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

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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. HEASTIE -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to alternative power sources for retail food stores located within cities having a population of one million or more

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

Section 1. The agriculture and markets law is amended by adding a new section 251-z-3-1 to read as follows:

S 251-Z-3-1. ALTERNATIVE POWER SOURCES FOR RETAIL FOOD STORES WITHIN CITIES HAVING A POPULATION OF ONE MILLION OR MORE. 1. FOR THE PURPOSES OF THIS SECTION:

A. "TRANSFER SWITCH" MEANS A QUICK CONNECT OR A SWITCHBOARD DESIGNED TO ALLOW A CONNECTION OF A MOBILE GENERATOR, OR OTHER ALTERNATIVE POWER SOURCE, TO A RETAIL FOOD STORE, AS DEFINED AND REQUIRED BY THIS SECTION.

B. "FRONT-END TRANSACTIONAL SYSTEM" MEANS THE OPERATION OF ALL ELECTRONIC PAYMENT DEVICES AT FOOD RETAIL STORES, INCLUDING BUT NOT LIMITED TO CASH REGISTERS, BARCODE SCANNING EQUIPMENT, CREDIT AND/OR DEBIT CARD MACHINES AND ELECTRONIC BENEFIT TRANSFERS (EBT).

C. "ALTERNATIVE POWER SOURCE" MEANS A SOURCE OF ELECTRICAL POWER OTHER THAN A SOURCE THAT REQUIRES INTERCONNECTION TO THE FACILITIES OF AN ELECTRIC CORPORATION, AS DEFINED IN SECTION TWO OF THE PUBLIC SERVICE LAW, THAT IS: (I) CAPABLE OF PROVIDING ELECTRICAL POWER FOR THE OPERATION OF ALL FRONT-END TRANSACTIONAL SYSTEMS, EMERGENCY LIGHTING AND FIRE AND SECURITY SYSTEMS NECESSARY FOR THE SALE OF NON-PERISHABLE FOOD AND FOOD PRODUCTS, AS DEFINED BY SECTION TWO HUNDRED FIFTY-ONE-Z-TWO OF THIS ARTICLE, CONTINUOUSLY FOR A MINIMUM OF TWENTY-FOUR HOURS; AND (II) GENERATED BY SOLAR OR WIND POWER, OR FUEL THAT HAS A SULFUR CONTENT OF NO MORE THAN FIFTEEN PARTS PER MILLION.

D. "EXECUTIVE DECLARATION" MEANS A DECLARATION ISSUED BY THE MAYOR OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE DURING A POWER INTERRUPTION THAT RETAIL FOOD STORES AFFECTED BY A POWER INTERRUPTION ARE REQUIRED TO BE CAPABLE OF GENERATING ELECTRICAL POWER USING AN ALTERNA-

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

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TIVE POWER SOURCE PURSUANT TO SUBDIVISION THREE OF THIS SECTION. SUCH DECLARATION MAY BE ISSUED BY ANY AGENCY OF SUCH CITY THAT HAS BEEN DESIGNATED BY SUCH MAYOR FOR THE PURPOSE OF ISSUING SUCH A DECLARATION.

E. "RETAIL FOOD STORE" MEANS ANY ESTABLISHMENT OR SECTION OF AN ESTABLISHMENT, LOCATED WITHIN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, WHERE FOOD AND FOOD PRODUCTS ARE OFFERED TO THE CONSUMER AND ARE INTENDED FOR OFF-PREMISES CONSUMPTION, AND THAT EITHER CONSISTS OF TWENTY THOUSAND SQUARE FEET OR MORE OF FLOOR SPACE OR HAS SIXTY OR MORE EMPLOYEES IN FULL AND/OR PART-TIME POSITIONS.

F. "POWER INTERRUPTION" MEANS THE LOSS OF ELECTRICAL POWER FROM THE FACILITIES OF AN ELECTRIC CORPORATION, AS DEFINED IN SECTION TWO OF THE PUBLIC SERVICE LAW, TO A RETAIL FOOD STORE.

