

1319

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. COLTON, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. BOYLAND, CLARK, DINOWITZ, GALEF, MAGNARELLI, McENENY, WEINSTEIN -- read once and referred to the Committee on Environmental Conservation

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 ASSEMBLY, 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.

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

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1 F. "TRANSPORTER" MEANS ANY PERSON OR ENTITY ENGAGED IN THE OFF-SITE
2 TRANSPORTATION OF SOLID WASTE BY AIR, RAIL, HIGHWAY, OR WATER.

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

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

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

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

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

22 a. Pursuant to the authority of this section, no later than September
23 first, nineteen hundred ninety-two, a municipality shall adopt such a
24 local law or ordinance to require that RECYCLABLE MATERIALS BE SEPARATED
25 FROM OTHER solid waste which has been left for collection or which is
26 delivered by the generator of such waste to a solid waste management
27 facility[, shall be separated 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 GENERATED BY NON-RESIDENTIAL ENTITIES OR BY RESIDENTIAL
33 BUILDINGS CONSISTING OF MORE THAN FOUR DWELLINGS; AND (III) ANY OTHER
34 recyclable, reuseable or other [components] MATERIALS for which THE
35 MUNICIPALITY DETERMINES THAT economic markets for alternate uses exist,
36 OR WHICH THE MUNICIPALITY DETERMINES SHOULD BE SEPARATED FROM OTHER
37 SOLID WASTE FOR RECYCLING. For purposes of this section, the term
38 "economic markets" refers to instances in which the full avoided costs
39 of proper collection, transportation and disposal of source separated
40 materials are equal to or greater than the cost of collection, transpor-
41 tation and sale of said material less the amount received from the sale
42 of said material.

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

46 c. Prior to [exercising the authority of this section to enact such a
47 local law or ordinance] MAKING A DETERMINATION UNDER SUBPARAGRAPH (III)
48 OF PARAGRAPH B OF THIS SUBDIVISION AFTER THE EFFECTIVE DATE OF SUCH
49 SUBPARAGRAPH, the municipality shall hold a public hearing relating to
50 its proposed provisions and shall give due consideration to existing
51 source separation, recycling and [other resource recovery] SOLID WASTE
52 DISPOSAL activities in the area, to the adequacy of markets for sepa-
53 rated materials, and to any additional effort and expense to be incurred
54 by residents in meeting the proposed separation requirements. The
55 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.