## 9959--A

IN ASSEMBLY

June 3, 2014

- Introduced by COMMITTEE ON RULES -- (at request of M. of A. Kavanagh, Englebright, Jaffee, Abinanti, Rozic) -- 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 reduction of food waste

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 1 2 the "State and local government food waste reduction act". 3 2. Article 27 of the environmental conservation law is amended by S 4 adding a new title 28 to read as follows: 5 TITLE 28 6 STATE AND LOCAL GOVERNMENT FOOD WASTE REDUCTION ACT 7 SECTION 27-2801. DEFINITIONS. 8 27-2803. REQUIRED STATE AND MUNICIPAL FOOD SERVICE ORGANICS 9 WASTE MANAGEMENT. 10 27-2805. POWERS OF MUNICIPALITIES. 11 S 27-2801. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE 12 13 FOLLOWING MEANINGS: 1. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT 14 15 CORPORATION, PUBLIC AUTHORITY, OR COMMISSION. 16 2. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE 17 WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING 18 TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO 19 VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT 20 ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE 21 THE FINISHED 22 COMPOST IS PLACED IN SOIL. 23 3. "CONTRACTORS" AND "LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A 24 CONTRACT WITH AN AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY FOR PUBLIC WORKS OR IMPROVEMENTS TO BE PERFORMED, FOR A FRANCHISE, CONCES-25 EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted. LBD15359-03-4

SION OR LEASE OF PROPERTY, FOR GRANT MONIES OR GOODS AND SERVICES 1 OR 2 SUPPLIES TO BE PURCHASED AT THE EXPENSE OF THE AGENCY, MUNICIPALITY OR 3 LOCAL EDUCATION AGENCY OR TO BE PAID OUT OF MONIES DEPOSITED IN THE 4 TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR COLLECTED BY THE 5 AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY. 6 "COVERED FOOD SERVICE ESTABLISHMENT" MEANS ANY PREMISES OR PART OF 4. 7 A PREMISES TO WHICH ALL OF THE FOLLOWING APPLY: 8 (A) IT IS OPERATED BY AN AGENCY, MUNICIPALITY, LOCAL EDUCATION AGENCY, 9 OR ANY CONTRACTOR OR LESSEE OF AN AGENCY, MUNICIPALITY, OR LOCAL EDUCA-10 TION AGENCY; IT GENERATES, FROM ITS FOOD PREPARATION AND SERVICE, AS AVERAGED 11 (B) 12 OVER THE COURSE OF THE PREVIOUS TEN WEEKS: 13 (I) IN TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN, OVER TWO THOU-14 SAND POUNDS OF FOOD WASTE PER WEEK; 15 (II) IN TWO THOUSAND EIGHTEEN AND TWO THOUSAND NINETEEN, OVER ONE 16 THOUSAND POUNDS OF FOOD WASTE PER WEEK; AND 17 IN TWO THOUSAND TWENTY AND THEREAFTER, OVER FIVE HUNDRED POUNDS (III) 18 OF FOOD WASTE PER WEEK; AND 19 (C) WHERE FOOD IS PREPARED AND PROVIDED DIRECTLY TO THE CONSUMER, WHETHER SUCH FOOD IS PROVIDED FREE OF CHARGE OR SOLD, AND WHETHER 20 21 CONSUMPTION OCCURS ON OR OFF THE PREMISES. "COVERED FOOD SERVICE ESTAB-22 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING WHICH LISHMENTS" ALSO MEET THE CONDITIONS OF PARAGRAPHS (A), (B), AND (C) OF THIS SUBDI-23 VISION: FULL-SERVICE RESTAURANTS, FAST FOOD RESTAURANTS, CAFES, DELICA-24 25 TESSENS, COFFEE SHOPS, AND CAFETERIAS, BUT SHALL NOT INCLUDE RETAIL FOOD 26 STORES, CONVENIENCE STORES, PHARMACIES, AND MOBILE FOOD VENDING UNITS. 27 5. "EXCESS FOOD" MEANS FOOD THAT IS NOT REQUIRED TO MEET THE NEEDS OF 28 THE COVERED FOOD SERVICE ESTABLISHMENT. 29 6. "LOCAL EDUCATION AGENCY" MEANS A SCHOOL DISTRICT, BOARD OF COOPER-ATIVE EDUCATIONAL SERVICES, COMMUNITY COLLEGE, AGRICULTURAL AND TECHNI-30 CAL COLLEGE, STATE UNIVERSITY OF NEW YORK COLLEGE OF TECHNOLOGY AND A 31 32 CENTER FOR ADVANCED TECHNOLOGY DESIGNATED PURSUANT TO SECTION THREE 33 THOUSAND ONE HUNDRED TWO-A OF THE PUBLIC AUTHORITIES LAW, AND OTHER 34 POSTSECONDARY PROVIDER OF CAREER EDUCATION AS SET FORTH ANNUALLY BY THE 35 COMMISSIONER AS ELIGIBLE RECIPIENTS UNDER THE FEDERAL VOCATIONAL EDUCA-TION ACT OF NINETEEN HUNDRED EIGHTY-FOUR. 36 37 7. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY 38 DESIGNATED AGENCY THEREOF. 39 8. "ORGANIC" MEANS MATERIALS PRODUCED BY OR FROM LIVING ORGANISMS. 40 REOUIRED STATE AND MUNICIPAL FOOD SERVICE ORGANICS WASTE S 27-2803. 41 MANAGEMENT. 42 1. ANY COVERED FOOD SERVICE ESTABLISHMENT SHALL, GIVEN ALL NECESSARY 43 ACTIONS TO PERFORM ITS FUNCTION, DO THE FOLLOWING: 44 (A) TAKE ALL AVAILABLE AND PRACTICABLE MEASURES TO MINIMIZE ITS GENER-45 ATION OF EXCESS, UNUSED FOODS IN ADDITION TO FOOD SCRAPS AND RESIDUALS INCLUDING, BUT NOT LIMITED TO, FOOD TRIMMINGS AND PACKAGING; 46 47 (B) TO THE GREATEST EXTENT PRACTICABLE, REDUCE THE NEED FOR DISPOSAL 48 OF ITS GENERATED EXCESS, UNUSED FOOD, FOOD SCRAPS AND ANY OTHER COMPOST-49 ABLE OR ORGANIC FRACTION OF ITS RESIDUAL MATERIALS, BY PROVIDING IT FOR 50 THE FOLLOWING PURPOSES, IN DESCENDING ORDER OF PRIORITY: 51 (I) FEEDING OR DISTRIBUTING EXCESS, UNUSED, APPARENTLY WHOLESOME FOOD POOR AND DISADVANTAGED PEOPLE SUCH AS THROUGH LOCAL VOLUNTARY COMMU-52 TO NITY NOT-FOR-PROFIT FOOD ASSISTANCE PROGRAMS; 53 54 (II) FEEDING EXCESS, UNUSED FOOD, OR FOOD SCRAPS TO ANIMALS AS FEED; 55 (III) COMPOSTING, ANAEROBIC DIGESTION, OR OTHER PROCESSING OF FOOD, 56 FOOD WASTE, AND OTHER COMPOSTABLE AND ORGANIC MATERIALS TO GENERATE SOIL 1 AMENDMENT OR OTHER PRODUCTS FOR USE IN AGRICULTURAL, HORTICULTURAL, 2 MANUFACTURING, OR OTHER APPLICATIONS;

