



**MEMORANDUM OF SUPPORT
S. 5197b (Serino) A. 6825a (Barrett)**

**LEGISLATION TO SAFEGUARD THE HUDSON RIVER
AND SURROUNDING COMMUNITIES**

Bill Title

An ACT to amend the environmental conservation law and the navigation law, in relation to consideration of environmental conditions when permitting petroleum-bearing vessels to operate on the Hudson River.

Background

The U.S. Coast Guard (USCG) is considering regulations that would establish 10 new sites for 43 commercial vessels to anchor in the Hudson River between Yonkers, Westchester County, and Kingston, Ulster County. In essence, this proposal would create huge parking lots for barges, many of which would contain volatile crude oil awaiting shipment to East Coast refineries or overseas.

Proposed locations for the anchorages threaten designated Significant Coastal Fish and Wildlife Habitats, environmental remediation sites, public use of local waterfronts, and environmental justice communities, all of which play important roles in the Hudson Valley's economy and quality of life. The USCG has received more than 7,300 public comments on this proposal, 98 percent of which were opposed to it.

Under existing statute, the state has the right to establish "tanker-avoidance zones" on the basis of navigational hazards with the intent of avoiding and minimizing petroleum spills. Because jurisdiction over the Hudson River is shared between the state and federal governments, the Legislature has the opportunity to further define the conditions under which the state can establish such zones. To protect its interest in this regard, New York State must assert its jurisdiction before the USCG advances its final rulemaking.

Summary of Proposed Legislation

The proposed legislation amends the Navigation Law by adding a new section that sets minimum conditions for petroleum-bearing vessels on the Hudson River and tanker-avoidance zones. The bill also enables the Commissioner of Environmental Conservation to consult with experts in the public and commercial use of the Hudson River—including the USCG; the NYS Board of Commissioners of Pilots, Department of State, and Office of Parks, Recreation and Historic Preservation; at least one licensed Hudson River pilot and other appropriate state officials—when establishing guidelines for (a) the minimum conditions under which petroleum-bearing vessels may enter or move upon the navigable waters of the Hudson River; (b) the minimum conditions under which petroleum-bearing vessels may enter or leave any major facility, port or harbor along the Hudson River; and (c) the physical and environmental conditions for the establishment of tanker-avoidance zones. The bill maintains the right of vessels to anchor anywhere in the river in cases of great emergency.

Existing statute enables the DEC to consider conditions such as tide and weather when establishing tanker-avoidance zones on NY's navigable waters. A more defined approach is required on the Hudson River due to its unique environmental and community resources, the extent of risks posed by the USCG proposal, the trend toward increased transport of highly volatile Bakken crude oil on it and the enormous public interest in this issue. Specifically, the legislation states that tanker-avoidance zones on the Hudson may be based upon navigational hazards as well as environmental conditions, the existence of designated Significant Coastal Fish and Wildlife Habitats, and proximity to waterfront communities and federal- or

state-identified environmental remediation sites. The DEC also may consider affected communities' Local Waterfront Revitalization Programs or comprehensive plans and environmental justice impacts.

Justification

The Hudson River was once regarded as the “back door” in many of the socially and economically diverse communities along it. However, in large part due to state investment in waterfront revitalization through the Environmental Protection Fund, it has now become the public-facing welcome mat— attracting local investment, recreation and business opportunity. New anchorages would bring noise, light and visual pollution, as well as an increased threat of oil spills that could degrade and set back this riverfront renaissance, a cornerstone of the region’s \$5.5-billion annual tourism economy.

The Hudson River also is home to over 200 species of fish, including the federally endangered Atlantic sturgeon, which is known to live and spawn in many areas proposed for new anchorages. Increased barge and vessel traffic, and especially its potential to scour river-bottom habitat through anchor drag at the long-term berths, could cause permanent harm to these irreplaceable habitats.

Significant advances in public policy relating to waterfront revitalization at the local and state levels, and availability of data and information concerning Significant Coastal Fish and Wildlife Habitat, environmental remediation sites and environmental justice impacts have been made since the Navigation Law was written. In light of threats posed by the USCG proposal, legislation is needed to enable the state to protect and manage the Hudson River and the waterfronts of municipalities along it.

This bill has been amended from its original version to reflect comments received from Hudson River municipalities, the Hudson River Pilots Association, and state and regional environmental groups. Scenic Hudson commends the bill’s sponsors for the attention paid to stakeholders’ concerns.

SCENIC HUDSON STRONGLY SUPPORTS THIS LEGISLATION

For more information, contact Scenic Hudson Public Policy Director Andy Bicking at (845) 473-4440, ext. 232, or abicking@scenichudson.org.

Additional resources concerning the impact of the USCG anchorage proposal can be found at: www.scenichudson.org/anchorages.