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

348

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

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

AN ACT to amend the environmental conservation law, in relation to creating a small business and household pollution prevention program

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

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 29 to read as follows:

TITLE 29

SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM

SECTION 27-2901. LEGISLATIVE FINDINGS.
27-2903. DEFINITIONS.
27-2905. SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM.
27-2907. SMALL BUSINESS HAZARDOUS SUBSTANCE COLLECTION PROGRAM.
27-2909. HOUSEHOLD HAZARDOUS SUBSTANCE COLLECTION PROGRAM.
27-2911. REGULATIONS.
27-2913. GRANTS FOR SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAMS.
27-2915. GRANTS FOR COLLECTION EVENTS.

S 27-2901. LEGISLATIVE FINDINGS.

THE LEGISLATURE FINDS AND DECLARES AS FOLLOWS:

1. IT IS THE GOAL OF THE STATE TO ACHIEVE A GOAL OF ZERO DISCHARGE OF POLLUTANTS INTO OUR AIR, WATER, AND LAND. THIS GOAL WILL NOT BE ACHIEVED WITH TRADITIONAL METHODS OF REGULATING POLLUTANTS AFTER THEY ARE GENERATED THROUGH VOLUNTARY POLLUTION PREVENTION MEASURES, RECOGNIZING THIS GOAL MAY NOT BE COMPLETELY ACHIEVABLE BY SOME.

2. EDUCATION, DEMONSTRATION PROJECT, AND TECHNICAL ASSISTANCE PROGRAMS ON POLLUTION PREVENTION ARE ESSENTIAL TO HELP SMALL AND MEDIUM SIZED

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

BUSINESSES ACHIEVE THE ZERO DISCHARGE GOAL AND HELP THE PUBLIC CONSERVE RESOURCES, REDUCE THE VOLUME AND TOXICITY OF WASTES, AND RECYCLE OR RECLAIM WASTES.

3. HAZARDOUS SUBSTANCES AND OTHER WASTES GENERATED BY SMALL BUSINESSES AND HOUSEHOLDS MAY PRESENT DANGERS TO THE PUBLIC HEALTH AND THE ENVIRONMENT IF MANAGED IMPROPERLY. THESE DANGERS CAN BE GREATLY REDUCED BY POLLUTION PREVENTION TECHNIQUES, INCLUDING SOURCE REDUCTION, ENERGY CONSERVATION, WASTE MINIMIZATION, REDUCTION IN THE TOXICITY OF WASTES GENERATED, BENEFICIAL USE, REUSE, RECYCLING, AND RECLAMATION.

4. TRADITIONAL "END-OF-PIPE" POLLUTION CONTROL TECHNIQUES OFTEN RESULT IN THE TRANSFER OF POLLUTANTS FROM ONE ENVIRONMENTAL MEDIUM TO ANOTHER. POLLUTION PREVENTION AND SOURCE REDUCTION TECHNIQUES REDUCE POLLUTION FORMING IN THE FIRST PLACE AND LESSEN TRANSFERS AMONG AIR, WATER, AND LAND.

S 27-2903. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS TITLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

1. "COLLECTION CONTRACTOR." A PERSON REGISTERED AND APPROVED BY THE DEPARTMENT AND RETAINED BY A SPONSOR TO OPERATE A WASTE COLLECTION EVENT FOR ELIGIBLE ENTITIES UNDER THIS TITLE.

2. "COLLECTION EVENT." AN EVENT OR PROGRAM THAT INCLUDES COLLECTION AND MANAGEMENT OF SOLID WASTES FROM ELIGIBLE ENTITIES UNDER THIS TITLE. THE TERM INCLUDES ONE-DAY WASTE COLLECTION PROGRAMS AND WASTE COLLECTION PROGRAMS THAT ARE DESIGNED FOR CONTINUOUS OR ONGOING OPERATION THROUGHOUT A DESIGNATED PERIOD OF TIME.

3. "ELIGIBLE ENTITY." A HOUSEHOLD, A POLITICAL SUBDIVISION OF THE STATE, OR A SMALL BUSINESS.

4. "HAZARDOUS SUBSTANCE." HAZARDOUS WASTE AS DEFINED IN SUBDIVISION ONE OF SECTION 27-1301 OF THIS ARTICLE.

5. "MUNICIPALITY." A COUNTY, CITY, TOWN, OR VILLAGE.

