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2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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 the recycling of plastic carryout bags and film plastic

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

1 Section 1. Subdivision 6 of section 27-2701 of the environmental
2 conservation law, as added by chapter 641 of the laws of 2008, is
3 amended to read as follows:
4 6. "Store" means a retail establishment that provides plastic carryout
5 bags to its customers as a result of the sale of a product and (a) has
6 over ten thousand square feet of retail space OR, IN A CITY WITH A POPU-
7 LATION OF ONE MILLION OR MORE, HAS OVER FIVE THOUSAND SQUARE FEET OF
8 RETAIL SPACE, or (b) such retail establishment is part of a chain
9 engaged in the same general field of business [which] THAT operates five
10 or more units of over five thousand square feet of retail space in this
11 state under common ownership and management OR, IN A CITY WITH A POPU-
12 LATION OF ONE MILLION OR MORE, SUCH RETAIL ESTABLISHMENT IS PART OF A
13 CHAIN ENGAGED IN THE SAME GENERAL FIELD OF BUSINESS THAT OPERATES FIVE
14 OR MORE UNITS IN SUCH CITY UNDER COMMON OWNERSHIP AND MANAGEMENT.
15 S 2. Section 27-2713 of the environmental conservation law, as added
16 by chapter 641 of the laws of 2008, is amended to read as follows:
17 S 27-2713. Preemption.
18 Jurisdiction in all matters pertaining to plastic bag recycling is by
19 this article vested exclusively in the state, EXCEPT THAT IN A CITY WITH
20 A POPULATION OF ONE MILLION OR MORE, AN AGENCY OR AGENCIES DESIGNATED BY
21 THE MAYOR OF SUCH CITY MAY ENFORCE SECTION 27-2703 AND SUBDIVISIONS ONE,
22 TWO AND FIVE OF SECTION 27-2705 OF THIS TITLE. Any provision of any
23 local law or ordinance, or any rule or regulation promulgated thereto,
24 governing the recycling of plastic bags shall, upon the effective date

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

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1 of this title, be preempted. Provided however, nothing in this section
2 shall preclude a person from coordinating for recycling or reuse the
3 collection of plastic bags.

4 S 3. Subdivision 1 of section 71-2728 of the environmental conserva-
5 tion law, as added by chapter 641 of the laws of 2008, is amended to
6 read as follows:

7 1. Any person who knowingly or intentionally violates any provision of
8 or fails to perform any duty imposed pursuant to title 27 of article 27
9 of this chapter shall [upon the first finding of such a violation be
10 provided with a warning that future violations shall result in the impo-
11 sition of a fine] BE LIABLE FOR A CIVIL PENALTY. Any person convicted
12 of a [second] FIRST violation shall be liable for a civil penalty not to
13 exceed one hundred dollars. ANY PERSON CONVICTED OF A SECOND VIOLATION
14 SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED FIFTY
15 DOLLARS. Any person convicted of a third or subsequent violation shall
16 be liable for a civil penalty not to exceed five hundred dollars.

17 S 4. Section 71-2728 of the environmental conservation law is amended
18 by adding a new subdivision 4 to read as follows:

19 4. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION ONE, TWO OR THREE OF
20 THIS SECTION TO THE CONTRARY, IN A CITY WITH A POPULATION OF ONE MILLION
21 OR MORE, SECTION 27-2703 AND SUBDIVISIONS ONE, TWO AND FIVE OF SECTION
22 27-2705 OF THIS CHAPTER MAY ALSO BE ENFORCED BY AN AGENCY OR AGENCIES
23 DESIGNATED BY THE MAYOR OF SUCH CITY. ANY NOTICE OF VIOLATION ISSUED BY
24 AN AGENCY DESIGNATED BY THE MAYOR OF SUCH CITY CHARGING A VIOLATION OF
25 SECTION 27-2703 OR SUBDIVISION ONE, TWO OR FIVE OF SECTION 27-2705 OF
26 THIS CHAPTER SHALL BE RETURNABLE TO THE ENVIRONMENTAL CONTROL BOARD OF
27 SUCH CITY. SUCH ENVIRONMENTAL CONTROL BOARD SHALL HAVE THE POWER TO
28 IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR THE FIRST
29 VIOLATION, NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR THE SECOND
30 VIOLATION AND NOT TO EXCEED FIVE HUNDRED DOLLARS FOR A THIRD OR SUBSE-
31 QUENT VIOLATION. ALL CIVIL PENALTIES COLLECTED FOR ANY VIOLATION OF
32 TITLE 27 OF ARTICLE 27 OF THIS CHAPTER THAT HAVE BEEN IMPOSED BY THE
33 ENVIRONMENTAL CONTROL BOARD OF SUCH CITY SHALL BE PAID INTO THE GENERAL
34 FUND OF SUCH CITY.

35 S 5. This act shall take effect on the sixtieth day after it shall
36 have become a law.