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

2832--A

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sens. KRUEGER, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to food service waste reduction

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

Section 1. Short title. This act shall be known and may be cited as the "food service waste reduction act".

S 2. Article 27 of the environmental conservation law is amended by adding a new title 26 to read as follows:

TITLE 26
FOOD SERVICE WASTE REDUCTION

SECTION 27-2601. DEFINITIONS.
27-2603. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE.
27-2605. POWERS OF MUNICIPALITIES.

S 27-2601. DEFINITIONS.

FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AFFORDABLE" MEANS PURCHASABLE FOR NOT MORE THAN FIFTEEN PERCENT MORE THAN THE PURCHASE COST OF THE NON-COMPOSTABLE OR NON-RECYCLABLE ALTERNATIVE.

2. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

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

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3. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED COMPOST IS PLACED IN SOIL.

4. "CONTRACTORS AND LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A CONTRACT WITH AN AGENCY OR A MUNICIPALITY FOR PUBLIC WORKS OR IMPROVEMENTS TO BE PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY, FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT THE EXPENSE OF THE AGENCY OR MUNICIPALITY OR TO BE PAID OUT OF MONIES DEPOSITED IN THE TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR COLLECTED BY THE AGENCY OR MUNICIPALITY.

5. "DISPOSABLE FOOD SERVICE WARE" MEANS ALL CONTAINERS, BOWLS, PLATES, TRAYS, CARTONS, CUPS, LIDS, STRAWS, FORKS, SPOONS, KNIVES, NAPKINS AND OTHER ITEMS THAT ARE DESIGNED FOR ONE-TIME USE FOR PREPARED FOODS, INCLUDING WITHOUT LIMITATION, SERVICE WARE FOR TAKEOUT FOODS AND/OR LEFTOVERS FROM PARTIALLY CONSUMED MEALS PREPARED BY FOOD VENDORS. THE TERM "DISPOSABLE FOOD SERVICE WARE" DOES NOT INCLUDE ITEMS COMPOSED ENTIRELY OF ALUMINUM OR POLYSTYRENE FOAM COOLERS AND ICE CHESTS THAT ARE INTENDED FOR REUSE NOR DOES THIS TERM INCLUDE RECYCLABLE FOOD SERVICE WARE.

6. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY DESIGNATED AGENCY THEREOF.

7. "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED AND EXTRUDED FOAMS (SOMETIMES CALLED STYROFOAM TM) WHICH ARE THERMOPLASTIC PETROCHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY NUMBER OF TECHNIQUES INCLUDING, BUT NOT LIMITED TO, FUSION OF POLYMER SPHERES (EXPANDABLE BEAD POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING, AND EXTRUSION-BLOWN MOLDING (EXTRUDED FOAM POLYSTYRENE). POLYSTYRENE FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS, CLAMSHELL CONTAINERS, MEAT TRAYS AND EGG CARTONS.

8. "RECYCLABLE" MEANS MATERIAL THAT CAN BE SORTED, CLEANSED AND RECONSTITUTED USING AVAILABLE RECYCLING COLLECTION PROGRAMS FOR THE PURPOSE OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT. RECYCLING DOES NOT INCLUDE BURNING, INCINERATING, CONVERTING, OR OTHERWISE THERMALLY DESTROYING SOLID WASTE.

S 27-2603. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE.

AGENCIES, MUNICIPALITIES, AND THEIR CONTRACTORS AND LESSEES SHALL USE DISPOSABLE FOOD SERVICE WARE MADE FROM MATERIAL, OTHER THAN POLYSTYRENE FOAM, THAT IS COMPOSTABLE OR RECYCLABLE UNLESS THERE IS NO AFFORDABLE COMPOSTABLE OR RECYCLABLE PRODUCT AVAILABLE. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO GOVERN THE ACTIVITIES OF CONTRACTORS AND LESSEES THAT OCCUR OUTSIDE OF THE STATE OR ACTIVITIES OF CONTRACTORS OF LESSEES THAT OCCUR WITH ENTITIES OTHER THAN AGENCIES OR MUNICIPALITIES.

S 27-2605. POWERS OF MUNICIPALITIES.

ANY AGENCY OR MUNICIPALITY MAY PROMULGATE REGULATIONS, ORDINANCES, OR LAWS TO TAKE ANY AND ALL REASONABLE ACTIONS NECESSARY TO IMPLEMENT AND ENFORCE THIS TITLE.

S 3. The department of environmental conservation shall conduct a study on the desirability, feasibility and environmental impact of a statewide prohibition on the use of disposable food service ware that contains polystyrene foam. The department shall issue a report containing the results of the study to the legislature no later than the thir-

ty-first of January next succeeding the date on which this act shall have become a law.

S 4. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect on the one hundred twentieth day after it shall have become a law.