

1264

2009-2010 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. COLTON, BROOK-KRASNY, MAISEL, JEFFRIES, CLARK, DINOWITZ, SCHIMEL, PERRY, ESPAILLAT, MILLMAN, EDDINGTON -- Multi-Sponsored by -- M. of A. BOYLAND, BRADLEY, BRENNAN, DIAZ, GLICK, GOTTFRIED, JACOBS, KELLNER, KOON, MAYERSOHN, McDONOUGH, REILLY, ROBINSON, SALADINO, WALKER, WEISENBERG -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the general city law, in relation to requiring contractors in certain cities to recycle construction and demolition site waste

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

1     Section 1. Legislative intent. The purpose of this act is to signif-  
2     icantly reduce the amount of waste produced by construction and demoli-  
3     tion activities in cities having populations of one million or more.  
4     There are many opportunities to reduce or recycle materials from  
5     construction and demolition, including metals, cardboard, drywall,  
6     glass, wood and asphalt. This act is consistent with the goals of large  
7     cities' solid waste management plans, complementing other recycling and  
8     recovery programs currently in effect.  
9     S 2. The general city law is amended by adding a new section 23-a to  
10    read as follows:  
11    S 23-A. CONSTRUCTION AND DEMOLITION SITE WASTE RECYCLING; CERTAIN  
12    CITIES. 1. DEFINITIONS. AS USED IN THIS SECTION:  
13    A. "CONTRACTOR" MEANS A GENERAL CONTRACTOR AND SHALL ALSO INCLUDE ANY  
14    SUBCONTRACTOR ENGAGED IN THE DEMOLITION OR WRECKING OF A STRUCTURE FOR  
15    WHICH A PERMIT IS REQUIRED.  
16    B. "CONSTRUCTION AND DEMOLITION DEBRIS" SHALL INCLUDE, BUT NOT BE  
17    LIMITED TO, METALS, CARDBOARD, DRYWALL, GLASS, WOOD, CONCRETE, BRICK AND  
18    ASPHALT, BUT SHALL NOT INCLUDE ANY MATERIAL THAT IS CONTAMINATED BY

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

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1 LEAD, ASBESTOS OR ANY OTHER HAZARDOUS MATERIAL SUCH THAT RECYCLING THER-  
2 EOF WOULD BE ILLEGAL OR UNFEASIBLE.

3 C. "RECYCLER" MEANS A RECYCLING FACILITY, TRANSFER STATION OR OTHER  
4 SOLID WASTE MANAGEMENT FACILITY PERMITTED PURSUANT TO THE ENVIRONMENTAL  
5 CONSERVATION LAW.

6 D. "REUSE" MEANS (I) THE ON-SITE USE OF REPROCESSED CONSTRUCTION AND  
7 DEMOLITION DEBRIS IF THE USE OF SUCH DEBRIS IS AUTHORIZED BY THE CITY  
8 DEPARTMENT OF BUILDINGS; AND (II) THE OFF-SITE REDISTRIBUTION OF A MATE-  
9 RIAL WHICH WOULD OTHERWISE BE DISPOSED OF, FOR USE IN THE SAME OR SIMI-  
10 LAR FORM AS IT WAS PRODUCED.

11 2. APPLICABILITY. A. THE PROVISIONS OF THIS SECTION SHALL APPLY ONLY  
12 IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE.

13 B. CONTRACTORS SHALL RECYCLE OR REUSE CONSTRUCTION AND DEMOLITION  
14 DEBRIS PRODUCED ON SITE AS PART OF CONSTRUCTION OR DEMOLITION ACTIVITIES  
15 BY MEETING THE FOLLOWING REQUIREMENTS:

16 (1) ON A PROJECT THAT IS ISSUED A PERMIT WITH AN APPLICATION DATE  
17 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, THE CONTRACTOR  
18 SHALL CAUSE TO BE RECYCLED OR REUSED AT LEAST TWENTY-FIVE PERCENT OF THE  
19 CONSTRUCTION AND DEMOLITION DEBRIS, AS MEASURED BY WEIGHT, PRODUCED ON  
20 SITE.

21 (2) ON A PROJECT THAT IS ISSUED A PERMIT WITH AN APPLICATION DATE A  
22 YEAR OR MORE AFTER THE EFFECTIVE DATE OF THIS SECTION, THE CONTRACTOR  
23 SHALL CAUSE TO BE RECYCLED OR REUSED AT LEAST FIFTY PERCENT OF THE  
24 CONSTRUCTION AND DEMOLITION DEBRIS, AS MEASURED BY WEIGHT, PRODUCED ON  
25 SITE.

