

STATE OF NEW YORK

4449

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the general business law, in relation to prohibitions on single-use food service items

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

1 Section 1. Article 27 of the environmental conservation law is amended
2 by adding a new title 34 to read as follows:

TITLE 34

SINGLE-USE FOOD SERVICE

ITEMS UPON REQUEST

Section 27-3401. Definitions.

27-3403. Single-use food service items.

27-3405. Enforcement.

§ 27-3401. Definitions.

10 1. "Restaurant" means any diner or other eating or beverage establish-
11 ment, which offers for sale food or beverages to the public, guests,
12 members, or patrons, whether consumption occurs on or off the premises.

13 2. "Single-use food service items" includes single-use plastic cutlery,
14 condiment packs, napkins, or extra eating containers.

15 3. "Third-party food delivery service" shall have the same meaning as
16 section three hundred ninety-one-v of the general business law.

§ 27-3403. Single-use food service items.

18 1. (a) Restaurants and third-party food delivery services shall only
19 provide single-use food service items to customers when explicitly
20 requested by the customer. Third-party food delivery services shall
21 provide options to allow a customer to request single-use food service
22 items upon submission of an order. Such options shall be available for
23 all methods of ordering, including but not limited to phone, internet,

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

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1 or mobile phone application orders. The default selected options shall
2 be that no single-use food service items are requested.

3 (b) No inquiry into the reason for the request shall be made by a
4 restaurant, third-party food delivery service, or any of its employees
5 in carrying out the request authorized by paragraph (a) of this subdivi-
6 sion.

7 2. Restaurants that provide compostable cutlery to customers are
8 required to have access to curbside collection of food waste for
9 composting.

10 3. Single-use food service items provided by a restaurant, pursuant to
11 subdivision one of this section, shall not be individually wrapped in
12 plastic.

13 4. (a) If a restaurant fills an order placed through a third-party
14 food delivery service, such restaurant may rely on the information
15 provided by such third-party food delivery service regarding whether the
16 customer has requested single-use food service items. In a proceeding to
17 collect a civil penalty pursuant to section 27-3405 of this title, it
18 shall be a complete defense for a respondent restaurant to establish
19 that such restaurant relied on the information provided to it by the
20 third-party food delivery service regarding the customer's choice pursu-
21 ant to paragraph (a) of subdivision one of this section.

22 (b) A copy or screenshot of a communication by the third-party food
23 delivery service to the restaurant regarding the customer's choice
24 pursuant to paragraph (a) of subdivision one of this section shall
25 constitute prima facie evidence that the restaurant relied on the infor-
26 mation provided to it by the third-party food delivery service. Each
27 third-party food delivery service shall provide such communication in
28 writing to a restaurant within seventy-two hours of such restaurant's
29 request for such communication.

30 § 27-3405. Enforcement.

31 Every local department of health shall ensure compliance with this
32 title as part of an inspection of a food place pursuant to section thir-
33 teen hundred fifty-one of the public health law, the provisions of the
34 sanitary code and provisions of local ordinances or regulations. Any
35 establishment that violates this title shall be liable for a civil
36 penalty in the amount of two hundred dollars for the first violation,
37 three hundred dollars for the second violation committed on a different
38 day within a period of twelve months, and five hundred dollars for the
39 third and each subsequent violation committed on different days within a
40 period of twelve months, except that the local department of health
41 shall not issue a notice of violation, but shall issue a warning and
42 provide information on compliance with such section, for any violation
43 that occurs within one year of the effective date of this section.

44 § 2. The general business law is amended by adding a new section 399-
45 tt to read as follows:

46 § 399-tt. Single-use food service items. Restaurants and third-party
47 food delivery services shall only provide single-use food service items
48 to customers when explicitly requested by the customer pursuant to title
49 thirty-four of article twenty-seven of the environmental conservation
50 law.

51 § 3. This act shall take effect on the one hundred twentieth day after
52 it shall have become a law.