

1239

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. COLTON, DINOWITZ, SCHIMEL, PERRY, MILLMAN --
Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, BROOK-KRASNY, GLICK,
GOTTFRIED, MAISEL, MAYERSOHN, REILLY -- read once and referred to the
Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to
requiring contractors to recycle construction and demolition site
waste

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 the state of New York. There are many opportunities
4 to reduce or recycle materials from construction and demolition, includ-
5 ing metals, cardboard, drywall, glass, wood and asphalt. This act is
6 consistent with the goals of the state's solid waste management plan,
7 complementing other recycling and recovery programs currently in effect.
8 S 2. The environmental conservation law is amended by adding a new
9 section 27-0721 to read as follows:
10 S 27-0721. CONSTRUCTION AND DEMOLITION SITE WASTE RECYCLING.
11 1. DEFINITIONS. AS USED IN THIS SECTION:
12 (A) "CONTRACTOR" MEANS A GENERAL CONTRACTOR AND SHALL ALSO INCLUDE ANY
13 SUBCONTRACTOR ENGAGED IN THE DEMOLITION OR WRECKING OF A STRUCTURE FOR
14 WHICH A PERMIT IS REQUIRED.
15 (B) "CONSTRUCTION AND DEMOLITION DEBRIS" SHALL INCLUDE, BUT NOT BE
16 LIMITED TO, METALS, CARDBOARD, DRYWALL, GLASS, WOOD, CONCRETE, BRICK AND
17 ASPHALT, BUT SHALL NOT INCLUDE ANY MATERIAL THAT IS CONTAMINATED BY
18 LEAD, ASBESTOS OR OTHER HAZARDOUS MATERIAL SUCH THAT RECYCLING THEREOF
19 WOULD BE ILLEGAL OR UNFEASIBLE.
20 (C) "RECYCLER" MEANS A RECYCLING FACILITY, TRANSFER STATION OR OTHER
21 WASTE HANDLING FACILITY PERMITTED PURSUANT TO THIS ARTICLE WHICH ACCEPTS

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

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1 CONSTRUCTION AND DEMOLITION DEBRIS FOR RECYCLING OR FOR FURTHER TRANSFER
2 TO A RECYCLING FACILITY.

3 (D) "REUSE" MEANS (I) THE ON-SITE USE OF REPROCESSED CONSTRUCTION AND
4 DEMOLITION DEBRIS IF THE USE OF SUCH DEBRIS IS AUTHORIZED BY THE COMMIS-
5 SIONER; AND (II) THE OFF-SITE REDISTRIBUTION OF A MATERIAL WHICH WOULD
6 OTHERWISE BE DISPOSED OF, FOR USE IN THE SAME OR SIMILAR FORM AS IT WAS
7 PRODUCED.

8 2. APPLICABILITY. (A) CONTRACTORS SHALL RECYCLE OR REUSE CONSTRUCTION
9 AND DEMOLITION DEBRIS PRODUCED ON SITE AS PART OF CONSTRUCTION OR DEMO-
10 LITION ACTIVITIES BY MEETING THE FOLLOWING REQUIREMENTS:

11 (I) 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 (II) 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 (B) THE FOLLOWING PROJECTS SHALL BE SUBJECT TO THE PROVISIONS OF THIS
22 SECTION:

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

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

27 (III) ANY REHABILITATION OF NON-RESIDENTIAL BUILDINGS OF MORE THAN
28 FOUR THOUSAND SQUARE FEET THAT WILL REQUIRE CERTIFICATION OF OCCUPANCY
29 TO BE ISSUED FROM THE APPROPRIATE CITY, TOWN OR VILLAGE DEPARTMENT;

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

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

34 (C) A PROJECT SHALL BE EXEMPT FROM THIS SECTION IF ONLY A PLUMBING
35 PERMIT OR ONLY AN ELECTRICAL PERMIT IS REQUIRED FOR SUCH PROJECT.

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

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 INFOR-
49 MATION AND DOCUMENTATION BY THE CITY, TOWN OR VILLAGE PURSUANT TO AN
50 AUDIT TO MONITOR COMPLIANCE WITH THIS SECTION. DOCUMENTATION REQUIRED BY
51 THIS SECTION SHALL BE MAINTAINED FOR AT LEAST THREE YEARS.

52 4. CITY, TOWN AND VILLAGE RESPONSIBILITIES. (A) EACH CITY, TOWN AND
53 VILLAGE SHALL ESTABLISH A PROCEDURE FOR CONTRACTORS TO APPLY FOR WAIVERS
54 OF THE REQUIREMENTS OF THIS SECTION. SUCH REQUIREMENTS SHALL INCLUDE
55 DOCUMENTATION OF THE AMOUNT OF MATERIAL THE CONTRACTOR IS ACTUALLY ABLE

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

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

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

15 (D) THE CITY, TOWN OR VILLAGE IS AUTHORIZED TO CONDUCT AUDITS OF
16 CONTRACTORS TO DETERMINE AND VALIDATE COMPLIANCE WITH THE REQUIREMENTS
17 OF THIS SECTION. THE CITY, TOWN OR VILLAGE MAY REQUEST INFORMATION AND
18 DOCUMENTATION RELEVANT TO SUCH AN AUDIT FROM ANY CONTRACTOR.

19 (E) THE CITY, TOWN OR VILLAGE IS AUTHORIZED TO PROMULGATE SUCH RULES
20 AND REGULATIONS AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS
21 SECTION. SUCH RULES AND REGULATIONS SHALL CONTAIN PROVISIONS FOR SEEK-
22 ING AND OBTAINING A WAIVER 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, TOWN OR VILLAGE SHALL BE SUBJECT TO A FINE OF FIVE
26 HUNDRED DOLLARS FOR EACH DAY THAT THEY FAIL TO PROVIDE THE INFORMATION
27 OR APPLY FOR A WAIVER.

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

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

41 (C) THE CITY, TOWN OR VILLAGE MAY MODIFY THE PENALTIES REQUIRED BY
42 PARAGRAPH (A) OR (B) OF THIS SUBDIVISION FOR FAILURE TO PROVIDE DOCUMEN-
43 TATION OR MEET THE RECYCLING AND REUSE REQUIREMENTS, IF IT FINDS THAT
44 THERE ARE EXTENUATING 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.