3 (C) EACH COVERED FOOD SERVICE ESTABLISHMENT SHALL PROVIDE COLLECTION
4 AND EDUCATIONAL RESOURCES, INCLUDING REGULAR PERIODICAL GUIDANCE, TRAIN5 ING, UPDATES, SIGNAGE, AND FLYERS, FOR ITS WORKFORCE AND THE PUBLIC FOR
6 THE PURPOSES OF TEACHING AND RETAINING EFFECTIVE PROCEDURES FOR SORTING
7 MATERIALS FOR ORGANICS AND OTHER RECYCLING.

8 2. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO CONTRACTS IN 9 EFFECT ON THE EFFECTIVE DATE OF THIS SECTION; PROVIDED, HOWEVER, THAT 10 THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL RENEWALS OR EXTENSIONS 11 OF SUCH CONTRACTS ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THIS 12 SECTION.

THE EVENT THAT TWO OR MORE COVERED FOOD SERVICE ESTABLISHMENTS 13 3. IN 14 SHARE A COMMON PHYSICAL FACILITY AND SHARE SERVICES AS SUCH 15 WASTE/RECYCLING COLLECTION AND HAULING, DINING AREAS AND/OR RESTROOMS, 16 ALL FACILITIES SHALL BE CONSIDERED TO BE ONE COVERED FOOD SERVICE ESTAB-17 LISHMENT FOR THE PURPOSE OF CALCULATING THE AMOUNT OF FOOD WASTE AS PROVIDED IN SUBDIVISION FOUR OF SECTION 27-2801 OF THIS TITLE. 18

4. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO GOVERN THE ACTIVITIES
 OF CONTRACTORS AND LESSEES THAT OCCUR OUTSIDE OF THE STATE OR ACTIVITIES
 OF CONTRACTORS OR LESSEES THAT OCCUR WITH ENTITIES OTHER THAN AGENCIES,
 MUNICIPALITIES OR LOCAL EDUCATION AGENCIES.

5. AN AGENCY, MUNICIPALITY, LOCAL EDUCATION AGENCY OR CONTRACTOR OR
LESSEE THEREOF MAKING DONATIONS OF EXCESS FOOD PURSUANT TO THIS TITLE
SHALL BE EXEMPT FROM CIVIL AND CRIMINAL LIABILITY TO THE EXTENT PROVIDED
UNDER SECTION SEVENTY-ONE-Z OF THE AGRICULTURE AND MARKETS LAW.
S 27-2805. POWERS OF MUNICIPALITIES.

28 ANY AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY MAY PROMULGATE 29 REGULATIONS, ORDINANCES, OR LAWS TO TAKE ANY AND ALL REASONABLE ACTIONS 30 NECESSARY TO IMPLEMENT AND ENFORCE THIS TITLE.

31 S 3. This act shall take effect immediately.