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

544

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring retail businesses to restrict the use of non-compostable plastic bags

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

Section 1. The general business law is amended by adding a new section 398-e to read as follows:

S 398-E. REQUIRE BUSINESSES TO RESTRICT USE OF NON-COMPOSTABLE PLASTIC BAGS. 1. BY NOVEMBER THIRTIETH, TWO THOUSAND TWELVE, ALL RETAIL BUSINESSES SHALL RESTRICT THE USE OF NON-COMPOSTABLE PLASTIC BAGS BY FIFTY PERCENT OF THE CURRENT VOLUME AND BY TWO THOUSAND FOURTEEN, ALL NON-COMPOSTABLE PLASTIC BAGS SHALL BE BANNED FROM USE IN THIS STATE. SUCH RETAIL BUSINESSES SHALL SUBMIT A REPORT DOCUMENTING THE REDUCTION IN USAGE OF NON-COMPOSTABLE PLASTIC BAGS TO THE DEPARTMENT ON OR BEFORE NOVEMBER THIRTIETH, TWO THOUSAND TWELVE.

2. ON AND AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, ALL RETAIL BUSINESSES SHALL PROVIDE AS CHECKOUT BAGS TO CUSTOMERS: RECYCLABLE PAPER BAGS; AND/OR COMPOSTABLE BAGS; AND/OR REUSABLE BAGS.

3. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "CHECKOUT BAG" TO MEAN A BAG PROVIDED BY A STORE AT THE POINT OF SALE FOR CUSTOMERS TO CARRY THEIR GOODS OUT OF THE STORE.

B. "STORE" SHALL MEAN ANY "RETAIL MERCANTILE ESTABLISHMENT" AS DEFINED BY SECTION TWO HUNDRED SEVENTEEN OF THIS CHAPTER AND/OR FOOD STORE.

C. "COMPOSTABLE PLASTIC BAG" MEANS A PLASTIC BAG THAT MEETS THE CURRENT AMERICAN SOCIETY FOR TESTING AND MATERIALS INTERNATIONAL STANDARD (ASTM) D6400 FOR COMPOSTABLE PLASTIC, AS THAT STANDARD MAY BE AMENDED FROM TIME TO TIME.

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

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D. "RECYCLABLE PAPER BAG" MEANS A PAPER BAG THAT MEETS ALL THE FOLLOWING REQUIREMENTS: CONTAINS NO OLD GROWTH FIBER; IS ONE HUNDRED PERCENT RECYCLABLE OVERALL AND CONTAINS A MINIMUM OF FORTY PERCENT POST-CONSUMER RECYCLED CONTENT; AND DISPLAYS THE WORDS "REUSABLE" AND "RECYCLABLE".

E. "REUSABLE BAG" MEANS A BAG WITH HANDLES THAT IS SPECIFICALLY DESIGNED AND MANUFACTURED FOR MULTIPLE REUSE AND IS EITHER MADE OF CLOTH OR OTHER MACHINE WASHABLE FABRIC AND/OR MADE OF DURABLE PLASTIC THAT IS AT LEAST 2.25 MILS THICK.

F. "DEPARTMENT" SHALL MEAN THE CONSUMER PROTECTION BOARD.

4. WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, AN APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATIONS; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. WHENEVER THE COURT SHALL DETERMINE THAT A VIOLATION OF THIS SECTION HAS OCCURRED, THE COURT MAY IMPOSE A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS FOR SUCH VIOLATION. IN CONNECTION WITH ANY SUCH APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

S 2. This act shall take effect immediately.