## 4973--A

## 2013-2014 Regular Sessions

IN ASSEMBLY

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.

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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 "CONTRACTORS AND LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A 4. 6 CONTRACT WITH AN AGENCY OR A MUNICIPALITY FOR PUBLIC WORKS OR IMPROVE-MENTS TO BE PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY, 7 8 FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT THE EXPENSE OF THE AGENCY OR MUNICIPALITY OR TO BE PAID OUT OF MONIES 9 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, TRAYS, CARTONS, CUPS, LIDS, STRAWS, FORKS, SPOONS, KNIVES, NAPKINS AND 13 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 ENTIRELY OF ALUMINUM OR POLYSTYRENE FOAM COOLERS AND ICE CHESTS THAT ARE 18 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.

7. "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED FOAMS
UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY NUMBER OF TECHNIQUES.
POLYSTYRENE FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS,
CLAMSHELL CONTAINERS, MEAT TRAYS AND EGG CARTONS.

8. "RECYCLABLE" MEANS MATERIAL THAT CAN BE SORTED, CLEANSED AND RECONSTITUTED USING AVAILABLE RECYCLING COLLECTION PROGRAMS FOR THE PURPOSE
OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT. RECYCLING
DOES NOT INCLUDE BURNING, INCINERATING, CONVERTING, OR OTHERWISE THERMALLY 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 FOAM, THAT IS COMPOSTABLE OR RECYCLABLE UNLESS THERE IS NO AFFORDABLE 36 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. S 27-2805. POWERS OF MUNICIPALITIES. 41

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.

S 3. The department of environmental conservation shall conduct a study on the desirability, feasibility and environmental impact of a statewide prohibition on the use of disposable food service ware that contains polystyrene foam. The department shall issue a report containing the results of the study to the legislature no later than the thirty-first of January next succeeding the date on which this act shall 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.