

3964

2013-2014 Regular Sessions

I N S E N A T E

March 1, 2013

Introduced by Sen. ADDABBO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the environmental conservation law, in relation to the reuse and recycling of carpeting

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

- 1 Section 1. Section 770 of the general business law is amended by
2 adding three new subdivisions 8, 9 and 10 to read as follows:
3 8. "CARPETING" MEANS ANY MANUFACTURED FLOOR COVERING THAT IS COMPOSED
4 OF A VISIBLE TOP SURFACE OF FIBERS, YARNS OR TUFTS ATTACHED TO A BACKING
5 MADE OF SYNTHETIC OR NATURAL MATERIALS. CARPETING INCLUDES, BUT IS NOT
6 LIMITED TO, COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET, OR MODULAR
7 CARPET TILES. CARPETING INCLUDES THE PAD OR UNDERLAYMENT USED IN
8 CONJUNCTION WITH A CARPET. SUCH TERM SHALL NOT INCLUDE HANDMADE RUGS,
9 AREA RUGS OR MATS.
10 9. "FLOORING AND FLOOR COVERING" MEANS MATERIAL USED TO MAKE THE
11 SURFACE OF A FLOOR ABOVE THE SUB-FLOOR INCLUDING, BUT NOT LIMITED TO,
12 CARPETING; LINOLEUM, VINYL OR RUBBER ROLLS AND TILE; NATURAL AND
13 SYNTHETIC STONE TILES; OR PLANKS, SECTIONS OR SQUARES CUT OR ASSEMBLED
14 FROM WOOD, BARK, OR OTHER PLANT OR SYNTHETIC MATERIALS.
15 10. "FLOORING AND FLOOR COVERING CONTRACTOR" MEANS ANY PERSON OR ENTI-
16 TY WHICH OPERATES A BUSINESS THAT INSTALLS, REPLACES OR REMOVES FLOORING
17 OR FLOOR COVERING, OR THAT UNDERTAKES, OFFERS TO UNDERTAKE OR AGREES TO
18 INSTALL, REPLACE OR REMOVE FLOORING OR FLOOR COVERING FOR A FEE; AND FOR
19 WHICH THE TOTAL COST OF ALL OF HIS OR HER FLOORING OR FLOOR COVERING
20 CONTRACTS WITH ALL ITS CUSTOMERS EXCEEDS ONE THOUSAND FIVE HUNDRED
21 DOLLARS DURING ANY PERIOD OF TWELVE CONSECUTIVE MONTHS. SUCH TERM SHALL
22 NOT INCLUDE A PERSON, FIRM, CORPORATION, LANDLORD, COOPERATIVE CORPO-
23 RATION, CONDOMINIUM BOARD OF MANAGERS, JOINT TENANT OR CO-TENANT THAT
24 OWNS, IN WHOLE OR IN PART, THE REAL PROPERTY TO BE IMPROVED.

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

LBD04352-01-3

1 S 2. The general business law is amended by adding a new section 771-b
2 to read as follows:

3 S 771-B. RESPONSIBILITIES OF FLOORING AND FLOOR COVERING CONTRACTORS.
4 1. EVERY FLOORING AND FLOOR COVERING CONTRACTOR WHO REMOVES USED CARPET-
5 ING FROM A CUSTOMER'S FLOOR OR SUB-FLOOR SHALL REMOVE SUCH CARPETING
6 FROM THE PREMISES OF SUCH CUSTOMER'S PROPERTY NOT LATER THAN THE TIME
7 THE CONTRACTED WORK IS COMPLETED.

8 2. EVERY FLOORING AND FLOOR COVERING CONTRACTOR SHALL MANAGE AND
9 UTILIZE ALL USED CARPETING, RECOVERED PURSUANT TO THIS SECTION, IN
10 ACCORDANCE WITH THE STATE SOLID WASTE MANAGEMENT POLICY ESTABLISHED
11 PURSUANT TO SECTION 27-0106 OF THE ENVIRONMENTAL CONSERVATION LAW.

12 3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,
13 A FLOORING AND FLOOR COVERING CONTRACTOR SHALL NOT BE REQUIRED TO REMOVE
14 USED CARPETING FROM THE PREMISES OF A CUSTOMER'S PROPERTY WHEN:

15 (A) THE CUSTOMER REQUESTS TO RETAIN CUSTODY OF ALL OR ANY PORTION OF
16 THE USED CARPETING, AND THE FLOORING AND FLOOR COVERING CONTRACTOR:

17 (1) REMOVES ALL USED CARPETING WHICH THE CUSTOMER DOES NOT ELECT TO
18 RETAIN CUSTODY OF,

19 (2) INFORMS THE CUSTOMER THAT HE OR SHE IS RESPONSIBLE FOR THE PROPER
20 MANAGEMENT OF THE USED CARPETING IN ACCORDANCE WITH LOCAL LAWS AND ORDI-
21 NANCES, AND

