

5103

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the general city law, in relation to requiring contractors in certain cities to recycle construction and demolition site waste

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

1 Section 1. Legislative intent. The purpose of this act is to signif-
2 ically reduce the amount of waste produced by construction and demoli-
3 tion activities in cities having populations of one million or more.
4 There are many opportunities to reduce or recycle materials from
5 construction and demolition, including metals, cardboard, drywall,
6 glass, wood and asphalt. This act is consistent with the goals of large
7 cities' solid waste management plans, complementing other recycling and
8 recovery programs currently in effect.
9 S 2. The general city law is amended by adding a new section 23-a to
10 read as follows:
11 S 23-A. CONSTRUCTION AND DEMOLITION SITE WASTE RECYCLING; CERTAIN
12 CITIES. 1. DEFINITIONS. AS USED IN THIS SECTION:
13 A. "CONTRACTOR" MEANS A GENERAL CONTRACTOR AND SHALL ALSO INCLUDE ANY
14 SUBCONTRACTOR ENGAGED IN THE DEMOLITION OR WRECKING OF A STRUCTURE FOR
15 WHICH A PERMIT IS REQUIRED.
16 B. "CONSTRUCTION AND DEMOLITION DEBRIS" SHALL INCLUDE, BUT NOT BE
17 LIMITED TO, METALS, CARDBOARD, DRYWALL, GLASS, WOOD, CONCRETE, BRICK AND
18 ASPHALT, BUT SHALL NOT INCLUDE ANY MATERIAL THAT IS CONTAMINATED BY
19 LEAD, ASBESTOS OR ANY OTHER HAZARDOUS MATERIAL SUCH THAT RECYCLING THER-
20 EOF WOULD BE ILLEGAL OR UNFEASIBLE.
21 C. "RECYCLER" MEANS A RECYCLING FACILITY, TRANSFER STATION OR OTHER
22 SOLID WASTE MANAGEMENT FACILITY PERMITTED PURSUANT TO THE ENVIRONMENTAL
23 CONSERVATION LAW.

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

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1 D. "REUSE" MEANS (I) THE ON-SITE USE OF REPROCESSED CONSTRUCTION AND
2 DEMOLITION DEBRIS IF THE USE OF SUCH DEBRIS IS AUTHORIZED BY THE CITY
3 DEPARTMENT OF BUILDINGS; AND (II) THE OFF-SITE REDISTRIBUTION OF A MATE-
4 RIAL WHICH WOULD OTHERWISE BE DISPOSED OF, FOR USE IN THE SAME OR SIMI-
5 LAR FORM AS IT WAS PRODUCED.

6 2. APPLICABILITY. A. THE PROVISIONS OF THIS SECTION SHALL APPLY ONLY
7 IN CITIES HAVING A POPULATION OF ONE MILLION OR MORE.

8 B. CONTRACTORS SHALL RECYCLE OR REUSE CONSTRUCTION AND DEMOLITION
9 DEBRIS PRODUCED ON SITE AS PART OF CONSTRUCTION OR DEMOLITION ACTIVITIES
10 BY MEETING THE FOLLOWING REQUIREMENTS:

11 (1) ON A PROJECT THAT IS ISSUED A PERMIT WITH AN APPLICATION DATE
12 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, THE CONTRACTOR
13 SHALL CAUSE TO BE RECYCLED OR REUSED AT LEAST TWENTY-FIVE PERCENT OF THE
14 CONSTRUCTION AND DEMOLITION DEBRIS, AS MEASURED BY WEIGHT, PRODUCED ON
15 SITE.

16 (2) ON A PROJECT THAT IS ISSUED A PERMIT WITH AN APPLICATION DATE A
17 YEAR OR MORE AFTER THE EFFECTIVE DATE OF THIS SECTION, THE CONTRACTOR
18 SHALL CAUSE TO BE RECYCLED OR REUSED AT LEAST FIFTY PERCENT OF THE
19 CONSTRUCTION AND DEMOLITION DEBRIS, AS MEASURED BY WEIGHT, PRODUCED ON
20 SITE.

