should be considered. The same is true for Environmental Protection Fund programs such as the Local Waterfront Revitalization Program. It is appropriate and necessary for climate risk to be a consideration in funding and permitting decisions and also for applicants to demonstrate that they have considered climate change and extreme weather impacts on their proposed projects.

Plastic Film Recycling

(A.191-A Kavanagh; Passed both Assembly and Senate)

In 2008, the Legislature enacted a law requiring retailers to establish at-store recycling programs for plastic bags. This legislation will, effective March 1, 2015, expand the recycling requirements to include “film plastic.” Film plastic is thinner than traditional plastic bags and is typically used in items like dry cleaning bags, newspaper bags and shrink wrap.

Prohibition on the Use of the Flame Retardant TRIS

(A.4741 Sweeney; Passed both Assembly and Senate)

TRIS is the common name for a family of chlorinated flame retardants. In the 1970s, TRIS (TDCPP) was used in children’s sleepwear as a substitute for TRIS-BP, which was banned by the Consumer Product Safety Commission because of potential health concerns. Subsequent testing on TDCPP caused manufacturers to stop using it voluntarily in children’s sleepwear; however, it is used currently in plastics, resins and polyurethane foams found in car seats and other baby products. TDCPP is not chemically bound to these products. As a result, TDCPP is present in indoor air and dust, in the environment, and in human tissue. Younger children, particularly babies, are especially vulnerable because of their smaller and developing bodies. California recently added TDCPP to its Proposition 65 list, which lists “chemicals known to the State of California to cause cancer and birth defects or other reproductive harm,” because of animal studies demonstrating its adverse health effects. This legislation would prohibit the use of TDCPP in children’s products on and after December 1, 2015.



L-R Assemblyman Sweeney, Assemblyman Steve Otis and Assemblywoman Nily Rozic are pictured at the Environmental Conservation Committee hearing on New York State laws regarding the sale of ivory. The hearing helped to shape a new law which bans the sale of ivory and rhino horns. "This new law will protect elephants, which are being slaughtered at the rate of 96 per day, to satisfy the vanity ivory market and to finance terrorism. The law now acknowledges the significant impact our state can have on clamping down on illegal ivory sales a continent away in order to save elephants from the ruthless poaching operations run by terrorists and organized crime which threaten their extinction," said Assemblyman Sweeney.

Restrictions on the Sale of Ivory and Rhino Horns

(A.10143 Rules [Sweeney]; Chapter 326 of the Laws of 2014)

The Wildlife Conservation Society estimates that 96 elephants are killed each day in Africa, translating into one elephant death every fifteen minutes and a 76 percent population decline since 2002. A September report issued by The United Nations Office on Drugs and Crime estimates that as many as 60 percent of dead elephants in Africa were killed illegally, generating 154 metric tons of illegally-harvested ivory valued at more than \$30 million dollars. The report also indicates that ivory poaching in recent years reflects the increased involvement of organized crime. As evidence, the report refers to the professional poaching gang that killed more than 200 elephants in Cameroon. In addition, Al Shabaab, a group which has been linked to Al Qaeda, and has been designated by the United States as a foreign terrorist organization and has been implicated in the recent attacks on a shopping mall in Kenya, is also mentioned in the report as being involved in ivory poaching.

The elephants are killed primarily for their ivory tusks which are used predominantly in carved art and jewelry. Ivory sales are regulated by a complex web of international, federal and state laws and treaties. Despite the existing legal protections, New York has become one of the leading destinations in the United States for illegal ivory. In 2012, the New York State Department of Environmental Conservation, in conjunction with the United States Fish and Wildlife Service, seized more than \$2 million worth of elephant ivory in New York City.

