



May 10, 2011

ASSEMBLY ENVIRONMENTAL CONSERVATION COMMITTEE

MEMORANDUM IN OPPOSITION

A.2675 (Colton)

AN ACT to amend the environmental conservation law, in relation to review of permit applicants on record of compliance

The New York State Chemical Alliance is a statewide trade association that represents many of the major chemical manufacturers, distributors and users engaged in the business of chemistry in New York State. We **STRONGLY OPPOSE** this bill on behalf of our member companies.

This legislation would require the submission of a detailed “record of compliance” with *all* state, federal and foreign environmental laws and regulations, as well as any criminal convictions relating to fraud, bribery, theft or public administration, with EVERY application for a permit under the Environmental Conservation Law (ECL).

The sponsors’ memorandum indicates that: “Persistent or significant violators of the ECL should not have a permit renewed or be allowed to obtain new permits after committing breaches of the law directly relating to their ability to carry out the authorized activities in a lawful and environmentally responsible manner.” The memo further indicates: “Compliance with the ECL and enforcement against those who violate the ECL can be advanced by ensuring that the permit review procedures incorporate such consideration at the earliest possible date in the review process.”

We agree that persistent and significant violators of the ECL should be subjected to closer scrutiny when they seek environmental permits. In fact, **the Department of Environmental Conservation (DEC) has had a record of compliance policy in place since 1992**, under which DEC requires permit applicants to submit detailed compliance history information, including information on corporate directors, officers and large shareholders. DEC may inquire into compliance histories under environmental laws in other states, but only in instances where such additional information must be elicited to properly determine an applicant's character and fitness prior to issuance of a permit. DEC’s existing record of compliance policy is thus *already* effective in protecting the environment, while avoiding excessive administrative costs and permitting delays on regulated industries.

The proposed bill goes well beyond compliance with New York law and seeks to extend scrutiny to violations of laws or regulations in the other 49 states, the federal level and *all other countries*—**many of whose regulatory schemes are far different than those in New York and who have no jurisdiction in this state.**

In addition, the bill would require information pertaining to any officer, director or large shareholder of a corporation seeking a permit and whether any such officer, director or large shareholder was ever associated with any corporation which violated "...any similar statute, regulation, order, or permit condition of any other government agency, foreign or domestic."

The provisions of the bill FAR exceed the sponsor's stated intent.

This legislation would create a regulatory nightmare and escalate the costs, time, and paperwork that all permit applicants currently comply with. The far-ranging and far-reaching environmental compliance information sought from other states, the federal government, and other world countries would have little direct relevance to the state of New York.

These concerns are especially true as they pertain to large, multi-state, and international corporations with operations in varied jurisdictions across the world.

Please remember that New York State already has a reputation of being one of the most expensive and over-regulated states in which to do business.

A.2675 is exactly the kind of legislative proposal that discourages new businesses from locating here, and further gives existing businesses even more incentive to pull up stakes and relocate to other more business-friendly states where regulatory burdens are not so onerous.

As such, the New York State Chemical Alliance **STRONGLY OPPOSES A.2675 AND URGES YOU TO VOTE NO.**

Respectfully submitted,

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Executive Director

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Legislative Counsel

The New York State Chemical Alliance is a statewide trade association that represents chemical manufacturers, distributors and users engaged in the business of chemistry in New York State. Our industry employs almost 50,000 New Yorkers and contributes over \$3.4B to the State's economy. The federal, State and local taxes our members pay help support government programs and services across the state.