26 C. THE FOLLOWING PROJECTS SHALL BE SUBJECT TO THE PROVISIONS OF THIS  
27 SECTION:

28 (1) CONSTRUCTION OF NEW RESIDENTIAL BUILDINGS WITH FOUR OR MORE DWELL-  
29 ING UNITS;

30 (2) CONSTRUCTION OF NEW NON-RESIDENTIAL BUILDINGS, OTHER THAN PROJECTS  
31 FOR WHICH THE TOTAL AREA IS FOUR THOUSAND SQUARE FEET OR LESS;

32 (3) ANY REHABILITATION OF NON-RESIDENTIAL BUILDINGS OF MORE THAN FOUR  
33 THOUSAND SQUARE FEET THAT WILL REQUIRE A CERTIFICATE OF OCCUPANCY TO BE  
34 ISSUED FROM THE CITY;

35 (4) DEMOLITION OF RESIDENTIAL BUILDINGS WITH FOUR OR MORE DWELLING  
36 UNITS THAT INCLUDES THE DEMOLITION OF AT LEAST ONE OUTSIDE WALL; AND

37 (5) DEMOLITION OF NON-RESIDENTIAL BUILDINGS, OTHER THAN PROJECTS FOR  
38 WHICH THE TOTAL AREA IS FOUR THOUSAND SQUARE FEET OR LESS.

39 D. A PROJECT SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION IF  
40 ONLY A PLUMBING PERMIT OR ONLY AN ELECTRICAL PERMIT IS REQUIRED FOR SUCH  
41 PROJECT.

42 3. CONTRACTOR RESPONSIBILITIES. A. WITHIN THIRTY DAYS OF COMPLETION OF  
43 A PROJECT, THE CONTRACTOR SHALL SUBMIT DOCUMENTATION TO REPORT COMPLI-  
44 ANCE WITH THIS SECTION AND THE REGULATIONS PROMULGATED PURSUANT TO THIS  
45 SECTION. IF THE CONTRACTOR IS UNABLE TO MEET THE RECYCLING AND REUSE  
46 REQUIREMENTS OF THIS SECTION, THE CONTRACTOR MAY APPLY FOR A WAIVER FROM  
47 THE CITY. SUCH DOCUMENTATION SHALL BE IN A FORM AND MANNER DETERMINED BY  
48 THE CITY DEPARTMENT OF BUILDINGS.

49 B. IF A CONTRACTOR IS UNABLE OR REFUSES TO SUBMIT THE REQUIRED  
50 DOCUMENTATION, A PROPERTY OWNER MAY SUBMIT A WAIVER APPLICATION  
51 SUPPORTED BY AN AFFIDAVIT THAT THE CONTRACTOR IS UNAVAILABLE OR REFUSES  
52 TO PROVIDE THE REQUIRED DOCUMENTATION.

53 C. A CONTRACTOR SHALL COMPLY WITH ALL REASONABLE REQUESTS FOR INFORMA-  
54 TION AND DOCUMENTATION BY THE CITY DEPARTMENT OF BUILDINGS PURSUANT TO  
55 AN AUDIT TO MONITOR COMPLIANCE WITH THIS SECTION. DOCUMENTATION  
56 REQUIRED BY THIS SECTION SHALL BE MAINTAINED FOR AT LEAST THREE YEARS.

1 4. CITY RESPONSIBILITIES. A. THE CITY SHALL ESTABLISH A PROCEDURE FOR  
2 CONTRACTORS TO APPLY FOR WAIVERS OF THE REQUIREMENTS OF THIS SECTION.  
3 SUCH REQUIREMENTS SHALL INCLUDE DOCUMENTATION OF THE AMOUNT OF MATERIAL  
4 THE CONTRACTOR IS ACTUALLY ABLE TO RECYCLE OR REUSE AND THE REASON OR  
5 REASONS FOR WHICH THE CONTRACTOR CANNOT MEET THE RECYCLING AND REUSE  
6 REQUIREMENTS IN THIS SECTION.