6. "POLLUTION PREVENTION ASSESSMENT." AN EVALUATION DESIGNED TO IDENTIFY OPPORTUNITIES TO ELIMINATE AND REDUCE POLLUTION OR REUSE WASTE MATERIALS.

7. "PROGRAM." THE SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM CREATED BY SECTION 27-2905 OF THIS TITLE.

8. "SMALL BUSINESS." A BUSINESS ENTITY THAT IS SO DEFINED IN SECTION ONE HUNDRED THIRTY-ONE OF THE ECONOMIC DEVELOPMENT LAW.

9. "SPONSOR." A MUNICIPALITY, CORPORATION, PUBLIC UTILITY, TRADE ASSOCIATION, NOT-FOR-PROFIT CORPORATION, NOT-FOR-PROFIT ASSOCIATION, OR OTHER PERSON SPONSORING A COLLECTION EVENT OR SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM FOR ELIGIBLE ENTITIES UNDER THIS TITLE.

10. "UNIVERSAL WASTE." HAS THE MEANING PROVIDED FOR IN PARAGRAPH F OF SUBDIVISION ONE OF SECTION 27-0923 OF THIS ARTICLE.

S 27-2905. SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM.

1. ESTABLISHMENT. THE DEPARTMENT SHALL ESTABLISH THE SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAM FOR EDUCATING AND PROVIDING ASSISTANCE TO SMALL BUSINESSES AND THE GENERAL PUBLIC IN POLLUTION PREVENTION AND THE PROPER MANAGEMENT OF SOLID WASTES AND HAZARDOUS SUBSTANCES GENERATED IN HOUSEHOLDS AND SMALL BUSINESSES.

2. EDUCATIONAL MATERIALS. THE DEPARTMENT SHALL DEVELOP EDUCATIONAL MATERIALS FOR THE OPERATION OF THE PROGRAM IN CONSULTATION WITH SMALL BUSINESSES, TRADE ASSOCIATIONS, EDUCATIONAL INSTITUTIONS, AND APPROPRIATE ADVISORY COMMITTEES.

3. PROGRAM CONCERNS. THE PROGRAM SHALL INCLUDE EDUCATION, TRAINING AND TECHNICAL ASSISTANCE CONCERNING:

A. SOURCE REDUCTION AND METHODS FOR CONDUCTING POLLUTION PREVENTION ASSESSMENTS TO ELIMINATE OR REDUCE THE VOLUME OR TOXICITY OF SOLID WASTES GENERATED.

B. NATURAL RESOURCE AND ENERGY CONSERVATION.

C. OPPORTUNITIES TO REDUCE ENVIRONMENTAL CONTAMINATION FROM AIR EMISSIONS AND WATER EFFLUENTS.

D. OPPORTUNITIES TO BENEFICIALLY USE, REUSE, RECYCLE, OR RECLAIM SOLID WASTE MATERIALS.

E. OPPORTUNITIES TO COLLECT AND MANAGE UNIVERSAL WASTES RECEIVED FROM SMALL BUSINESS AND THE GENERAL PUBLIC.

F. OPPORTUNITIES TO DEVELOP AND APPLY ENVIRONMENTAL IMPROVEMENT TECHNOLOGIES AND METHODS.

G. INFORMATION ON COMPLIANCE WITH APPLICABLE ENVIRONMENTAL PROTECTION LAWS, INCLUDING COMPLIANCE WITH SOLID WASTE MANAGEMENT REQUIREMENTS.

4. TECHNICAL ASSISTANCE. THE DEPARTMENT SHALL PROVIDE EDUCATIONAL MATERIALS AND TECHNICAL ASSISTANCE TO SPONSORS AND COLLECTION CONTRACTORS FOR THE OPERATION OF THE PROGRAMS AND COLLECTION EVENTS TO ENCOURAGE AND PROMOTE ALL ASPECTS OF POLLUTION PREVENTION.

5. TECHNICAL ASSISTANCE FOR IMPLEMENTATION. THE DEPARTMENT SHALL PROVIDE TECHNICAL ASSISTANCE TO SPONSORS AND COLLECTION CONTRACTORS TO IMPLEMENT THE PURPOSES OF THIS TITLE AND TO FACILITATE THE PROGRAM AND THE PROPER COLLECTION, TREATMENT, RECYCLING, OR DISPOSAL OF HAZARDOUS SUBSTANCES GENERATED BY ELIGIBLE ENTITIES.

