6278

IN SENATE

(PREFILED)

January 6, 2016

Introduced by Sen. PARKER -- 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 prevention and diversion 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 food waste prevention and diversion 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 FOOD WASTE PREVENTION AND DIVERSION ACT

SECTION 27-2801. DEFINITIONS.

27-2803. REQUIRED STATE FOOD SERVICE ORGANICS WASTE MANAGEMENT.

27-2805. POWERS OF AGENCIES.

10 S 27-2801. DEFINITIONS.

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11 FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE 12 FOLLOWING MEANINGS:

13 1. "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT 14 CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

2. "COMPOSTABLE" MEANS ALL THE MATERIALS IN 15 THE PRODUCT OR PACKAGE UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING 16 (A) WILL 17 TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT Α RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO 18 VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE 19 IMPACT 20 THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED ON COMPOST IS PLACED IN SOIL. 21

3. "CONTRACTORS" AND "LESSEES" MEAN ANY PERSON OR ENTITY 22 THAT HAS Α 23 CONTRACT WITH AN AGENCY FOR PUBLIC WORKS OR IMPROVEMENTS TO BE 24 PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY, FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT THE EXPENSE 25 OF THE AGENCY OR TO BE PAID OUT OF MONIES DEPOSITED IN THE TREASURY OR 26 OUT OF TRUST MONIES UNDER THE CONTROL OR COLLECTED BY THE AGENCY. 27

