

4453

2009-2010 Regular Sessions

I N S E N A T E

April 23, 2009

Introduced by Sen. SCHNEIDERMAN -- read twice and ordered printed, and
when printed to be committed to the Committee on Environmental Conser-
vation

AN ACT to amend the environmental conservation law and the general
municipal law, in relation to disposal and source separation of
recyclable materials

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 27-0709 to read as follows:
3 S 27-0709. DISPOSAL OF SOURCE SEPARATED RECYCLABLES.
4 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:
5 A. "INCINERATOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
6 72-0401 OF THIS CHAPTER.
7 B. "LANDFILL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
8 72-0401 OF THIS CHAPTER.
9 C. "LOCAL RECYCLING LAW" MEANS A LOCAL LAW OR ORDINANCE ADOPTED PURSU-
10 ANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL
11 MUNICIPAL LAW.
12 D. "RECYCLABLE MATERIALS" MEANS RECYCLABLE COMPONENTS OF SOLID WASTE
13 WHICH HAVE BEEN SEPARATED FROM OTHER SOLID WASTE PURSUANT TO A LOCAL
14 RECYCLING LAW.
15 E. "TRANSFER STATION" MEANS A SOLID WASTE MANAGEMENT FACILITY, WHETHER
16 OWNED OR OPERATED BY A PRIVATE OR PUBLIC ENTITY, OTHER THAN A RECYCLA-
17 BLES HANDLING AND RECOVERY FACILITY, USED OIL FACILITY, OR A
18 CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING FACILITY, WHERE SOLID
19 WASTE IS RECEIVED FOR THE PURPOSE OF SUBSEQUENT TRANSFER TO ANOTHER
20 SOLID WASTE MANAGEMENT FACILITY FOR PROCESSING, TREATING, DISPOSAL,
21 RECOVERY, OR FURTHER TRANSFER.
22 F. "TRANSPORTER" MEANS ANY PERSON OR ENTITY ENGAGED IN THE OFF-SITE
23 TRANSPORTATION OF SOLID WASTE BY AIR, RAIL, HIGHWAY, OR WATER.

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

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1 2. A. NO TRANSPORTER SHALL COMMINGLE RECYCLABLE MATERIALS OR YARD
2 WASTE WITH OTHER SOLID WASTE, OR CAUSE RECYCLABLE MATERIALS OR YARD
3 WASTE TO BE COMMINGLED WITH OTHER SOLID WASTE.

4 B. NO TRANSPORTER SHALL DELIVER RECYCLABLE MATERIALS OR YARD WASTE TO,
5 OR CAUSE RECYCLABLE MATERIALS OR YARD WASTE TO BE DELIVERED TO: (I) AN
6 INCINERATOR; (II) A LANDFILL; (III) A TRANSFER STATION, UNLESS SUCH
7 RECYCLABLE MATERIALS OR YARD WASTE ARE KEPT SEPARATED FROM OTHER SOLID
8 WASTE; OR (IV) ANYONE WHO THE TRANSPORTER KNOWS OR SHOULD KNOW WILL
9 EITHER COMMINGLE SUCH RECYCLABLE MATERIALS OR YARD WASTE WITH OTHER
10 SOLID WASTE OR DELIVER SUCH RECYCLABLE MATERIALS OR YARD WASTE TO AN
11 INCINERATOR OR A LANDFILL.

12 C. NO OPERATOR OF AN INCINERATOR OR A LANDFILL SHALL ACCEPT RECYCLABLE
13 MATERIALS OR YARD WASTE FOR DISPOSAL.

14 D. NO OPERATOR OF A TRANSFER STATION SHALL COMMINGLE RECYCLABLE MATE-
15 RIALS OR YARD WASTE WITH OTHER SOLID WASTE, OR TRANSFER RECYCLABLE MATE-
16 RIALS OR YARD WASTE OR CAUSE RECYCLABLE MATERIALS OR YARD WASTE TO BE
17 TRANSFERRED TO AN INCINERATOR OR LANDFILL FOR DISPOSAL.

18 S 2. Paragraphs a, b and c of subdivision 2 of section 120-aa of the
19 general municipal law, as amended by chapter 70 of the laws of 1988, are
20 amended to read as follows:

21 a. Pursuant to the authority of this section, no later than September
22 first, [nineteen hundred ninety-two] TWO THOUSAND NINE, a municipality
23 shall [adopt] AMEND such a local law or ordinance to require that
24 RECYCLABLE MATERIALS AND YARD WASTE BE SEPARATED FROM OTHER solid waste
25 which has been left for collection or which is delivered by the genera-
26 tor of such waste to a solid waste management facility[, shall be sepa-
27 rated into].

28 B. FOR PURPOSES OF THIS SECTION, "RECYCLABLE MATERIALS" MEANS AND
29 INCLUDES: (I) NEWSPRINT, GLASS CONTAINERS, METAL CONTAINERS, POLYETHY-
30 LENE TERAPHTHALATE (#1 CODE) PLASTICS, AND HIGH DENSITY POLYETHYLENE (#2
31 CODE) PLASTICS; (II) CORRUGATED CARDBOARD CONTAINERS, PAPER BOARD AND
32 MIXED PAPER; AND (III) ANY OTHER recyclable, reuseable or other [compo-
33 nents] MATERIALS for which THE MUNICIPALITY DETERMINES THAT economic
34 markets for alternate uses exist, OR WHICH THE MUNICIPALITY DETERMINES
35 SHOULD BE SEPARATED FROM OTHER SOLID WASTE FOR RECYCLING. For purposes
36 of this section, the term "economic markets" refers to instances in
37 which the full avoided costs of proper collection, transportation and
38 disposal of source separated materials are equal to or greater than the
39 cost of collection, transportation and sale of said material less the
40 amount received from the sale of said material.

41 [b. For purposes of this section, "components" shall include paper,
42 glass, metals, plastics, garden and yard waste, and may include other
43 elements of solid waste.]

44 c. FOR PURPOSES OF THIS SECTION, "YARD WASTE" SHALL MEAN LEAVES, GRASS
45 CLIPPINGS, GARDEN DEBRIS INCLUDING TREE TRUNKS AND SMALL OR CHIPPED
46 BRANCHES; BUT EXCLUDING MINOR AMOUNTS.

47 D. Prior to [exercising the authority of this section to enact such a
48 local law or ordinance] MAKING A DETERMINATION UNDER SUBPARAGRAPH (III)
49 OF PARAGRAPH B OF THIS SUBDIVISION AFTER THE EFFECTIVE DATE OF SUCH
50 SUBPARAGRAPH, the municipality shall hold a public hearing relating to
51 its proposed provisions and shall give due consideration to existing
52 source separation, recycling and [other resource recovery] SOLID WASTE
53 DISPOSAL activities in the area, to the adequacy of markets for sepa-
54 rated materials, and to any additional effort and expense to be incurred
55 by residents in meeting the proposed separation requirements. The
56 authority provided in this section shall be in addition to and without

1 limitation upon the authority vested in municipalities under any other
2 statute.

3 S 3. Severability. If any clause, sentence, paragraph, section or
4 part of this act shall be adjudged by any court of competent jurisdic-
5 tion to be invalid, such judgment shall not affect, impair or invalidate
6 the remainder thereof, but shall be confined in its operation to the
7 clause, sentence, paragraph, section or part thereof directly involved
8 in the controversy in which such judgment shall have been rendered.

9 S 4. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law.