

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

4973--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. KAVANAGH, MILLMAN, PAULIN, SCHIMEL, TITONE,
LUPARDO, COLTON, ENGLEBRIGHT, GALEF, ROSENTHAL -- Multi-Sponsored by
-- M. of A. COOK, DINOWITZ, FARRELL, HOOPER, McDONOUGH, THIELE -- read
once and referred to the Committee on Environmental Conservation --
committee discharged, bill amended, ordered reprinted as amended and
recommitted to said committee

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:

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

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

TITLE 28

FOOD SERVICE WASTE REDUCTION

7 SECTION 27-2801. DEFINITIONS.

8	27-2803. REQUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD
9	SERVICE WARE.

10 27-2805. POWERS OF MUNICIPALITIES.

11 S 27-2801. DEFINITIONS.

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

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

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

19 3. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE
20 WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING
21 TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A

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

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1 RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO
2 VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT
3 ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED
4 COMPOST IS PLACED IN SOIL.

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

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

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

23 7. "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED FOAMS
24 UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY NUMBER OF TECHNIQUES.
25 POLYSTYRENE FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS,
26 CLAMSHELL 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.