

3329

2015-2016 Regular Sessions

I N S E N A T E

February 5, 2015

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the recycling of plastic carryout bags and film plastic

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

1 Section 1. Subdivision 6 of section 27-2701 of the environmental
2 conservation law, as added by chapter 641 of the laws of 2008, is
3 amended to read as follows:

4 6. "Store" means a retail establishment that provides plastic carryout
5 bags to its customers as a result of the sale of a product and (a) has
6 over ten thousand square feet of retail space OR, IN A CITY WITH A POPU-
7 LATION OF ONE MILLION OR MORE, HAS OVER FIVE THOUSAND SQUARE FEET OF
8 RETAIL SPACE, or (b) such retail establishment is part of a chain
9 engaged in the same general field of business [which] THAT operates five
10 or more units of over five thousand square feet of retail space in this
11 state under common ownership and management OR, IN A CITY WITH A POPU-
12 LATION OF ONE MILLION OR MORE, SUCH RETAIL ESTABLISHMENT IS PART OF A
13 CHAIN ENGAGED IN THE SAME GENERAL FIELD OF BUSINESS THAT OPERATES FIVE
14 OR MORE UNITS IN SUCH CITY UNDER COMMON OWNERSHIP AND MANAGEMENT.

15 S 2. Section 27-2713 of the environmental conservation law, as added
16 by chapter 641 of the laws of 2008, is amended to read as follows:
17 S 27-2713. Preemption.

18 Jurisdiction in all matters pertaining to plastic bag recycling is by
19 this article vested exclusively in the state, EXCEPT THAT IN A CITY WITH
20 A POPULATION OF ONE MILLION OR MORE, AN AGENCY OR AGENCIES DESIGNATED BY
21 THE MAYOR OF SUCH CITY MAY ENFORCE SECTION 27-2703 AND SUBDIVISIONS ONE,
22 TWO AND FIVE OF SECTION 27-2705 OF THIS TITLE. Any provision of any
23 local law or ordinance, or any rule or regulation promulgated thereto,
24 governing the recycling of plastic bags shall, upon the effective date
25 of this title, be preempted. Provided however, nothing in this section

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

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1 shall preclude a person from coordinating for recycling or reuse the
2 collection of plastic bags.

3 S 3. Section 27-2713 of the environmental conservation law, as amended
4 by chapter 481 of the laws of 2014, is amended to read as follows:

5 S 27-2713. Preemption.

6 Jurisdiction in all matters pertaining to plastic bag and film plastic
7 recycling is by this article vested exclusively in the state, EXCEPT
8 THAT IN A CITY WITH A POPULATION OF ONE MILLION OR MORE, AN AGENCY OR
9 AGENCIES DESIGNATED BY THE MAYOR OF SUCH CITY MAY ENFORCE SECTION
10 27-2703 AND SUBDIVISIONS ONE, TWO AND FIVE OF SECTION 27-2705 OF THIS
11 TITLE. Any provision of any local law or ordinance, or any rule or regu-
12 lation promulgated thereto, governing the recycling of plastic bags and
13 film plastic shall, upon the effective date of this title, be preempted.
14 Provided however, nothing in this section shall preclude a person from
15 coordinating for recycling or reuse the collection of plastic bags or
16 film plastic.

17 S 4. Subdivision 1 of section 71-2728 of the environmental conserva-
18 tion law, as added by chapter 641 of the laws of 2008, is amended to
19 read as follows:

20 1. Any person who knowingly or intentionally violates any provision of
21 or fails to perform any duty imposed pursuant to title 27 of article 27
22 of this chapter shall [upon the first finding of such a violation be
23 provided with a warning that future violations shall result in the impo-
24 sition of a fine] BE LIABLE FOR A CIVIL PENALTY. Any person convicted
25 of a [second] FIRST violation shall be liable for a civil penalty not to
26 exceed one hundred dollars. ANY PERSON CONVICTED OF A SECOND VIOLATION
27 SHALL BE LIABLE FOR A CIVIL PENALTY NOT TO EXCEED TWO HUNDRED FIFTY
28 DOLLARS. Any person convicted of a third or subsequent violation shall
29 be liable for a civil penalty not to exceed five hundred dollars.

30 S 5. Section 71-2728 of the environmental conservation law is amended
31 by adding a new subdivision 4 to read as follows:

32 4. NOTWITHSTANDING ANY PROVISION OF SUBDIVISION ONE, TWO OR THREE OF
33 THIS SECTION TO THE CONTRARY, IN A CITY WITH A POPULATION OF ONE MILLION
34 OR MORE, SECTION 27-2703 AND SUBDIVISIONS ONE, TWO AND FIVE OF SECTION
35 27-2705 OF THIS CHAPTER MAY ALSO BE ENFORCED BY AN AGENCY OR AGENCIES
36 DESIGNATED BY THE MAYOR OF SUCH CITY. ANY NOTICE OF VIOLATION ISSUED BY
37 AN AGENCY DESIGNATED BY THE MAYOR OF SUCH CITY CHARGING A VIOLATION OF
38 SECTION 27-2703 OR SUBDIVISION ONE, TWO OR FIVE OF SECTION 27-2705 OF
39 THIS CHAPTER SHALL BE RETURNABLE TO THE ENVIRONMENTAL CONTROL BOARD OF
40 SUCH CITY. SUCH ENVIRONMENTAL CONTROL BOARD SHALL HAVE THE POWER TO
41 IMPOSE A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS FOR THE FIRST
42 VIOLATION, NOT TO EXCEED TWO HUNDRED FIFTY DOLLARS FOR THE SECOND
43 VIOLATION AND NOT TO EXCEED FIVE HUNDRED DOLLARS FOR A THIRD OR SUBSE-
44 QUENT VIOLATION. ALL CIVIL PENALTIES COLLECTED FOR ANY VIOLATION OF
45 TITLE 27 OF ARTICLE 27 OF THIS CHAPTER THAT HAVE BEEN IMPOSED BY THE
46 ENVIRONMENTAL CONTROL BOARD OF SUCH CITY SHALL BE PAID INTO THE GENERAL
47 FUND OF SUCH CITY.

48 S 6. This act shall take effect on the sixtieth day after it shall
49 have become a law; provided, however, that the amendments to section
50 27-2713 of the environmental conservation law made by section three of
51 this act shall take effect on the same date and in the same manner as
52 section 6 of chapter 481 of the laws of 2014, takes effect.