This legislation is in response to testimony provided at an Assembly Environmental Conservation hearing held in January to examine New York's ivory laws and regulations. At the hearing, representatives from the nations of Tanzania and Botswana expressed support for an ivory sales ban, citing their efforts to decrease poaching in the face of increased demand for ivory. The Ambassador and Permanent Representative of the United Republic of Tanzania to the United Nations testified "Efforts such as those being expended by this Committee and the State Assembly are important and necessary in our global effort to save the African elephant population from extinction. The scale of

the problem is such that the President of the United Republic of Tanzania, H.E. Jakaya Mrisho Kikwete, in September 2013, at the United Nations, here in the city, called for the international community to close down ivory markets."

The Ambassador also cited the link between terrorism and illegal ivory sales, citing the murder of park rangers and also saying "Wildlife trafficking is increasingly associated with rebel and terrorist groups such as the Lord's Resistance Army (LRA) and Al Shabaab, an Al Qaeda terrorist cell in East Africa." He went on to add that President Kikwete "regrettably noted that elephants have become the latest conflict resource."

Law enforcement officers at the hearing, including representatives from the United States Fish and Wildlife Service, testified about the difficulties, and in some cases, the impossibility, associated with determining the age and origin of ivory products. This testimony made clear that an imposition of a specific year, or antique provision would be virtually impossible to impose with accuracy. In addition, DEC law enforcement officials testified about the flaws in the existing penalty provisions regarding illegal ivory sales, expressing the need for stricter penalties. As a result, this bill further restricts the sale of ivory and rhino horns and includes significantly stronger penalties aimed at addressing large-scale ivory sales.

Prevention of Aquatic Invasive Species

(A.9619-B Lifton; Passed both Assembly and Senate)

Aquatic invasive species present a serious threat to New York's environment and economically important industries such as tourism, and commercial and recreational fishing. Invasive species kill native plants and animals by carrying harmful diseases or out-competing natural habitat, changing entire ecosystems and represent one of the greatest threats to the State's biodiversity. Once introduced, invasive species are nearly impossible to eradicate, and expensive to manage. Nationally, the annual cost to the economy is estimated at \$120 billion a year and in New York, managing invasive species has become a significant drain on local economies. It is far more cost-effective to prevent the spread of these species than attempt to control them once they have already been introduced. This legislation is aimed at preventing the introduction of invasive species and



Assemblyman Sweeney is pictured discussing his legislation to remove toxic chemicals from common household furniture. “Flame retardants have no practical value in preventing fires or deaths. Worse, when furniture treated with these chemicals burns it emits toxic fumes, putting firefighters and anyone exposed to the fumes in peril,” said Sweeney. The legislation, A6557, passed the Assembly by a vote of 133-2. Unfortunately, the Senate did not vote on the legislation.

would require reasonable precautions such as the removal of any visible plant or animal matter, and washing, draining or drying as defined by DEC in regulations.

Restrictions on the Use of Harmful Chemicals in Children’s Products

(A.6328 Sweeney; Passed the Assembly)

Currently, New York identifies or prohibits the use of dangerous chemicals on a chemical by chemical basis. Several other states including Washington, California, and Maine have adopted more comprehensive chemical policies after finding high levels of cadmium, lead, and other dangerous chemicals in children’s products ranging from crib mattresses to toys. This legislation is modeled after those states and is intended to prevent the use of dangerous chemicals and encourage the use of safer chemical alternatives in children’s products.

This legislation would require DEC to develop lists of dangerous chemicals and require manufacturers of children’s products containing such chemicals to report the use of such chemicals to DEC. In addition, the sale of children’s products containing hazardous chemicals would be prohibited unless DEC issues a waiver.

Microbeads

(A.8744-A Sweeney; Passed the Assembly)

Recently, microbeads, a plastic product often as small as a grain of sand, have been found in the Great Lakes. The source of the pollution appears to be consumers using personal cosmetics such as shampoos, soaps and toothpastes that contain microbeads. Once washed down the drain, the microbeads flow into waterbodies because most wastewater treatment plants are unable to filter out the tiny plastics. This legislation, drafted by the State Attorney General, would prohibit the distribution and sale of personal cosmetic products that contain microbeads as of January 1, 2016.

