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I N  A S S E M B L Y

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 the "State and local government food waste reduction act".

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

TITLE 28

STATE AND LOCAL GOVERNMENT FOOD WASTE REDUCTION ACT

SECTION 27-2801. DEFINITIONS.
27-2803. REQUIRED STATE AND MUNICIPAL FOOD SERVICE ORGANICS WASTE MANAGEMENT.
27-2805. POWERS OF MUNICIPALITIES.

S 27-2801. DEFINITIONS.

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

1. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

2. "COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE WILL (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED COMPOST IS PLACED IN SOIL.

3. "CONTRACTORS" AND "LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A CONTRACT WITH AN AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY FOR PUBLIC WORKS OR IMPROVEMENTS TO BE PERFORMED, FOR A FRANCHISE, CONCES-

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 OR SUPPLIES TO BE PURCHASED AT THE EXPENSE OF THE AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY OR TO BE PAID OUT OF MONIES DEPOSITED IN THE TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR COLLECTED BY THE AGENCY, MUNICIPALITY OR LOCAL EDUCATION AGENCY.

4. "COVERED FOOD SERVICE ESTABLISHMENT" MEANS ANY PREMISES OR PART OF A PREMISES TO WHICH ALL OF THE FOLLOWING APPLY:

(A) IT IS OPERATED BY AN AGENCY, MUNICIPALITY, LOCAL EDUCATION AGENCY, OR ANY CONTRACTOR OR LESSEE OF AN AGENCY, MUNICIPALITY, OR LOCAL EDUCATION AGENCY;

(B) IT GENERATES, FROM ITS FOOD PREPARATION AND SERVICE, AS AVERAGED OVER THE COURSE OF THE PREVIOUS TEN WEEKS:

(I) IN TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN, OVER TWO THOUSAND POUNDS OF FOOD WASTE PER WEEK;

(II) IN TWO THOUSAND EIGHTEEN AND TWO THOUSAND NINETEEN, OVER ONE THOUSAND POUNDS OF FOOD WASTE PER WEEK; AND

(III) IN TWO THOUSAND TWENTY AND THEREAFTER, OVER FIVE HUNDRED POUNDS OF FOOD WASTE PER WEEK; AND

(C) WHERE FOOD IS PREPARED AND PROVIDED DIRECTLY TO THE CONSUMER, WHETHER SUCH FOOD IS PROVIDED FREE OF CHARGE OR SOLD, AND WHETHER CONSUMPTION OCCURS ON OR OFF THE PREMISES. "COVERED FOOD SERVICE ESTABLISHMENTS" SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING WHICH ALSO MEET THE CONDITIONS OF PARAGRAPHS (A), (B), AND (C) OF THIS SUBDIVISION: FULL-SERVICE RESTAURANTS, FAST FOOD RESTAURANTS, CAFES, DELICATESSENS, COFFEE SHOPS, AND CAFETERIAS, BUT SHALL NOT INCLUDE RETAIL FOOD STORES, CONVENIENCE STORES, PHARMACIES, AND MOBILE FOOD VENDING UNITS.

5. "EXCESS FOOD" MEANS FOOD THAT IS NOT REQUIRED TO MEET THE NEEDS OF THE COVERED FOOD SERVICE ESTABLISHMENT.

6. "LOCAL EDUCATION AGENCY" MEANS A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, COMMUNITY COLLEGE, AGRICULTURAL AND TECHNICAL COLLEGE, STATE UNIVERSITY OF NEW YORK COLLEGE OF TECHNOLOGY AND A CENTER FOR ADVANCED TECHNOLOGY DESIGNATED PURSUANT TO SECTION THREE THOUSAND ONE HUNDRED TWO-A OF THE PUBLIC AUTHORITIES LAW, AND OTHER POSTSECONDARY PROVIDER OF CAREER EDUCATION AS SET FORTH ANNUALLY BY THE COMMISSIONER AS ELIGIBLE RECIPIENTS UNDER THE FEDERAL VOCATIONAL EDUCATION ACT OF NINETEEN HUNDRED EIGHTY-FOUR.

7. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY DESIGNATED AGENCY THEREOF.

8. "ORGANIC" MEANS MATERIALS PRODUCED BY OR FROM LIVING ORGANISMS.

S 27-2803. REQUIRED STATE AND MUNICIPAL FOOD SERVICE ORGANICS WASTE MANAGEMENT.

1. ANY COVERED FOOD SERVICE ESTABLISHMENT SHALL, GIVEN ALL NECESSARY ACTIONS TO PERFORM ITS FUNCTION, DO THE FOLLOWING:

(A) TAKE ALL AVAILABLE AND PRACTICABLE MEASURES TO MINIMIZE ITS GENERATION OF EXCESS, UNUSED FOODS IN ADDITION TO FOOD SCRAPS AND RESIDUALS INCLUDING, BUT NOT LIMITED TO, FOOD TRIMMINGS AND PACKAGING;

(B) TO THE GREATEST EXTENT PRACTICABLE, REDUCE THE NEED FOR DISPOSAL OF ITS GENERATED EXCESS, UNUSED FOOD, FOOD SCRAPS AND ANY OTHER COMPOSTABLE OR ORGANIC FRACTION OF ITS RESIDUAL MATERIALS, BY PROVIDING IT FOR THE FOLLOWING PURPOSES, IN DESCENDING ORDER OF PRIORITY:

(I) FEEDING OR DISTRIBUTING EXCESS, UNUSED, APPARENTLY WHOLESOME FOOD TO POOR AND DISADVANTAGED PEOPLE SUCH AS THROUGH LOCAL VOLUNTARY COMMUNITY NOT-FOR-PROFIT FOOD ASSISTANCE PROGRAMS;

(II) FEEDING EXCESS, UNUSED FOOD, OR FOOD SCRAPS TO ANIMALS AS FEED;

(III) COMPOSTING, ANAEROBIC DIGESTION, OR OTHER PROCESSING OF FOOD, FOOD WASTE, AND OTHER COMPOSTABLE AND ORGANIC MATERIALS TO GENERATE SOIL

AMENDMENT OR OTHER PRODUCTS FOR USE IN AGRICULTURAL, HORTICULTURAL, MANUFACTURING, OR OTHER APPLICATIONS;

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

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

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

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.

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

S 3. This act shall take effect immediately.