21 C. THE FOLLOWING PROJECTS SHALL BE SUBJECT TO THE PROVISIONS OF THIS
22 SECTION:

23 (1) CONSTRUCTION OF NEW RESIDENTIAL BUILDINGS WITH FOUR OR MORE DWELL-
24 ING UNITS;

25 (2) CONSTRUCTION OF NEW NON-RESIDENTIAL BUILDINGS, OTHER THAN PROJECTS
26 FOR WHICH THE TOTAL AREA IS FOUR THOUSAND SQUARE FEET OR LESS;

27 (3) ANY REHABILITATION OF NON-RESIDENTIAL BUILDINGS OF MORE THAN FOUR
28 THOUSAND SQUARE FEET THAT WILL REQUIRE A CERTIFICATE OF OCCUPANCY TO BE
29 ISSUED FROM THE CITY;

30 (4) DEMOLITION OF RESIDENTIAL BUILDINGS WITH FOUR OR MORE DWELLING
31 UNITS THAT INCLUDES THE DEMOLITION OF AT LEAST ONE OUTSIDE WALL; AND

32 (5) DEMOLITION OF NON-RESIDENTIAL BUILDINGS, OTHER THAN PROJECTS FOR
33 WHICH THE TOTAL AREA IS FOUR THOUSAND SQUARE FEET OR LESS.

34 D. A PROJECT SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION IF
35 ONLY A PLUMBING PERMIT OR ONLY AN ELECTRICAL PERMIT IS REQUIRED FOR SUCH
36 PROJECT.

37 3. CONTRACTOR RESPONSIBILITIES. A. WITHIN THIRTY DAYS OF COMPLETION OF
38 A PROJECT, THE CONTRACTOR SHALL SUBMIT DOCUMENTATION TO REPORT COMPLI-
39 ANCE WITH THIS SECTION AND THE REGULATIONS PROMULGATED PURSUANT TO THIS
40 SECTION. IF THE CONTRACTOR IS UNABLE TO MEET THE RECYCLING AND REUSE
41 REQUIREMENTS OF THIS SECTION, THE CONTRACTOR MAY APPLY FOR A WAIVER FROM
42 THE CITY. SUCH DOCUMENTATION SHALL BE IN A FORM AND MANNER DETERMINED BY
43 THE CITY DEPARTMENT OF BUILDINGS.

44 B. IF A CONTRACTOR IS UNABLE OR REFUSES TO SUBMIT THE REQUIRED
45 DOCUMENTATION, A PROPERTY OWNER MAY SUBMIT A WAIVER APPLICATION
46 SUPPORTED BY AN AFFIDAVIT THAT THE CONTRACTOR IS UNAVAILABLE OR REFUSES
47 TO PROVIDE THE REQUIRED DOCUMENTATION.

48 C. A CONTRACTOR SHALL COMPLY WITH ALL REASONABLE REQUESTS FOR INFORMA-
49 TION AND DOCUMENTATION BY THE CITY DEPARTMENT OF BUILDINGS PURSUANT TO
50 AN AUDIT TO MONITOR COMPLIANCE WITH THIS SECTION. DOCUMENTATION
51 REQUIRED BY THIS SECTION SHALL BE MAINTAINED FOR AT LEAST THREE YEARS.

52 4. CITY RESPONSIBILITIES. A. THE CITY SHALL ESTABLISH A PROCEDURE FOR
53 CONTRACTORS TO APPLY FOR WAIVERS OF THE REQUIREMENTS OF THIS SECTION.
54 SUCH REQUIREMENTS SHALL INCLUDE DOCUMENTATION OF THE AMOUNT OF MATERIAL
55 THE CONTRACTOR IS ACTUALLY ABLE TO RECYCLE OR REUSE AND THE REASON OR

1 REASONS FOR WHICH THE CONTRACTOR CANNOT MEET THE RECYCLING AND REUSE
2 REQUIREMENTS IN THIS SECTION.

3 B. THE CITY SHALL NOT ISSUE ANY NEW BUILDING OR DEMOLITION PERMIT TO A
4 CONTRACTOR WHO HAS FAILED TO TIMELY SUBMIT THE REQUIRED DOCUMENTATION
5 WITH RESPECT TO ANY COMPLETED PROJECT, UNTIL SUCH CONTRACTOR EITHER
6 SUBMITS (1) THE REQUIRED DOCUMENTS INCLUDING, WHERE APPLICABLE, PROOF
7 THAT ANY FINE DUE PURSUANT TO SUBDIVISION FIVE OF THIS SECTION HAS BEEN
8 PAID IN FULL, OR (2) PROOF OF A WAIVER ISSUED BY THE CITY AND, THE
9 PAYMENT OF ANY FINE DUE.