22 (3) OBTAINS A STATEMENT, SIGNED BY THE CUSTOMER, ATTESTING THAT HE OR
23 SHE HAS ELECTED TO RETAIN CUSTODY OF USED CARPETING, THE APPROXIMATE
24 SQUARE YARDAGE OF THE RETAINED USED CARPETING AND ACKNOWLEDGING THAT HE
25 OR SHE HAS BEEN INFORMED OF HIS OR HER RESPONSIBILITY FOR THE PROPER
26 MANAGEMENT OF THE USED CARPETING, INCLUDING ANY COSTS ASSOCIATED WITH
27 THE COLLECTION THEREOF BY OR ON BEHALF OF THE APPROPRIATE MUNICIPALITY,
28 OR BY A CONTRACTED RECYCLING OR WASTE HAULER; OR

29 (B) THE CUSTOMER'S MUNICIPALITY OPERATES OR HAS CONTRACTED FOR THE
30 OPERATION OF A PROGRAM WHICH ACCEPTS USED CARPETING FROM THE CUSTOMER'S
31 PREMISES, AND REUSES OR RECYCLES USED CARPETING AT A RATE OF NOT LESS
32 THAN FIFTY PERCENT, BY WEIGHT, OF THE USED CARPETING IT RECEIVES, AS
33 APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.

34 S 3. Section 773 of the general business law is amended by adding a
35 new subdivision 4 to read as follows:

36 4. CARPETING VIOLATIONS. ANY FLOORING AND FLOOR COVERING CONTRACTOR
37 WHO IS FOUND TO HAVE VIOLATED ANY PROVISION OF SECTION SEVEN HUNDRED
38 SEVENTY-ONE-B OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT
39 MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH VIOLATION THEREOF.

40 S 4. Article 27 of the environmental conservation law is amended by
41 adding a new title 29 to read as follows:

42 TITLE 29
43 CARPETING REUSE AND
44 RECYCLING

45 SECTION 27-2901. DEFINITIONS.

46 27-2903. MANAGEMENT OF USED CARPETING.

47 S 27-2901. DEFINITIONS.

48 AS USED IN THIS TITLE:

49 1. "CARPETING" MEANS ANY MANUFACTURED FLOOR COVERING THAT IS COMPOSED
50 OF A VISIBLE TOP SURFACE OF FIBERS, YARNS OR TUFTS ATTACHED TO A BACKING
51 MADE OF SYNTHETIC OR NATURAL MATERIALS. CARPETING INCLUDES, BUT IS NOT
52 LIMITED TO, COMMERCIAL OR RESIDENTIAL BROADLOOM CARPET, OR MODULAR
53 CARPET TILES. CARPETING INCLUDES THE PAD OR UNDERLAYMENT USED IN
54 CONJUNCTION WITH A CARPET. SUCH TERM SHALL NOT INCLUDE HANDMADE RUGS,
55 AREA RUGS OR MATS.

1 2. "PLANNING UNIT" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH
2 TERM PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION 27-0107 OF
3 THIS ARTICLE.

4 S 27-2903. MANAGEMENT OF USED CARPETING.

5 1. ANY PLANNING UNIT OR MUNICIPALITY THEREIN MAY ESTABLISH A PROGRAM
6 TO MANAGE USED CARPETING FOR REUSE OR RECYCLING IN ACCORDANCE WITH THE
7 STATE SOLID WASTE MANAGEMENT POLICY ESTABLISHED PURSUANT TO SECTION
8 27-0106 OF THIS ARTICLE.

9 2. A PLANNING UNIT OR PARTICIPATING MUNICIPALITY THAT MANAGES USED
10 CARPETING IN ANY ASPECT SHALL INCLUDE A DESCRIPTION OF THE PROCESS IN
11 ITS LOCAL SOLID WASTE MANAGEMENT PLAN OR ANY COMPONENT REQUIRED THEREIN
12 INCLUDING, BUT NOT LIMITED TO:

13 (A) ANY EXISTING MEANS BY WHICH USED CARPETING IS MANAGED IN THE PLAN-
14 NING UNIT OR BY THE MUNICIPALITIES; AND

15 (B) AN EVALUATION OF ALTERNATIVES TO DISPOSAL METHODS TO INCREASE
16 REDUCTION, REUSE AND RECYCLING OF USED CARPETING.

17 3. NO PLANNING UNIT, MUNICIPALITY, ENTITY ACTING ON BEHALF OF A MUNI-
18 CIPALITY OR WASTE HAULER SHALL COLLECT USED CARPETING, THAT EXCEEDS
19 THREE FEET IN LENGTH, FROM CURBSIDE OR ROADSIDE, UNLESS IT EMPLOYS:

20 (A) A CARPETING REUSE OR RECYCLING PROGRAM WHICH RECOVERS AT LEAST
21 FIFTY PERCENT BY WEIGHT OF ALL USED CARPETING COLLECTED; OR

22 (B) ANOTHER MEANS OF PROMOTING THE REUSE OR RECYCLING OF USED CARPET-
23 ING APPROVED BY THE DEPARTMENT.

24 S 5. This act shall take effect immediately, provided that sections
25 one, two and three of this act shall take effect January 1, 2014.