7 B. THE CITY SHALL NOT ISSUE ANY NEW BUILDING OR DEMOLITION PERMIT TO A  
8 CONTRACTOR WHO HAS FAILED TO TIMELY SUBMIT THE REQUIRED DOCUMENTATION  
9 WITH RESPECT TO ANY COMPLETED PROJECT, UNTIL SUCH CONTRACTOR EITHER  
10 SUBMITS (1) THE REQUIRED DOCUMENTS INCLUDING, WHERE APPLICABLE, PROOF  
11 THAT ANY FINE DUE PURSUANT TO SUBDIVISION FIVE OF THIS SECTION HAS BEEN  
12 PAID IN FULL, OR (2) PROOF OF A WAIVER ISSUED BY THE CITY AND, THE  
13 PAYMENT OF ANY FINE DUE.

14 C. THE CITY MAY WITHHOLD A CERTIFICATE OF OCCUPANCY FOR A PROJECT  
15 UNTIL THE CONTRACTOR SUBMITS EITHER THE REQUIRED DOCUMENTATION INCLUD-  
16 ING, WHERE APPLICABLE, PROOF THAT ANY FINE DUE PURSUANT TO SUBDIVISION  
17 FIVE OF THIS SECTION HAS BEEN PAID IN FULL; OR PROOF OF A WAIVER ISSUED  
18 BY THE CITY AND, THE PAYMENT OF ANY FINE DUE.

19 D. THE CITY IS AUTHORIZED TO CONDUCT AUDITS OF CONTRACTORS TO DETER-  
20 MINE AND VALIDATE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE  
21 CITY MAY REQUEST INFORMATION AND DOCUMENTATION RELEVANT TO SUCH AN AUDIT  
22 FROM ANY CONTRACTOR.

23 E. THE CITY IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS  
24 NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. SUCH RULES AND  
25 REGULATIONS SHALL CONTAIN PROVISIONS FOR SEEKING AND OBTAINING A WAIVER  
26 FROM THE PROVISIONS OF THIS SECTION.

27 5. FINES AND PENALTIES. A. CONTRACTORS WHO FAIL TO PROVIDE THE  
28 DOCUMENTATION REQUIRED BY THIS SECTION OR WHO HAVE NOT RECEIVED A WAIVER  
29 FROM THE CITY SHALL BE SUBJECT TO A FINE OF FIVE HUNDRED DOLLARS FOR  
30 EACH DAY THAT THEY FAIL TO PROVIDE THE INFORMATION OR APPLY FOR A WAIV-  
31 ER.

32 B. CONTRACTORS WHO FAIL TO MEET THE RECYCLING OR REUSE REQUIREMENTS OF  
33 THIS SECTION AND HAVE APPLIED FOR AND NOT RECEIVED A WAIVER FROM THE  
34 CITY SHALL BE ASSESSED A FINE AS FOLLOWS:

35 (1) FOR PROJECTS INVOLVING TEN THOUSAND SQUARE FEET OR MORE OF RENO-  
36 VATED, NEWLY CONSTRUCTED OR DEMOLISHED SPACE, FIVE HUNDRED DOLLARS FOR  
37 EACH PERCENTAGE POINT OF DIFFERENCE BETWEEN THE AMOUNT REQUIRED BY THIS  
38 SECTION TO BE RECYCLED OR REUSED AND THE AMOUNT ACTUALLY RECYCLED OR  
39 REUSED; AND

40 (2) FOR PROJECTS INVOLVING LESS THAN TEN THOUSAND SQUARE FEET OF RENO-  
41 VATED, NEWLY CONSTRUCTED OR DEMOLISHED SPACE, TWO HUNDRED FIFTY DOLLARS  
42 FOR EACH PERCENTAGE POINT OF DIFFERENCE BETWEEN THE AMOUNT REQUIRED BY  
43 THIS SECTION TO BE RECYCLED OR REUSED AND THE AMOUNT ACTUALLY RECYCLED  
44 OR REUSED.

45 C. THE CITY MAY MODIFY THE PENALTIES REQUIRED BY PARAGRAPH A OR B OF  
46 THIS SUBDIVISION FOR FAILURE TO PROVIDE DOCUMENTATION OR MEET THE RECY-  
47 CLING AND REUSE REQUIREMENTS, IF IT FINDS THAT THERE ARE EXTENUATING  
48 CIRCUMSTANCES FOR SUCH FAILURES.

49 S 3. This act shall take effect on the first of January next succeed-  
50 ing the date on which it shall have become a law.