

544

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. ALESi -- read twice and ordered printed, and when
printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring
retail businesses to restrict the use of non-compostable plastic bags

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 398-e to read as follows:
3 S 398-E. REQUIRE BUSINESSES TO RESTRICT USE OF NON-COMPOSTABLE PLASTIC
4 BAGS. 1. BY NOVEMBER THIRTIETH, TWO THOUSAND TWELVE, ALL RETAIL BUSI-
5 NESSES SHALL RESTRICT THE USE OF NON-COMPOSTABLE PLASTIC BAGS BY FIFTY
6 PERCENT OF THE CURRENT VOLUME AND BY TWO THOUSAND FOURTEEN, ALL NON-COM-
7 POSTABLE PLASTIC BAGS SHALL BE BANNED FROM USE IN THIS STATE. SUCH
8 RETAIL BUSINESSES SHALL SUBMIT A REPORT DOCUMENTING THE REDUCTION IN
9 USAGE OF NON-COMPOSTABLE PLASTIC BAGS TO THE DEPARTMENT ON OR BEFORE
10 NOVEMBER THIRTIETH, TWO THOUSAND TWELVE.
11 2. ON AND AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, ALL RETAIL BUSI-
12 NESSES SHALL PROVIDE AS CHECKOUT BAGS TO CUSTOMERS: RECYCLABLE PAPER
13 BAGS; AND/OR COMPOSTABLE BAGS; AND/OR REUSABLE BAGS.
14 3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE
15 THE FOLLOWING MEANINGS:
16 A. "CHECKOUT BAG" TO MEAN A BAG PROVIDED BY A STORE AT THE POINT OF
17 SALE FOR CUSTOMERS TO CARRY THEIR GOODS OUT OF THE STORE.
18 B. "STORE" SHALL MEAN ANY "RETAIL MERCANTILE ESTABLISHMENT" AS DEFINED
19 BY SECTION TWO HUNDRED SEVENTEEN OF THIS CHAPTER AND/OR FOOD STORE.
20 C. "COMPOSTABLE PLASTIC BAG" MEANS A PLASTIC BAG THAT MEETS THE
21 CURRENT AMERICAN SOCIETY FOR TESTING AND MATERIALS INTERNATIONAL STAND-
22 ARD (ASTM) D6400 FOR COMPOSTABLE PLASTIC, AS THAT STANDARD MAY BE
23 AMENDED FROM TIME TO TIME.

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

LBD01369-01-9

1 D. "RECYCLABLE PAPER BAG" MEANS A PAPER BAG THAT MEETS ALL THE FOLLOW-
2 ING REQUIREMENTS: CONTAINS NO OLD GROWTH FIBER; IS ONE HUNDRED PERCENT
3 RECYCLABLE OVERALL AND CONTAINS A MINIMUM OF FORTY PERCENT POST-CONSUMER
4 RECYCLED CONTENT; AND DISPLAYS THE WORDS "REUSABLE" AND "RECYCLABLE".

5 E. "REUSABLE BAG" MEANS A BAG WITH HANDLES THAT IS SPECIFICALLY
6 DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE AND IS EITHER MADE OF CLOTH
7 OR OTHER MACHINE WASHABLE FABRIC AND/OR MADE OF DURABLE PLASTIC THAT IS
8 AT LEAST 2.25 MILS THICK.

9 F. "DEPARTMENT" SHALL MEAN THE CONSUMER PROTECTION BOARD.

10 4. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION
11 MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE
12 STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL
13 PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF
14 NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH
15 VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR
16 JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN
17 INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND
18 RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY
19 PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. WHENEVER THE COURT
20 SHALL DETERMINE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT
21 MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR
22 SUCH VIOLATION. IN CONNECTION WITH ANY SUCH APPLICATION, THE ATTORNEY
23 GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE
24 RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRAC-
25 TICE LAW AND RULES.

26 S 2. This act shall take effect immediately.