6. SITE VISIT. AT THE REQUEST OF A SMALL BUSINESS, THE DEPARTMENT MAY OFFER A POLLUTION PREVENTION ASSESSMENT SITE VISIT AT THE PLACE OF BUSINESS AND MAY PROVIDE ASSISTANCE ON COMPLIANCE WITH THE ENVIRONMENTAL PROTECTION LAWS ADMINISTERED BY THE DEPARTMENT AND GUIDANCE ISSUED BY THE DEPARTMENT ON POLLUTION PREVENTION.

7. PRIVATE CONTRACT AUTHORIZATION. THE DEPARTMENT MAY COOPERATE WITH AND MAY CONTRACT FOR SERVICES FROM PRIVATE AND OTHER ENTITIES AND IS AUTHORIZED TO MAKE GRANTS TO PRIVATE, GOVERNMENTAL, AND OTHER ENTITIES TO IMPLEMENT THIS TITLE.

S 27-2907. SMALL BUSINESS HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

1. GENERAL RULE. A SPONSOR MAY ESTABLISH A COLLECTION PROGRAM FOR THE COLLECTION AND MANAGEMENT OF SOLID WASTES GENERATED BY ELIGIBLE ENTITIES THROUGH COLLECTION EVENTS. EACH SPONSOR MUST REGISTER THE PROGRAM WITH THE DEPARTMENT AND RECEIVE APPROVAL OF THE DEPARTMENT PRIOR TO COMMENCING OPERATION.

2. SITES. COLLECTION EVENTS MAY BE CONDUCTED ON SITES SELECTED BY THE SPONSOR. SUCH SITES MAY BE ON PUBLIC OR PRIVATE PROPERTY, INCLUDING, BUT NOT LIMITED TO, PROPERTY OWNED, LEASED OR CONTROLLED BY THE STATE, ITS AGENCIES, OR ITS POLITICAL SUBDIVISIONS. WRITTEN PERMISSION TO USE THE SITE FOR THE CONDUCT OF THE EVENT SHALL BE OBTAINED FROM THE OWNER PRIOR TO THE EVENT.

3. LIABILITY. AN OWNER WHO, WITHOUT CHARGE, PERMITS ANY PROPERTY TO BE USED AS A SITE FOR A COLLECTION EVENT SHALL NOT BE LIABLE FOR ANY DAMAGE, HARM, OR INJURY TO ANY PERSON OR PROPERTY WHICH RESULTS FROM THE USE OF THE PROPERTY AS A SITE FOR A COLLECTION EVENT. A SPONSOR OF A COLLECTION EVENT SHALL NOT BE LIABLE FOR ANY DAMAGE, HARM, OR INJURY TO ANY PERSON OR PROPERTY WHICH RESULTS FROM THE OPERATION OF A COLLECTION EVENT.

4. LIMITATION OF TYPE. THE SPONSOR MAY LIMIT THE TYPES OF SOLID WASTES OR MATERIALS TO BE COLLECTED AT A COLLECTION EVENT IN ACCORDANCE WITH GUIDANCE ISSUED BY THE DEPARTMENT AND FURTHER LIMITATIONS DETERMINED AT

THE DISCRETION OF THE SPONSOR. A SMALL BUSINESS ENTITY MAY BRING UP TO BUT NOT MORE THAN ONE THOUSAND KILOGRAMS OF HAZARDOUS SUBSTANCE TO A COLLECTION EVENT OR COLLECTION EVENTS IN ANY CALENDAR MONTH FOR WASTE RECYCLING, TREATMENT, OR DISPOSAL ARRANGED BY THE COLLECTION CONTRACTOR.

5. FEES. THE SPONSOR MAY ESTABLISH AND ASSESS REASONABLE FEES FROM ELIGIBLE ENTITIES FOR SERVICES PROVIDED IN CONNECTION WITH THE COLLECTION EVENT.

6. REGISTRATION AND APPROVAL. THE SPONSOR MAY SELECT A COLLECTION CONTRACTOR TO OPERATE THE COLLECTION EVENT OR MAY OPERATE THE COLLECTION EVENT AS THE COLLECTION CONTRACTOR. EACH SPONSOR OR COLLECTION CONTRACTOR WHICH OPERATES A COLLECTION EVENT MUST FIRST BE REGISTERED AND APPROVED BY THE DEPARTMENT TO OPERATE COLLECTION EVENTS. THE DEPARTMENT SHALL ISSUE GUIDANCE FOR REGISTRATION REQUIREMENTS FOR THE OPERATION OF COLLECTION EVENTS.

