



New York's new anti-dumping laws - by Hansley Mohan and Keith Brown

July 06, 2021 - Long Island

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New York State's new anti-dumping law carries increased penalties for those involved in unlawful waste dumping activities. (2020 NY Senate-Assembly Bill S6758-B, A10803a). With the legislation having been signed by Governor Andrew Cuomo on December 15, 2020, it is important for all involved in the generation and disposal of construction-related waste to be mindful of the changes imposed by the new law.

As of January 1, 2021, anyone who disposes of hazardous substances or “construction and demolition waste” on the property of another can now be charged with endangering public health, safety or the environment. The term “construction and demolition waste” includes “waste resulting from the alteration, construction, destruction, rehabilitation, or repair of any man-made structure, including houses, buildings, industrial or commercial facilities and roadways and restricted or limited use fill and shall not include municipal solid waste.” In addition, the disposal of solid waste on the property of another can now potentially result in a charge of scheming to defraud in the first degree.

In cities with a population of one million or more, generators of construction and demolition waste are now required to provide waste transporters with a waste tracking document for each shipment. These waste transporters are prohibited from accepting waste shipments that do not match what is listed on the tracking document. Transporters are also responsible for providing a signed copy of the waste tracking document to the receiving facility.

It is imperative for business owners involved in the construction industry, specifically in the generation or transportation of construction and demolition waste, to be aware of the changes that have recently been imposed. It is also important for such businesses to take note that the term “property of another” includes property in which the disposer has an ownership interest. Thus, owners and operators should be mindful of how construction-related waste is being disposed of and ensure that they are incorporating the proper waste tracking documents in their regular business activities.

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New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540