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I N  A S S E M B L Y

March 23, 2012

Introduced by M. of A. MAISEL, ROBERTS, CASTRO, P. RIVERA, STEVENSON -- Multi-Sponsored by -- M. of A. BRENNAN -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the environmental conservation law, in relation to the reuse and recycling of carpeting

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

Section 1. Section 770 of the general business law is amended by adding three new subdivisions 8, 9 and 10 to read as follows:

8. "CARPETING" MEANS ANY MANUFACTURED FLOOR COVERING THAT IS COMPOSED OF A VISIBLE TOP SURFACE OF FIBERS, YARNS OR TUFTS ATTACHED TO A BACKING MADE OF SYNTHETIC OR NATURAL MATERIALS. CARPETING INCLUDES, BUT IS NOT LIMITED TO, COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET, OR MODULAR CARPET TILES. CARPETING INCLUDES THE PAD OR UNDERLAYMENT USED IN CONJUNCTION WITH A CARPET. SUCH TERM SHALL NOT INCLUDE HANDMADE RUGS, AREA RUGS OR MATS.

9. "FLOORING AND FLOOR COVERING" MEANS MATERIAL USED TO MAKE THE SURFACE OF A FLOOR ABOVE THE SUB-FLOOR INCLUDING, BUT NOT LIMITED TO, CARPETING; LINOLEUM, VINYL OR RUBBER ROLLS AND TILE; NATURAL AND SYNTHETIC STONE TILES; OR PLANKS, SECTIONS OR SQUARES CUT OR ASSEMBLED FROM WOOD, BARK, OR OTHER PLANT OR SYNTHETIC MATERIALS.

10. "FLOORING AND FLOOR COVERING CONTRACTOR" MEANS ANY PERSON OR ENTITY WHICH OPERATES A BUSINESS THAT INSTALLS, REPLACES OR REMOVES FLOORING OR FLOOR COVERING, OR THAT UNDERTAKES, OFFERS TO UNDERTAKE OR AGREES TO INSTALL, REPLACE OR REMOVE FLOORING OR FLOOR COVERING FOR A FEE; AND FOR WHICH THE TOTAL COST OF ALL OF HIS OR HER FLOORING OR FLOOR COVERING CONTRACTS WITH ALL ITS CUSTOMERS EXCEEDS ONE THOUSAND FIVE HUNDRED DOLLARS DURING ANY PERIOD OF TWELVE CONSECUTIVE MONTHS. SUCH TERM SHALL NOT INCLUDE A PERSON, FIRM, CORPORATION, LANDLORD, COOPERATIVE CORPORATION, CONDOMINIUM BOARD OF MANAGERS, JOINT TENANT OR CO-TENANT THAT OWNS, IN WHOLE OR IN PART, THE REAL PROPERTY TO BE IMPROVED.

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

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S 2. The general business law is amended by adding a new section 771-b to read as follows:

S 771-B. RESPONSIBILITIES OF FLOORING AND FLOOR COVERING CONTRACTORS. 1. EVERY FLOORING AND FLOOR COVERING CONTRACTOR WHO REMOVES USED CARPETING FROM A CUSTOMER'S FLOOR OR SUB-FLOOR SHALL REMOVE SUCH CARPETING FROM THE PREMISES OF SUCH CUSTOMER'S PROPERTY NOT LATER THAN THE TIME THE CONTRACTED WORK IS COMPLETED.

2. EVERY FLOORING AND FLOOR COVERING CONTRACTOR SHALL MANAGE AND UTILIZE ALL USED CARPETING, RECOVERED PURSUANT TO THIS SECTION, IN ACCORDANCE WITH THE STATE SOLID WASTE MANAGEMENT POLICY ESTABLISHED PURSUANT TO SECTION 27-0106 OF THE ENVIRONMENTAL CONSERVATION LAW.

3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, A FLOORING AND FLOOR COVERING CONTRACTOR SHALL NOT BE REQUIRED TO REMOVE USED CARPETING FROM THE PREMISES OF A CUSTOMER'S PROPERTY WHEN:

(A) THE CUSTOMER REQUESTS TO RETAIN CUSTODY OF ALL OR ANY PORTION OF THE USED CARPETING, AND THE FLOORING AND FLOOR COVERING CONTRACTOR:

(1) REMOVES ALL USED CARPETING WHICH THE CUSTOMER DOES NOT ELECT TO RETAIN CUSTODY OF,

(2) INFORMS THE CUSTOMER THAT HE OR SHE IS RESPONSIBLE FOR THE PROPER MANAGEMENT OF THE USED CARPETING IN ACCORDANCE WITH LOCAL LAWS AND ORDINANCES, AND