7. QUALIFICATIONS. NO COLLECTION CONTRACTOR MAY BE SELECTED TO OPERATE A COLLECTION EVENT UNLESS THE CONTRACTOR CAN DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT ITS ABILITY TO COLLECT, PACKAGE, TRANSPORT, AND DISPOSE OF SOLID WASTE COLLECTED UNDER THIS PROGRAM CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER AND THE REGULATIONS OF THE DEPARTMENT.

8. INELIGIBILITY. A COLLECTION CONTRACTOR SHALL NOT BE ELIGIBLE TO OPERATE A COLLECTION EVENT IF THE DEPARTMENT FINDS THAT SUCH PERSON HAS SHOWN A LACK OF ABILITY OR A LACK OF INTENT TO COMPLY WITH APPLICABLE LAWS AND REGULATIONS OF THIS STATE, OTHER STATES, OR THE UNITED STATES.

9. GENERATOR. A COLLECTION CONTRACTOR SHALL BE DEEMED TO BE THE GENERATOR OF HAZARDOUS SUBSTANCES COLLECTED AT THE EVENT WHICH IS SENT FOR TREATMENT, STORAGE, OR DISPOSAL AT A PERMITTED HAZARDOUS WASTE FACILITY.

10. POLLUTION PREVENTION. THE COLLECTION CONTRACTOR SHALL PRACTICE AND ENCOURAGE POLLUTION PREVENTION AND SHALL RECYCLE OR RECLAIM COLLECTED SOLID WASTES TO THE GREATEST EXTENT PRACTICABLE.

11. DOCUMENTATION. IN CONDUCTING A COLLECTION EVENT UNDER THIS TITLE, THE COLLECTION CONTRACTOR SHALL MANAGE WASTES AND OTHER MATERIALS RECEIVED AT A COLLECTION EVENT IN COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS OF THIS STATE. THE SPONSOR AND THE COLLECTION CONTRACTOR SHALL PROVIDE DOCUMENTATION AND RECORDS OF AN EVENT AS REQUESTED BY THE DEPARTMENT.

12. OPTIONAL PARTICIPATION. THIS SECTION SHALL NOT BE INTERPRETED AS REQUIRING A SMALL BUSINESS TO PARTICIPATE IN A SMALL BUSINESS HAZARDOUS SUBSTANCE COLLECTION PROGRAM, OR AS PROHIBITING A SMALL BUSINESS FROM DISPOSING OF ITS HAZARDOUS SUBSTANCES UNDER OTHER APPLICABLE LAWS.

S 27-2909. HOUSEHOLD HAZARDOUS SUBSTANCE COLLECTION PROGRAM.

1. COLLECTION EVENTS. A SPONSOR MAY ESTABLISH A COLLECTION EVENT FOR THE PURPOSE OF COLLECTING AND MANAGING HOUSEHOLD HAZARDOUS SUBSTANCES. A COLLECTION EVENT DESIGNED FOR HOUSEHOLD HAZARDOUS SUBSTANCES SHALL MEET THE STANDARDS AND REQUIREMENTS OF SECTION 27-2907 OF THIS TITLE. A SPONSOR MAY OPERATE A COLLECTION EVENT EXCLUSIVELY FOR HOUSEHOLD HAZARDOUS SUBSTANCES, EXCLUSIVELY FOR SMALL BUSINESS WASTE, OR FOR SPECIFIED WASTES FROM ELIGIBLE ENTITIES.

2. HAZARDOUS SUBSTANCES. A COLLECTION EVENT THAT INCLUDES COLLECTION OF HOUSEHOLD HAZARDOUS SUBSTANCES SHALL PROVIDE EDUCATIONAL MATERIALS THAT EMPHASIZE HOME SAFETY, FIRE PREVENTION, AND POLLUTION PREVENTION IN THE HOME, INCLUDING SOURCE REDUCTION THROUGH THE USE OF ALTERNATIVE LESS TOXIC PRODUCTS, RECYCLING, AND PROPER DISPOSAL METHODS FOR WASTE MATERIALS THAT CANNOT BE RECYCLED. WASTE MATERIALS COLLECTED FROM HOUSEHOLDS SHALL BE APPROPRIATELY REUSED OR RECYCLED TO THE GREATEST EXTENT PRACTICABLE. THE DEPARTMENT SHALL ISSUE GUIDANCE ON PROPER MANAGEMENT OF HOUSEHOLD HAZARDOUS SUBSTANCES.