2. NO LATER THAN JANUARY FIRST, TWO THOUSAND FIFTEEN, EVERY RETAIL FOOD STORE SHALL HAVE INSTALLED IN SUCH FACILITY AN APPROPRIATE TRANSFER SWITCH AND ALL OTHER ELECTRICAL WIRING NECESSARY TO EFFECTUATE THE TRANSFER OF POWER TO AN ALTERNATIVE POWER SOURCE.

3. BEGINNING NO LATER THAN JANUARY FIRST, TWO THOUSAND FIFTEEN, EVERY RETAIL FOOD STORE AFFECTED BY A POWER INTERRUPTION SHALL, NO LATER THAN TWENTY-FOUR HOURS AFTER THE ISSUANCE OF AN EXECUTIVE DECLARATION OR SUCH LATER TIME AS SET FORTH IN SUCH DECLARATION, BE CAPABLE OF GENERATING ELECTRICAL POWER USING AN ALTERNATIVE POWER SOURCE TO OPERATE AT SUCH RETAIL FOOD STORE'S FRONT-END TRANSACTIONAL SYSTEMS, EMERGENCY LIGHTING AND FIRE AND SECURITY SYSTEMS NECESSARY FOR THE SALE OF NON-PERISHABLE FOOD AND FOOD PRODUCTS.

4. THE INSTALLATION AND MAINTENANCE OF THE TRANSFER SWITCH ("QUICK CONNECT") AND ALL OTHER ELECTRICAL WORK NECESSARY TO EFFECTUATE THE TRANSFER OF POWER TO AN ALTERNATIVE POWER SOURCE, AS REQUIRED BY SUBDIVISION TWO OF THIS SECTION, AND THE ALTERNATIVE POWER SOURCE, AS REQUIRED BY SUBDIVISION THREE OF THIS SECTION, SHALL COMPLY WITH ALL APPLICABLE LAWS AND REGULATIONS, INCLUDING LOCAL CONSTRUCTION AND FIRE CODES.

5. EACH PERSON WHO OWNS, LEASES, OPERATES OR OTHERWISE MANAGES OR CONTROLS A RETAIL FOOD STORE SHALL MAINTAIN AT SUCH FACILITY DOCUMENTATION OF THE INSTALLATION REQUIRED BY SUBDIVISION TWO OF THIS SECTION, AS WELL AS ANY PERIODIC TESTING NECESSARY TO ENSURE THE OPERATIONAL CAPABILITY OF SUCH INSTALLATION. SUCH DOCUMENTATION SHALL BE MADE AVAILABLE, UPON REQUEST, TO THE LOCAL EMERGENCY MANAGEMENT OFFICER.

6. THE WILLFUL FAILURE OF ANY PERSON WHO OWNS, LEASES, OPERATES OR OTHERWISE MANAGES OR CONTROLS A RETAIL FOOD STORE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY THE PENALTIES DESCRIBED IN ARTICLE THREE OF THIS CHAPTER, IN ADDITION TO THE PENALTIES DESCRIBED IN SECTION TWO HUNDRED FIFTY-ONE-Z-TEN OF THIS ARTICLE. IF SUCH FAILURE TO COMPLY RESULTS FROM THE BREAKDOWN OF OR ANY DAMAGE TO AN ALTERNATIVE POWER SOURCE, TRANSFER SWITCH OR ELECTRICAL WIRING NECESSARY TO EFFECTUATE THE TRANSFER OF POWER TO AN ALTERNATIVE POWER SOURCE IN THE EVENT OF A POWER INTERRUPTION, THE FAILURE TO REPAIR OR REPLACE SUCH ALTERNATIVE POWER SOURCE, TRANSFER SWITCH OR ELECTRICAL WIRING WITHIN A REASONABLE TIME SHALL CONSTITUTE WILLFUL CONDUCT.

7. NOTHING IN THIS SECTION SHALL PRECLUDE THE APPLICATION OF LOCAL LAWS AND REGULATIONS, NOT INCONSISTENT WITH THIS SECTION, GOVERNING THE INSTALLATION, MAINTENANCE AND INSPECTION OF, AND OTHER REQUIREMENTS RELATING TO, ALTERNATIVE POWER SOURCES.

S 2. This act shall take effect immediately.