

1241--A

Cal. No. 65

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I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. COLTON, ENGLEBRIGHT, SCHIMEL, LUPARDO, ROSENTHAL, LIFTON, P. RIVERA, JACOBS, ABINANTI -- Multi-Sponsored by -- M. of A. BOYLAND, CASTELLI, CLARK, DINOWITZ, FARRELL, GALEF, LATIMER, MCENENY, ORTIZ, WEINSTEIN -- read once and referred to the Committee on Environmental Conservation -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the environmental conservation law and the general municipal law, in relation to disposal and source separation of recyclable materials

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 27-0709 to read as follows:
3 S 27-0709. DISPOSAL OF SOURCE SEPARATED RECYCLABLES.
4 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:
5 A. "INCINERATOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
6 72-0401 OF THIS CHAPTER.
7 B. "LANDFILL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
8 72-0401 OF THIS CHAPTER.
9 C. "LOCAL RECYCLING LAW" MEANS A LOCAL LAW OR ORDINANCE ADOPTED PURSU-
10 ANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL
11 MUNICIPAL LAW.
12 D. "RECYCLABLE MATERIALS" MEANS RECYCLABLE COMPONENTS OF SOLID WASTE
13 WHICH HAVE BEEN SEPARATED FROM OTHER SOLID WASTE AS REQUIRED BY THE
14 LOCAL RECYCLING LAW ADOPTED PURSUANT TO SUBDIVISION TWO OF SECTION ONE
15 HUNDRED TWENTY-AA OF THE GENERAL MUNICIPAL LAW.
16 E. "TRANSFER STATION" MEANS A SOLID WASTE MANAGEMENT FACILITY, WHETHER
17 OWNED OR OPERATED BY A PRIVATE OR PUBLIC ENTITY, OTHER THAN A RECYCLA-
18 BLES HANDLING AND RECOVERY FACILITY, USED OIL FACILITY, OR A
19 CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING FACILITY, WHERE SOLID

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

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1 WASTE IS RECEIVED FOR THE PURPOSE OF SUBSEQUENT TRANSFER TO ANOTHER
2 SOLID WASTE MANAGEMENT FACILITY FOR PROCESSING, TREATING, DISPOSAL,
3 RECOVERY, OR FURTHER TRANSFER.

4 F. "TRANSPORTER" MEANS ANY PERSON OR ENTITY ENGAGED IN THE OFF-SITE
5 TRANSPORTATION OF SOLID WASTE BY AIR, RAIL, HIGHWAY, OR WATER.

6 2. A. NO TRANSPORTER SHALL COMMINGLE RECYCLABLE MATERIALS WITH OTHER
7 SOLID WASTE, OR CAUSE RECYCLABLE MATERIALS TO BE COMMINGLED WITH OTHER
8 SOLID WASTE.

9 B. NO TRANSPORTER SHALL DELIVER RECYCLABLE MATERIALS TO, OR CAUSE
10 RECYCLABLE MATERIALS TO BE DELIVERED TO: (I) AN INCINERATOR; (II) A
11 LANDFILL; (III) A TRANSFER STATION, UNLESS SUCH RECYCLABLE MATERIALS ARE
12 KEPT SEPARATED FROM OTHER SOLID WASTE; OR (IV) ANYONE WHO THE TRANSPOR-
13 TER KNOWS OR SHOULD KNOW WILL EITHER COMMINGLE SUCH RECYCLABLE MATERIALS
14 WITH OTHER SOLID WASTE OR DELIVER SUCH RECYCLABLE MATERIALS TO AN INCIN-
15 ERATOR OR A LANDFILL.

16 C. NO OPERATOR OF AN INCINERATOR OR A LANDFILL SHALL ACCEPT RECYCLABLE
17 MATERIALS FOR DISPOSAL.

18 D. NO OPERATOR OF A TRANSFER STATION SHALL COMMINGLE RECYCLABLE MATE-
19 RIALS WITH OTHER SOLID WASTE, OR TRANSFER RECYCLABLE MATERIALS OR CAUSE
20 RECYCLABLE MATERIALS TO BE TRANSFERRED TO AN INCINERATOR OR LANDFILL FOR
21 DISPOSAL.

22 S 2. Paragraphs b and c of subdivision 2 of section 120-aa of the
23 general municipal law, as amended by chapter 70 of the laws of 1988, are
24 amended to read as follows:

25 b. [For purposes of this section, "components" shall include paper,
26 glass, metals, plastics, garden and yard waste, and may include other
27 elements of solid waste.] NO LATER THAN JULY FIRST, TWO THOUSAND THIR-
28 TEEN, A MUNICIPALITY SHALL ADOPT A LOCAL LAW OR ORDINANCE TO REQUIRE
29 THAT RECYCLABLE MATERIALS BE SEPARATED FROM OTHER SOLID WASTE WHICH HAS
30 BEEN LEFT FOR COLLECTION OR WHICH IS DELIVERED BY THE GENERATOR OF SUCH
31 WASTE TO A SOLID WASTE MANAGEMENT FACILITY. FOR PURPOSES OF THIS
32 SECTION, "RECYCLABLE MATERIALS" MEANS AND INCLUDES: (I) NEWSPRINT, GLASS
33 CONTAINERS, METAL CONTAINERS, POLYETHYLENE TERAPHTHALATE (#1 CODE) AND
34 HIGH DENSITY POLYETHYLENE (#2 CODE) PLASTIC CONTAINERS; (II) CORRUGATED
35 CARDBOARD CONTAINERS AND PAPER BOARD; (III) MIXED PAPER GENERATED BY
36 NON-RESIDENTIAL ENTITIES OR BY RESIDENTIAL BUILDINGS CONSISTING OF MORE
37 THAN FOUR DWELLINGS; AND (IV) ANY OTHER RECYCLABLE, REUSEABLE OR OTHER
38 MATERIALS FOR WHICH THE MUNICIPALITY DETERMINES THAT ECONOMIC MARKETS
39 FOR ALTERNATE USES EXIST, OR WHICH THE MUNICIPALITY DETERMINES SHOULD BE
40 SEPARATED FROM OTHER SOLID WASTE FOR RECYCLING.

41 c. Prior to [exercising the authority of this section to enact such a
42 local law or ordinance] MAKING A DETERMINATION UNDER SUBPARAGRAPH (IV)
43 OF PARAGRAPH B OF THIS SUBDIVISION, the municipality shall hold a public
44 hearing relating to its proposed provisions and shall give due consider-
45 ation to existing source separation, recycling and [other resource
46 recovery] SOLID WASTE DISPOSAL activities in the area, to the adequacy
47 of markets for separated materials, and to any additional effort and
48 expense to be incurred by residents in meeting the proposed separation
49 requirements. The authority provided in this section shall be in addi-
50 tion to and without limitation upon the authority vested in munici-
51 palities under any other statute.

52 S 3. Severability. If any clause, sentence, paragraph, section or
53 part of this act shall be adjudged by any court of competent jurisdic-
54 tion to be invalid, such judgment shall not affect, impair or invalidate
55 the remainder thereof, but shall be confined in its operation to the

1 clause, sentence, paragraph, section or part thereof directly involved
2 in the controversy in which such judgment shall have been rendered.
3 S 4. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law.