S 27-2911. REGULATIONS.

THE DEPARTMENT SHALL PROMULGATE REGULATIONS AS NEEDED TO IMPLEMENT THIS TITLE.

S 27-2913. GRANTS FOR SMALL BUSINESS AND HOUSEHOLD POLLUTION PREVENTION PROGRAMS.

1. GENERAL RULE. THE DEPARTMENT IS AUTHORIZED TO PROVIDE GRANTS TO COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY, TO REIMBURSE A COUNTY FOR ELIGIBLE COSTS FOR EDUCATION PROGRAMS ON POLLUTION PREVENTION OR FOR PROVIDING OTHER TECHNICAL ASSISTANCE TO SMALL BUSINESS FOR THE PURPOSE OF THIS TITLE.

2. EDUCATION PROGRAMS. THE GRANTS TO COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY UNDER THIS SECTION MAY REIMBURSE THE COUNTY OR CITY FOR UP TO EIGHTY PERCENT OF THE APPROVED COST OF EDUCATION PROGRAMS ON POLLUTION PREVENTION OR FOR PROVIDING TECHNICAL ASSISTANCE TO SMALL BUSINESS FOR THE PURPOSES OF THIS TITLE.

3. ELIGIBLE COSTS. ELIGIBLE COSTS UNDER THIS SECTION MAY INCLUDE COSTS INCURRED BY COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY BY CONTRACT WITH ANOTHER SPONSOR OR OTHER PERSON SELECTED BY THE COUNTY OR CITY TO OPERATE THE PROGRAM UNDER THIS TITLE. THE DEPARTMENT SHALL ISSUE GUIDANCE FOR COUNTIES NOT WHOLLY CONTAINED WITHIN A CITY AND CITIES CONTAINING MORE THAN ONE COUNTY IN THE OPERATION OF THE PROGRAM AND FOR ELIGIBILITY REQUIREMENTS FOR GRANTS ADMINISTERED UNDER THIS SECTION.

S 27-2915. GRANTS FOR COLLECTION EVENTS.

1. FUNDS. THE DEPARTMENT IS AUTHORIZED TO ADMINISTER APPROPRIATED FUNDS FOR THE ADMINISTRATION OF THESE PROGRAMS.

2. GRANT ELIGIBILITY. GRANTS APPROVED UNDER THIS TITLE MAY BE PAID TO A REGISTERED SPONSOR OF A COLLECTION EVENT, INCLUDING SPONSORS OTHER THAN MUNICIPALITIES. THE DEPARTMENT IS AUTHORIZED TO REIMBURSE SPONSORS FOR ELIGIBLE COSTS INCURRED AFTER THE EFFECTIVE DATE OF THIS TITLE FOR THE OPERATION OF COLLECTION EVENTS FOR ELIGIBLE ENTITIES UNDER THIS TITLE.

3. MATCHING REQUIREMENT. THE FUNDS ADMINISTERED BY THE DEPARTMENT UNDER THIS TITLE MAY BE EXPENDED BY THE DEPARTMENT ONLY TO THE EXTENT THAT THE GRANT AMOUNT HAS BEEN MATCHED, AT LEAST DOLLAR FOR DOLLAR IN VALUE, BY THE GRANT APPLICANT. SPONSORS OF A COLLECTION EVENT ARE HEREBY AUTHORIZED TO RECEIVE ALL OR PART OF THE REQUIRED MATCHING FUNDS FROM MANUFACTURERS OR OTHER PERSONS.

4. OTHER LIMITATIONS. NO MORE THAN ONE HUNDRED THOUSAND DOLLARS PER FISCAL YEAR MAY BE EXPENDED BY THE DEPARTMENT FOR COLLECTION EVENTS IN ANY ONE COUNTY NOT WHOLLY CONTAINED WITHIN A CITY, AND NO MORE THAN FIVE HUNDRED THOUSAND DOLLARS MAY BE EXPENDED BY THE DEPARTMENT FOR COLLECTION EVENTS IN ANY CITY CONTAINING MORE THAN ONE COUNTY.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the commissioner of environmental conservation is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date.