S T A T E O F N E W Y O R K

3273

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. ENGLEBRIGHT, COLTON -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to restrictions on the disposal of yard waste

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

Section 1. The environmental conservation law is amended by adding a new section 27-0721 to read as follows:

S 27-0721. RESTRICTIONS ON THE DISPOSAL OF YARD WASTE.

1. ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND ELEVEN, NO PERSON SHALL KNOWINGLY DELIVER YARD WASTE TO A LANDFILL FOR PURPOSES OF LAND BURIAL, OR TO AN INCINERATOR FOR PURPOSES OF COMBUSTION, OR DISPOSE OF YARD WASTE AT A LANDFILL OR INCINERATOR. FOR PURPOSES OF THIS SECTION, "YARD WASTE" SHALL MEAN LEAVES, GRASS CLIPPINGS, GARDEN DEBRIS AND WOOD DEBRIS INCLUDING TREE TRUNKS AND SMALL OR CHIPPED BRANCHES. UPON APPLICATION, THE COMMISSIONER MAY, WHEN DEMONSTRATED TO HIS OR HER SATISFACTION, GRANT A VARIANCE EXTENDING UNTIL SEPTEMBER FIRST, TWO THOUSAND THIRTEEN. GRANTING OF SUCH VARIANCE SHALL ONLY BE MADE IF BASED UPON A DEMONSTRATION BY THE APPLICANT THAT A GOOD FAITH EFFORT IS BEING MADE TO MEET THE REQUIREMENTS OF THIS SECTION AND UPON A SHOWING OF HARDSHIP DUE TO REASONS BEYOND THE CONTROL OF THE APPLICANT.

2. EXCLUDED FROM THE PROVISIONS OF THIS SECTION ARE MINOR AMOUNTS OF MATERIALS AS IDENTIFIED IN SUBDIVISION ONE OF THIS SECTION, AS MAY BE PRESENT IN THE SOLID WASTE COLLECTED.

3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN FURTHERANCE OF THE PURPOSES OF THIS SECTION, ANY LOCAL LAW ADOPTED BY A MUNICIPALITY PURSUANT TO SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL MUNICIPAL LAW SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

4. THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE IMPLEMENTATION OF THIS SECTION AND SHALL CONSIDER THE PURPOSES OF THIS SECTION WITH REGARD TO ANY APPROVAL OR PERMIT REQUIRED FOR THE COLLECTION, TRANSPORTATION OR

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

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DISPOSAL OF SOLID WASTE. SUCH REGULATIONS SHALL FURTHER PROVIDE FOR THE CLEAR DELINEATION OF RESPECTIVE RESPONSIBILITIES OF OWNERS OR OPERATORS OF SOLID WASTE FACILITIES, TRANSPORTERS AND PLANNING UNITS UNDER THIS SECTION.

5. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF A MUNICIPALITY TO ENACT LOCAL LAWS OR REGULATIONS, NOT INCONSISTENT WITH THE RULES AND REGULATIONS OF THE DEPARTMENT, IMPOSING MORE STRINGENT RESTRICTIONS ON THE DISPOSAL OF REUSABLE, RECYCLABLE OR COMPOSTABLE MATERIALS.

S 2. Section 71-2703 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE CONTRARY, THE SANCTIONS SET FORTH IN SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL NOT APPLY TO A VIOLATION OF SECTION 27-0721 OF THIS CHAPTER COMMITTED BY AN INDIVIDUAL RESIDENTIAL GENERATOR OF YARD WASTE. AN INDIVIDUAL RESIDENTIAL GENERATOR OF YARD WASTE WHO KNOWINGLY VIOLATES SUCH SECTION 27-0721, OR ANY REGULATION PROMULGATED PURSUANT THERETO, SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH SUCH VIOLATION, TO BE ASSESSED BY THE COMMISSIONER AFTER AN OPPORTUNITY TO BE HEARD PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS TITLE, AND, IN ADDITION THERETO, SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION.

S 3. This act shall take effect immediately.