

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

2097

2011-2012 Regular Sessions

I N A S S E M B L Y

January 13, 2011

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to food service waste reduction

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

Section 1. Short title. This act shall be known and may be cited as the "food service waste reduction act".

S 2. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

TITLE 28
FOOD SERVICE WASTE REDUCTION

SECTION 27-2801. DEFINITIONS.

27-2803. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE.

27-2805. POWERS OF MUNICIPALITIES.

S 27-2801. DEFINITIONS.

FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "AFFORDABLE" MEANS PURCHASABLE FOR NOT MORE THAN FIFTEEN PERCENT MORE THAN THE PURCHASE COST OF THE NON-COMPOSTABLE OR NON-RECYCLABLE ALTERNATIVE.

2. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

3. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED COMPOST IS PLACED IN SOIL.

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

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1 4. "CONTRACTORS AND LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A
2 CONTRACT WITH AN AGENCY OR A MUNICIPALITY FOR PUBLIC WORKS OR IMPROVE-
3 MENTS TO BE PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY,
4 FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT
5 THE EXPENSE OF THE AGENCY OR MUNICIPALITY OR TO BE PAID OUT OF MONIES
6 DEPOSITED IN THE TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR
7 COLLECTED BY THE AGENCY OR MUNICIPALITY.

8 5. "DISPOSABLE FOOD SERVICE WARE" MEANS ALL CONTAINERS, BOWLS, PLATES,
9 TRAYS, CARTONS, CUPS, LIDS, STRAWS, FORKS, SPOONS, KNIVES, NAPKINS AND
10 OTHER ITEMS THAT ARE DESIGNED FOR ONE-TIME USE FOR PREPARED FOODS,
11 INCLUDING WITHOUT LIMITATION, SERVICE WARE FOR TAKEOUT FOODS AND/OR
12 LEFTOVERS FROM PARTIALLY CONSUMED MEALS PREPARED BY FOOD VENDORS. THE
13 TERM "DISPOSABLE FOOD SERVICE WARE" DOES NOT INCLUDE ITEMS COMPOSED
14 ENTIRELY OF ALUMINUM OR POLYSTYRENE FOAM COOLERS AND ICE CHESTS THAT ARE
15 INTENDED FOR REUSE NOR DOES THIS TERM INCLUDE RECYCLABLE FOOD SERVICE
16 WARE.

17 6. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY
18 DESIGNATED AGENCY THEREOF.

19 7. "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED AND EXTRUD-
20 ED FOAMS (SOMETIMES CALLED STYROFOAM TM) WHICH ARE THERMOPLASTIC PETRO-
21 CHEMICAL MATERIALS UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY
22 NUMBER OF TECHNIQUES INCLUDING, BUT NOT LIMITED TO, FUSION OF POLYMER
23 SPHERES (EXPANDABLE BEAD POLYSTYRENE), INJECTION MOLDING, FOAM MOLDING,
24 AND EXTRUSION-BLOWN MOLDING (EXTRUDED FOAM POLYSTYRENE). POLYSTYRENE
25 FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS, CLAMSHELL
26 CONTAINERS, MEAT TRAYS AND EGG CARTONS.

27 8. "RECYCLABLE" MEANS MATERIAL THAT CAN BE SORTED, CLEANSED AND RECON-
28 STITUTED USING AVAILABLE RECYCLING COLLECTION PROGRAMS FOR THE PURPOSE
29 OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT. RECYCLING
30 DOES NOT INCLUDE BURNING, INCINERATING, CONVERTING, OR OTHERWISE THER-
31 MALLY DESTROYING SOLID WASTE.

32 S 27-2803. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE
33 WARE.

34 AGENCIES, MUNICIPALITIES, AND THEIR CONTRACTORS AND LESSEES SHALL USE
35 DISPOSABLE FOOD SERVICE WARE MADE FROM MATERIAL, OTHER THAN POLYSTYRENE
36 FOAM, THAT IS COMPOSTABLE OR RECYCLABLE UNLESS THERE IS NO AFFORDABLE
37 COMPOSTABLE OR RECYCLABLE PRODUCT AVAILABLE. NOTHING IN THIS SECTION
38 SHALL BE CONSTRUED TO GOVERN THE ACTIVITIES OF CONTRACTORS AND LESSEES
39 THAT OCCUR OUTSIDE OF THE STATE OR ACTIVITIES OF CONTRACTORS OF LESSEES
40 THAT OCCUR WITH ENTITIES OTHER THAN AGENCIES OR MUNICIPALITIES.

41 S 27-2805. POWERS OF MUNICIPALITIES.

42 ANY AGENCY OR MUNICIPALITY MAY PROMULGATE REGULATIONS, ORDINANCES, OR
43 LAWS TO TAKE ANY AND ALL REASONABLE ACTIONS NECESSARY TO IMPLEMENT AND
44 ENFORCE THIS TITLE.

45 S 3. The department of environmental conservation shall conduct a
46 study on the desirability, feasibility and environmental impact of a
47 statewide prohibition on the use of disposable food service ware that
48 contains polystyrene foam. The department shall issue a report contain-
49 ing the results of the study to the legislature no later than the thir-
50 ty-first of January next succeeding the date on which this act shall
51 have become a law.

52 S 4. This act shall take effect immediately; provided, however, that
53 sections one and two of this act shall take effect on the one hundred
54 twentieth day after it shall have become a law.