(3) OBTAINS A STATEMENT, SIGNED BY THE CUSTOMER, ATTESTING THAT HE OR SHE HAS ELECTED TO RETAIN CUSTODY OF USED CARPETING, THE APPROXIMATE SQUARE YARDAGE OF THE RETAINED USED CARPETING AND ACKNOWLEDGING THAT HE OR SHE HAS BEEN INFORMED OF HIS OR HER RESPONSIBILITY FOR THE PROPER MANAGEMENT OF THE USED CARPETING, INCLUDING ANY COSTS ASSOCIATED WITH THE COLLECTION THEREOF BY OR ON BEHALF OF THE APPROPRIATE MUNICIPALITY, OR BY A CONTRACTED RECYCLING OR WASTE HAULER; OR

(B) THE CUSTOMER'S MUNICIPALITY OPERATES OR HAS CONTRACTED FOR THE OPERATION OF A PROGRAM WHICH ACCEPTS USED CARPETING FROM THE CUSTOMER'S PREMISES, AND REUSES OR RECYCLES USED CARPETING AT A RATE OF NOT LESS THAN FIFTY PERCENT, BY WEIGHT, OF THE USED CARPETING IT RECEIVES, AS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.

S 3. Section 773 of the general business law is amended by adding a new subdivision 4 to read as follows:

4. CARPETING VIOLATIONS. ANY FLOORING AND FLOOR COVERING CONTRACTOR WHO IS FOUND TO HAVE VIOLATED ANY PROVISION OF SECTION SEVEN HUNDRED SEVENTY-ONE-B OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION THEREOF.

S 4. Article 27 of the environmental conservation law is amended by adding a new title 29 to read as follows:

TITLE 29

CARPETING REUSE AND RECYCLING

SECTION 27-2901. DEFINITIONS.
27-2903. MANAGEMENT OF USED CARPETING.

S 27-2901. DEFINITIONS.

AS USED IN THIS TITLE:

1. "CARPETING" MEANS ANY MANUFACTURED FLOOR COVERING THAT IS COMPOSED OF A VISIBLE TOP SURFACE OF FIBERS, YARNS OR TUFTS ATTACHED TO A BACKING MADE OF SYNTHETIC OR NATURAL MATERIALS. CARPETING INCLUDES, BUT IS NOT LIMITED TO, COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET, OR MODULAR CARPET TILES. CARPETING INCLUDES THE PAD OR UNDERLAYMENT USED IN CONJUNCTION WITH A CARPET. SUCH TERM SHALL NOT INCLUDE HANDMADE RUGS, AREA RUGS OR MATS.

2. "PLANNING UNIT" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 27-0107 OF THIS ARTICLE.

S 27-2903. MANAGEMENT OF USED CARPETING.

1. ANY PLANNING UNIT OR MUNICIPALITY THEREIN MAY ESTABLISH A PROGRAM TO MANAGE USED CARPETING FOR REUSE OR RECYCLING IN ACCORDANCE WITH THE STATE SOLID WASTE MANAGEMENT POLICY ESTABLISHED PURSUANT TO SECTION 27-0106 OF THIS ARTICLE.

2. A PLANNING UNIT OR PARTICIPATING MUNICIPALITY THAT MANAGES USED CARPETING IN ANY ASPECT SHALL INCLUDE A DESCRIPTION OF THE PROCESS IN ITS LOCAL SOLID WASTE MANAGEMENT PLAN OR ANY COMPONENT REQUIRED THEREIN INCLUDING, BUT NOT LIMITED TO:

(A) ANY EXISTING MEANS BY WHICH USED CARPETING IS MANAGED IN THE PLANNING UNIT OR BY THE MUNICIPALITIES; AND

(B) AN EVALUATION OF ALTERNATIVES TO DISPOSAL METHODS TO INCREASE REDUCTION, REUSE AND RECYCLING OF USED CARPETING.

3. NO PLANNING UNIT, MUNICIPALITY, ENTITY ACTING ON BEHALF OF A MUNICIPALITY OR WASTE HAULER SHALL COLLECT USED CARPETING, THAT EXCEEDS THREE FEET IN LENGTH, FROM CURBSIDE OR ROADSIDE, UNLESS IT EMPLOYS:

(A) A CARPETING REUSE OR RECYCLING PROGRAM WHICH RECOVERS AT LEAST FIFTY PERCENT BY WEIGHT OF ALL USED CARPETING COLLECTED; OR

(B) ANOTHER MEANS OF PROMOTING THE REUSE OR RECYCLING OF USED CARPETING APPROVED BY THE DEPARTMENT.

S 5. This act shall take effect immediately, provided that sections one, two and three of this act shall take effect January 1, 2013.