

5404

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. AVELLA -- 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 and the general municipal law, in relation to disposal and source separation of recyclable materials

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

1 Section 1. The environmental conservation law is amended by adding a
2 new section 27-0709 to read as follows:
3 S 27-0709. DISPOSAL OF SOURCE SEPARATED RECYCLABLES.
4 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION:
5 A. "INCINERATOR" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
6 72-0401 OF THIS CHAPTER.
7 B. "LANDFILL" SHALL HAVE THE SAME MEANING AS PROVIDED IN SECTION
8 72-0401 OF THIS CHAPTER.
9 C. "LOCAL RECYCLING LAW" MEANS A LOCAL LAW OR ORDINANCE ADOPTED PURSU-
10 ANT TO THE PROVISIONS OF SECTION ONE HUNDRED TWENTY-AA OF THE GENERAL
11 MUNICIPAL LAW.
12 D. "RECYCLABLE MATERIALS" MEANS RECYCLABLE COMPONENTS OF SOLID WASTE
13 WHICH HAVE BEEN SEPARATED FROM OTHER SOLID WASTE AS REQUIRED BY THE
14 LOCAL RECYCLING LAW ADOPTED PURSUANT TO SUBDIVISION TWO OF SECTION ONE
15 HUNDRED TWENTY-AA OF THE GENERAL MUNICIPAL LAW.
16 E. "TRANSFER STATION" MEANS A SOLID WASTE MANAGEMENT FACILITY, WHETHER
17 OWNED OR OPERATED BY A PRIVATE OR PUBLIC ENTITY, OTHER THAN A RECYCLA-
18 BLES HANDLING AND RECOVERY FACILITY, USED OIL FACILITY, OR A
19 CONSTRUCTION AND DEMOLITION DEBRIS PROCESSING FACILITY, WHERE SOLID
20 WASTE IS RECEIVED FOR THE PURPOSE OF SUBSEQUENT TRANSFER TO ANOTHER
21 SOLID WASTE MANAGEMENT FACILITY FOR PROCESSING, TREATING, DISPOSAL,
22 RECOVERY, OR FURTHER TRANSFER.
23 F. "TRANSPORTER" MEANS ANY PERSON OR ENTITY ENGAGED IN THE OFF-SITE
24 TRANSPORTATION OF SOLID WASTE BY AIR, RAIL, HIGHWAY, OR WATER.

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

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1 2. A. NO TRANSPORTER SHALL KNOWINGLY COMMINGLE MATERIALS WITH OTHER
2 SOLID WASTE OR KNOWINGLY CAUSE MATERIALS TO BE COMMINGLED WITH OTHER
3 SOLID WASTE IF SUCH MATERIALS ARE RECYCLABLE MATERIALS.

4 B. NO TRANSPORTER SHALL KNOWINGLY DELIVER MATERIALS THAT ARE RECYCLA-
5 BLE MATERIALS TO, OR KNOWINGLY CAUSE MATERIALS THAT ARE RECYCLABLE MATE-
6 RIALS TO BE DELIVERED TO: (I) AN INCINERATOR; (II) A LANDFILL; (III) A
7 TRANSFER STATION, UNLESS SUCH RECYCLABLE MATERIALS ARE KEPT SEPARATED
8 FROM OTHER SOLID WASTE; OR (IV) ANYONE WHO THE TRANSPORTER KNOWS OR
9 SHOULD KNOW WILL EITHER COMMINGLE SUCH RECYCLABLE MATERIALS WITH OTHER
10 SOLID WASTE OR DELIVER SUCH RECYCLABLE MATERIALS TO AN INCINERATOR OR A
11 LANDFILL FOR DISPOSAL.

12 C. NO OPERATOR OF AN INCINERATOR OR A LANDFILL SHALL KNOWINGLY ACCEPT
13 MATERIALS FOR DISPOSAL IF SUCH MATERIALS ARE RECYCLABLE MATERIALS.

14 D. NO OPERATOR OF A TRANSFER STATION SHALL KNOWINGLY COMMINGLE MATERI-
15 ALS WITH OTHER SOLID WASTE OR CAUSE MATERIALS TO BE TRANSFERRED TO AN
16 INCINERATOR OR LANDFILL FOR DISPOSAL IF SUCH MATERIALS ARE RECYCLABLE
17 MATERIALS.

18 S 2. Paragraphs b and c of subdivision 2 of section 120-aa of the
19 general municipal law, as amended by chapter 70 of the laws of 1988, are
20 amended to read as follows:

21 b. [For purposes of this section, "components" shall include paper,
22 glass, metals, plastics, garden and yard waste, and may include other
23 elements of solid waste.] NO LATER THAN JULY FIRST, TWO THOUSAND SEVEN-
24 TEEN, A MUNICIPALITY SHALL ADOPT A LOCAL LAW OR ORDINANCE TO REQUIRE
25 THAT RECYCLABLE MATERIALS BE SEPARATED FROM OTHER SOLID WASTE WHICH HAS
26 BEEN LEFT FOR COLLECTION OR WHICH IS DELIVERED BY THE GENERATOR OF SUCH
27 WASTE TO A SOLID WASTE MANAGEMENT FACILITY. FOR PURPOSES OF THIS
28 SECTION, "RECYCLABLE MATERIALS" MEANS AND INCLUDES: (I) NEWSPRINT, GLASS
29 CONTAINERS, METAL CONTAINERS, POLYETHYLENE TERAPHTHALATE (#1 CODE) AND
30 HIGH DENSITY POLYETHYLENE (#2 CODE) PLASTIC CONTAINERS; (II) CORRUGATED
31 CARDBOARD CONTAINERS AND PAPER BOARD; (III) MIXED PAPER GENERATED BY
32 NON-RESIDENTIAL ENTITIES OR BY RESIDENTIAL BUILDINGS CONSISTING OF MORE
33 THAN FOUR DWELLINGS; AND (IV) ANY OTHER RECYCLABLE, REUSEABLE OR OTHER
34 MATERIALS FOR WHICH THE MUNICIPALITY DETERMINES THAT ECONOMIC MARKETS
35 FOR ALTERNATE USES EXIST, OR WHICH THE MUNICIPALITY DETERMINES SHOULD BE
36 SEPARATED FROM OTHER SOLID WASTE FOR RECYCLING.

37 c. Prior to [exercising the authority of this section to enact such a
38 local law or ordinance] MAKING A DETERMINATION UNDER SUBPARAGRAPH (IV)
39 OF PARAGRAPH B OF THIS SUBDIVISION, the municipality shall hold a public
40 hearing relating to its proposed provisions and shall give due consider-
41 ation to existing source separation, recycling and [other resource
42 recovery] SOLID WASTE DISPOSAL activities in the area, to the adequacy
43 of markets for separated materials, and to any additional effort and
44 expense to be incurred by residents in meeting the proposed separation
45 requirements. The authority provided in this section shall be in addi-
46 tion to and without limitation upon the authority vested in munici-
47 palities under any other statute.

48 S 3. Severability. If any clause, sentence, paragraph, section or
49 part of this act shall be adjudged by any court of competent jurisdic-
50 tion to be invalid, such judgment shall not affect, impair or invalidate
51 the remainder thereof, but shall be confined in its operation to the
52 clause, sentence, paragraph, section or part thereof directly involved
53 in the controversy in which such judgment shall have been rendered.

54 S 4. This act shall take effect on the one hundred eightieth day after
55 it shall have become a law.