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

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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:

Section 1. The environmental conservation law is amended by adding a new section 27-0709 to read as follows:

S 27-0709. DISPOSAL OF SOURCE SEPARATED RECYCLABLES.

1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:

A. "INCINERATOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 72-0401 OF THIS CHAPTER.

B. "LANDFILL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION 72-0401 OF THIS CHAPTER.

C. "LOCAL RECYCLING LAW" MEANS A LOCAL LAW OR ORDINANCE ADOPTED PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL MUNICIPAL LAW.

D. "RECYCLABLE MATERIALS" MEANS RECYCLABLE COMPONENTS OF SOLID WASTE WHICH HAVE BEEN SEPARATED FROM OTHER SOLID WASTE AS REQUIRED BY THE LOCAL RECYCLING LAW ADOPTED PURSUANT TO SUBDIVISION TWO OF SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL MUNICIPAL LAW.

E. "TRANSFER STATION" MEANS A SOLID WASTE MANAGEMENT FACILITY, WHETHER OWNED OR OPERATED BY A PRIVATE OR PUBLIC ENTITY, OTHER THAN A RECYCLABLES HANDLING AND RECOVERY FACILITY, USED OIL FACILITY, OR A 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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WASTE IS RECEIVED FOR THE PURPOSE OF SUBSEQUENT TRANSFER TO ANOTHER SOLID WASTE MANAGEMENT FACILITY FOR PROCESSING, TREATING, DISPOSAL, RECOVERY, OR FURTHER TRANSFER.

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

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

B. NO TRANSPORTER SHALL DELIVER RECYCLABLE MATERIALS TO, OR CAUSE RECYCLABLE MATERIALS TO BE DELIVERED TO: (I) AN INCINERATOR; (II) A LANDFILL; (III) A TRANSFER STATION, UNLESS SUCH RECYCLABLE MATERIALS ARE KEPT SEPARATED FROM OTHER SOLID WASTE; OR (IV) ANYONE WHO THE TRANSPORTER KNOWS OR SHOULD KNOW WILL EITHER COMMINGLE SUCH RECYCLABLE MATERIALS WITH OTHER SOLID WASTE OR DELIVER SUCH RECYCLABLE MATERIALS TO AN INCINERATOR OR A LANDFILL.

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

D. NO OPERATOR OF A TRANSFER STATION SHALL COMMINGLE RECYCLABLE MATERIALS WITH OTHER SOLID WASTE, OR TRANSFER RECYCLABLE MATERIALS OR CAUSE RECYCLABLE MATERIALS TO BE TRANSFERRED TO AN INCINERATOR OR LANDFILL FOR DISPOSAL.

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

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

c. Prior to [exercising the authority of this section to enact such a local law or ordinance] MAKING A DETERMINATION UNDER SUBPARAGRAPH (IV) OF PARAGRAPH B OF THIS SUBDIVISION, the municipality shall hold a public hearing relating to its proposed provisions and shall give due consideration to existing source separation, recycling and [other resource recovery] SOLID WASTE DISPOSAL activities in the area, to the adequacy of markets for separated materials, and to any additional effort and expense to be incurred by residents in meeting the proposed separation requirements. The authority provided in this section shall be in addition to and without limitation upon the authority vested in municipalities under any other statute.

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

clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.