Long Island Water Quality

(A.9788-A Sweeney; Passed the Assembly)

Long Island’s water resources are unique in the region, unusual in the nation, and of exceptional importance to the state of New York because of the economic, environmental and public health values

that Long Island’s water resources provide to the millions of people who live and recreate on Long Island. Unfortunately, Long Island’s water resources have continued to be impacted by increasing quantities of nutrients, pathogens, pesticides, volatile organic contaminants and saltwater intrusion, as well as a number of emerging threats such as prescription drugs and sea level rise.

The region has already experienced an increasing number of harmful algal blooms and other documented declines in key biological indicators that demonstrate continued and increasing stress on the region’s groundwater resources and coastal ecosystems. Continued water quality and coastal habitat decline will result in more harmful algal blooms, shellfishing closures, beach closures, and fishing restrictions, along with the further contamination of private and public wells. These impacts will inevitably have significant negative effects on the tourism economy of Long Island and on the quality of life and public health for the millions of residents of the region. This legislation would implement pollution control measures and planning provisions to stem the tide of Long Island’s declining water quality.

Natural Gas Drilling Moratorium

(A.5424-B Sweeney; Passed the Assembly)

High volume horizontal hydraulic fracturing (HVHF) is a method of extracting natural gas from underground shale formations. The HVHF process typically includes the introduction of millions of gallons of fracturing fluid - a mixture of water, proppants and chemicals – under high pressure into a previously drilled wellbore. The potential development of natural gas drilling in low permeability natural gas reservoirs such as the Marcellus and Utica Shale formations has led to robust debate regarding the safety of the process and the protection of the environment.

Several recently-published scientific papers relating to the potential health impacts associated with oil and gas development utilizing HVHF suggest reasons for concern. For example, studies in Colorado and Pennsylvania have indicated an increased risk of birth defects for children born to mothers living in close proximity to natural gas wells. In addition, researchers in Colorado have found increased levels of air and water pollutants that have been shown to pose risks to human health, as well as increased risk of cancer and

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endocrinological disorders, within close proximity to gas wells.

There are currently a number of potentially significant health impact studies underway that may produce information that will allow for better informed decision making regarding horizontal gas drilling and HVHF activities in New York. For example, key studies are being undertaken by Geisinger Health System (in Pennsylvania), the University of Pennsylvania Center for Excellence in Environmental Toxicology, Colorado State University, the University of Colorado at Boulder and Duke University, as well as by the federal Agency for Toxic Substances Disease Registry and the National Institute for Occupational Safety and Health. Most of these studies are not expected to produce meaningful results for several years.

This legislation would suspend, for three years, the issuance of permits for natural gas extraction involving high volume hydraulic fracturing. Delaying the Department of Environmental Conservation's (DEC) ability to issue permits will provide the Legislature with additional time to assess the true public health and environmental impacts of hydraulic fracturing. This bill will also help ensure the Legislature has adequate time to review DEC's Supplemental Generic Environmental Impact Statement (SGEIS) once it is produced. Such a moratorium will allow for a thorough, deliberate and unrushed analysis of all of the factors involved.

Increased Financial Security Requirements for Oil Storage Facilities

(A.9926 Rules [Fahy]; Passed the Assembly)

The transport of crude oil by rail has increased exponentially nationwide over the past five years, from over 9,000 carloads of crude oil in 2008 to over 400,000 in 2013, and the need for storage facilities has expanded accordingly,

Events such as the Lac-Megantic train derailment in Quebec have heightened the awareness of safety issues related to the transportation and storage of crude oil and the negative impacts of mishandling and improper storage of crude oil. This legislation was drafted in response to such accidents and the resulting substantial financial losses to both public and private entities due to injuries, loss of life, damages and clean-up costs, all as a result of explosions and spills from improper handling of volatile and toxic crude oil shipments. This bill would apply to crude oil stored at bulk storage facilities in New York State and require sufficient financial security to meet all responsibilities for cleanup and decontamination costs associated with the release of such oil.



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