

STATE OF NEW YORK

10608

IN ASSEMBLY

May 9, 2018

Introduced by M. of A. ENGLEBRIGHT, D'URSO, PELLEGRINO, THIELE, STERN, JEAN-PIERRE, LAVINE, RAMOS, GLICK, CYMBROWITZ, COLTON, LIFTON, ABINANTI, FAHY, SIMON, SANTABARBARA, ZEBROWSKI, SKOUFIS, JAFFEE, RYAN, O'DONNELL, TITONE, WOERNER, CARROLL, RAIA, MURRAY -- Multi-Sponsored by -- M. of A. BRONSON, DE LA ROSA, GUNTHER, SOLAGES -- (at request of the Governor) -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the transportation corporations law, and the navigation law, in relation to infrastructure and vessels associated with the production of oil or natural gas in federal waters

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

1 Section 1. Paragraphs a and b of subdivision 1 of section 23-1101 of
2 the environmental conservation law, as added by chapter 722 of the laws
3 of 1977, are amended to read as follows:

4 a. The exploration, development and production of gas in state-owned
5 lands, except state park lands, the marine and coastal district as
6 defined in section 13-0103 of this chapter, and the lands under the
7 waters of Lake Ontario or along its shoreline; and

8 b. The exploration, development and production of oil in state-owned
9 lands, except state park lands, the marine and coastal district as
10 defined in section 13-0103 of this chapter, and the lands under the
11 waters of Lake Erie and Lake Ontario or along their shorelines.

12 § 2. The environmental conservation law is amended by adding a new
13 section 23-1105 to read as follows:

14 § 23-1105. Prohibition on state authorizations related to oil and
15 natural gas production in federal waters.

16 1. Neither the department nor the office of general services shall
17 enter into any new lease or other conveyance, or lease modification,
18 that authorizes or enables the installation of pipelines or support
19 facilities or infrastructure directly or indirectly associated with
20 exploration, development or production of oil or natural gas located in
21 the north Atlantic planning area.

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

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1 2. For the purposes of this section, the following terms shall have
2 the following meanings:

3 a. "Development" means those activities taking place following the
4 discovery of commercially producible quantities of oil or natural gas,
5 including, platform construction, pipeline construction, and operation
6 of all onshore support facilities that are performed for the purposes of
7 ultimately producing oil or natural gas.

8 b. "Exploration" means any activity associated with the search of oil
9 or natural gas, including geophysical tests or the drilling of strati-
10 graphic wells.

11 c. "Federal waters" means those waters and submerged lands lying
12 seaward to the state waters of New York that appertain to the United
13 States and are subject to federal jurisdiction and control.

14 d. "North Atlantic planning area" means an area of federal waters in
15 the outer continental shelf totaling ninety-two million three hundred
16 twenty thousand acres adjacent to the coastal waters of Maine, New Hamp-
17 shire, Massachusetts, Rhode Island, Connecticut, New York, and New
18 Jersey.

19 e. "Production" means those activities that take place following the
20 successful completion of a well or field necessary for the removal of
21 oil or natural gas including field operations, transfer of resources to
22 shore, operation, monitoring, maintenance, and workover drilling.

23 3. The department is authorized to establish such rules and regu-
24 lations as it shall deem necessary to implement this section.

25 § 3. Section 80 of the transportation corporations law is amended to
26 read as follows:

27 § 80. [Definition] Definitions. 1. A pipe line corporation is a
28 corporation organized to construct and operate for public use, wholly
29 within or partly without this state, except in the city of New York,
30 lines of pipe for conveying or transporting therein petroleum, gas,
31 liquids or any products or property, or, except in such city, to main-
32 tain and operate for public use for which such purposes lines of pipe
33 already constructed.

34 2. For the purposes of this article, the terms "exploration", "devel-
35 opment", "production", "federal waters", and "north Atlantic planning
36 area" shall be defined as in section 23-1105 of the environmental
37 conservation law.

38 § 4. Section 83 of the transportation corporations law is amended to
39 read as follows:

40 § 83. Condemnation of real property. In case such corporation is
41 unable to agree for the purchase of any real property required for the
42 purposes of its incorporation, and its route in the county in which such
43 real property is situated has been finally located, it shall have the
44 right to acquire title thereto by condemnation, but such corporation
45 shall not locate its route or construct any line of pipe through or
46 under any building, dooryard, lawn, garden or orchard, except by the
47 consent of the owner thereof in writing duly acknowledged, nor through
48 any cemetery or burial ground, nor within one hundred feet of any build-
49 ing except where such line is authorized by public officers to be laid
50 across or upon any public highway, and shall not install pipelines that
51 support facilities or infrastructure associated with exploration, devel-
52 opment, or production of oil or natural gas in federal waters located in
53 the north Atlantic planning area. No such corporation shall lay or
54 construct its line of pipe through or under a street in any city, unless
55 it shall first obtain the consent of a majority of the owners of proper-

1 ty abutting on that portion of the street in which its pipe line is to
2 be laid. Such pipe line shall be laid with reasonable care and prudence.

3 § 5. Section 89 of the transportation corporations law, as amended by
4 chapter 60 of the laws of 1962, is amended to read as follows:

5 § 89. Over state lands. The commissioner of general services shall
6 have power to grant to any pipe line corporation any lands belonging to
7 the people of this state which may be required for the purposes of its
8 incorporation on such terms as may be agreed, or such corporation may
9 acquire title thereto by condemnation, except that no corporation may
10 condemn any lands for the purposes of the installation of pipelines or
11 support facilities or infrastructure associated with exploration, devel-
12 opment, or production of oil or natural gas in the north Atlantic plan-
13 ning area, and further excepting that no pipe line corporation may
14 condemn any canal lands abandoned pursuant to the provisions of article
15 four of the public lands law[, constituting chapter fifty of the laws of
16 nineteen hundred nine, as amended,] until after they have been sold and
17 conveyed in the manner provided by the public lands law. If any lands
18 owned by any county, city or town be required by such corporation for
19 such purposes, the county, city or town officers having charge of such
20 lands may grant them to the corporation upon terms and compensation
21 agreed upon.

22 § 6. Section 70 of the navigation law is amended by adding a new
23 subdivision 3 to read as follows:

24 3. No petroleum-bearing vessel transporting crude oil produced in the
25 north Atlantic planning area may enter or move upon the navigable waters
26 of the state or any tidewaters bordering on or lying within the bounda-
27 ries of Nassau and Suffolk counties. For purposes of this subdivision,
28 "north Atlantic planning area" shall be defined as in section 23-1105 of
29 the environmental conservation law.

30 § 7. Section 174 of the navigation law is amended by adding a new
31 subdivision 12 to read as follows:

32 12. (a) The department is prohibited from issuing or renewing any
33 license for any major facility storing or transferring petroleum
34 produced in the navigable waters of the state or any tidewaters border-
35 ing on and lying within the boundaries of Nassau and Suffolk counties.

36 (b) The department is prohibited from issuing or renewing any license
37 for any major facility intended to transfer or store crude oil from any
38 vessel which holds petroleum transported directly from any pipeline,
39 support facility, or infrastructure associated with the production of
40 crude oil from the north Atlantic planning area. For purposes of this
41 subdivision, "development", "federal waters", "north Atlantic planning
42 area" and "production" shall be defined as in section 23-1105 of the
43 environmental conservation law.

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

53 § 9. This act shall take effect immediately.