10 C. THE CITY MAY WITHHOLD A CERTIFICATE OF OCCUPANCY FOR A PROJECT
11 UNTIL THE CONTRACTOR SUBMITS EITHER THE REQUIRED DOCUMENTATION INCLUD-
12 ING, WHERE APPLICABLE, PROOF THAT ANY FINE DUE PURSUANT TO SUBDIVISION
13 FIVE OF THIS SECTION HAS BEEN PAID IN FULL; OR PROOF OF A WAIVER ISSUED
14 BY THE CITY AND, THE PAYMENT OF ANY FINE DUE.

15 D. THE CITY IS AUTHORIZED TO CONDUCT AUDITS OF CONTRACTORS TO DETER-
16 MINE AND VALIDATE COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE
17 CITY MAY REQUEST INFORMATION AND DOCUMENTATION RELEVANT TO SUCH AN AUDIT
18 FROM ANY CONTRACTOR.

19 E. THE CITY IS AUTHORIZED TO PROMULGATE SUCH RULES AND REGULATIONS AS
20 NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. SUCH RULES AND
21 REGULATIONS SHALL CONTAIN PROVISIONS FOR SEEKING AND OBTAINING A WAIVER
22 FROM THE PROVISIONS OF THIS SECTION.

23 5. FINES AND PENALTIES. A. CONTRACTORS WHO FAIL TO PROVIDE THE
24 DOCUMENTATION REQUIRED BY THIS SECTION OR WHO HAVE NOT RECEIVED A WAIVER
25 FROM THE CITY SHALL BE SUBJECT TO A FINE OF FIVE HUNDRED DOLLARS FOR
26 EACH DAY THAT THEY FAIL TO PROVIDE THE INFORMATION OR APPLY FOR A WAIV-
27 ER.

28 B. CONTRACTORS WHO FAIL TO MEET THE RECYCLING OR REUSE REQUIREMENTS OF
29 THIS SECTION AND HAVE APPLIED FOR AND NOT RECEIVED A WAIVER FROM THE
30 CITY SHALL BE ASSESSED A FINE AS FOLLOWS:

31 (1) FOR PROJECTS INVOLVING TEN THOUSAND SQUARE FEET OR MORE OF RENO-
32 VATED, NEWLY CONSTRUCTED OR DEMOLISHED SPACE, FIVE HUNDRED DOLLARS FOR
33 EACH PERCENTAGE POINT OF DIFFERENCE BETWEEN THE AMOUNT REQUIRED BY THIS
34 SECTION TO BE RECYCLED OR REUSED AND THE AMOUNT ACTUALLY RECYCLED OR
35 REUSED; AND

36 (2) FOR PROJECTS INVOLVING LESS THAN TEN THOUSAND SQUARE FEET OF RENO-
37 VATED, NEWLY CONSTRUCTED OR DEMOLISHED SPACE, TWO HUNDRED FIFTY DOLLARS
38 FOR EACH PERCENTAGE POINT OF DIFFERENCE BETWEEN THE AMOUNT REQUIRED BY
39 THIS SECTION TO BE RECYCLED OR REUSED AND THE AMOUNT ACTUALLY RECYCLED
40 OR REUSED.

41 C. THE CITY MAY MODIFY THE PENALTIES REQUIRED BY PARAGRAPH A OR B OF
42 THIS SUBDIVISION FOR FAILURE TO PROVIDE DOCUMENTATION OR MEET THE RECY-
43 CLING AND REUSE REQUIREMENTS, IF IT FINDS THAT THERE ARE EXTENUATING
44 CIRCUMSTANCES FOR SUCH FAILURES.

45 S 3. This act shall take effect on the first of January next succeed-
46 ing the date on which it shall have become a law.