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

LBD13292-01-5

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"COVERED FOOD SERVICE ESTABLISHMENT" MEANS ANY PREMISES OR PART OF 1 4. 2 A PREMISES TO WHICH ALL OF THE FOLLOWING APPLY: 3 (A) IT IS OPERATED BY AN AGENCY OR ANY CONTRACTOR OR LESSEE OF AN 4 AGENCY; 5 (B) IT GENERATES, FROM ITS FOOD PREPARATION AND SERVICE, AS AVERAGED 6 OVER THE COURSE OF THE PREVIOUS TEN WEEKS: 7 (I) IN TWO THOUSAND SIXTEEN AND TWO THOUSAND SEVENTEEN, OVER TWO THOU-8 SAND POUNDS OF FOOD WASTE PER WEEK; 9 TWO THOUSAND EIGHTEEN AND TWO THOUSAND NINETEEN, OVER ONE (II)IN 10 THOUSAND POUNDS OF FOOD WASTE PER WEEK; AND (III) IN TWO THOUSAND TWENTY AND THEREAFTER, OVER FIVE HUNDRED POUNDS 11 12 OF FOOD WASTE PER WEEK; AND 13 (C)IT IS LOCATED WHERE FOOD IS PREPARED AND PROVIDED DIRECTLY TO THE 14 CONSUMER, WHETHER SUCH FOOD IS PROVIDED FREE OF CHARGE OR SOLD, AND 15 WHETHER CONSUMPTION OCCURS OR OF OFF THE PREMISES. "COVERED FOOD SERVICE ESTABLISHMENTS" SHALL INCLUDE, BUT NOT BE LIMIT-16 17 ED TO, THE FOLLOWING WHICH ALSO MEET THE CONDITIONS OF PARAGRAPHS (A), (B), AND (C) OF THIS SUBDIVISION: FULL-SERVICE RESTAURANTS, FAST FOOD 18 RESTAURANTS, CAFES, DELICATESSENS, COFFEE SHOPS, AND CAFETERIAS, BUT SHALL NOT INCLUDE RETAIL FOOD STORES, CONVENIENCE STORES, PHARMACIES AND 19 20 21 MOBILE FOOD VENDING UNITS. 22 5. "EXCESS FOOD" MEANS FOOD THAT IS NOT REQUIRED TO MEET THE NEEDS OF 23 THE COVERED FOOD SERVICE ESTABLISHMENT. 24 6. "ORGANIC" MEANS MATERIALS PRODUCED BY OR FROM LIVING ORGANISMS. 25 "ORGANIC WASTE" MEANS READILY DEGRADABLE ORGANIC MATERIAL INCLUD-7. 26 ING, BUT NOT LIMITED TO, FOOD WASTE, SOILED OR UNRECYCLABLE PAPER, AND 27 YARD WASTE IN COMBINATION WITH ANY OF THE FORMER MATERIALS. IT DOES NOT 28 INCLUDE BIOSOLIDS, SLUDGE, OR SEPTAGE. 29 S 27-2803. REOUIRED STATE FOOD SERVICE ORGANICS WASTE MANAGEMENT. 1. ANY COVERED FOOD SERVICE ESTABLISHMENT SHALL DO THE FOLLOWING: 30 (A) TO THE GREATEST EXTENT PRACTICABLE, MINIMIZE ITS GENERATION OF 31 32 EXCESS, UNUSED FOODS IN ADDITION TO FOOD SCRAPS AND ORGANIC WASTE 33 INCLUDING, BUT NOT LIMITED TO, FOOD TRIMMINGS AND PACKAGING; (B) TO THE GREATEST EXTENT PRACTICABLE, REDUCE THE NEED FOR DISPOSAL 34 OF ITS GENERATED EXCESS, UNUSED FOOD, FOOD SCRAPS AND ANY OTHER COMPOST-35 ABLE OR ORGANIC WASTE, BY PROVIDING IT FOR THE FOLLOWING PURPOSES IN 36 37 DESCENDING ORDER OF PRIORITY: 38 (I) FEEDING OR DISTRIBUTING EXCESS, UNUSED, APPARENTLY WHOLESOME FOOD 39 PEOPLE, SUCH AS THE FOOD INSECURE, THROUGH LOCAL VOLUNTARY COMMUNITY ΤO 40 NOT-FOR-PROFIT FOOD ASSISTANCE OR SIMILAR PROGRAMS AS AUTHORIZED BY 41 STATE AND FEDERAL LAW; (II) FEEDING EXCESS, UNUSED FOOD, OR FOOD SCRAPS TO ANIMALS AS FEED AS 42 43 AUTHORIZED BY STATE AND FEDERAL LAW; 44 (III) COMPOSTING, ANAEROBIC DIGESTION, OR OTHER PROCESSING OF FOOD, 45 FOOD WASTE, OR ORGANIC WASTE TO GENERATE SOIL AMENDMENT OR OTHER PRODUCTS FOR USE IN AGRICULTURAL, HORTICULTURAL, MANUFACTURING, OR OTHER 46 47 APPLICATIONS; 48 (C) EFFECTUATE PARAGRAPH (B) OF THIS SUBDIVISION BY DOING THE FOLLOW-49 ING: 50 (I) FOR MANAGEMENT OF EXCESS FOODS OR FOOD SCRAP PURSUANT TO SUBPARA-GRAPHS (I) AND (II) OF PARAGRAPH (B) OF THIS SUBDIVISION, OTHER THAN 51 52 THOSE MANAGED ON-SITE, TRANSFER, OR ARRANGE FOR SUCH TRANSFER, TO 53 LOCATIONS INTENDED FOR THEIR CONSUMPTION OR FROM WHICH THEY WILL BE 54 DISTRIBUTED FOR ULTIMATE CONSUMPTION; AND 55 (II) FOR MANAGEMENT OF ORGANIC WASTES PURSUANT TO SUBPARAGRAPH (III) 56 OF PARAGRAPH (B) OF THIS SUBDIVISION, BY TAKING ACTIONS TO (A) SOURCE SEPARATE ORGANIC WASTES FROM OTHER WASTE AND SUBSCRIBE TO A BASIC LEVEL
 OF RECYCLING SERVICE THAT INCLUDES THEIR COLLECTION AND RECYCLING; (B)
 RECYCLE ITS ORGANIC WASTES ON-SITE OR SELF-HAUL THEM FOR RECYCLING; OR
 (C) SUBSCRIBE TO AN ORGANIC WASTE RECYCLING SERVICE THAT MAY INCLUDE
 MIXED WASTE PROCESSING THAT SPECIFICALLY RECYCLES ORGANIC WASTE;

6 (D) PROVIDE COLLECTION AND EDUCATIONAL RESOURCES, INCLUDING REGULAR 7 PERIODICAL GUIDANCE, TRAINING, UPDATES, SIGNAGE, AND FLYERS, FOR ITS 8 WORKFORCE AND THE PUBLIC FOR THE PURPOSES OF TEACHING AND RETAINING 9 EFFECTIVE PROCEDURES FOR SORTING MATERIALS FOR ORGANICS AND OTHER RECY-10 CLING.

2. EACH COVERED FOOD SERVICE ESTABLISHMENT MAY PROVIDE TO THE DEPART MENT INFORMATION ON ITS PRACTICES, INCLUDING AMOUNTS OF EXCESS FOOD,
 FOOD SCRAPS, OR ORGANIC WASTE MANAGED BY VARIOUS METHODS SUCH AS THOSE
 IMPLEMENTED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, ENTITIES OR
 RESOURCES UTILIZED FOR REDUCING AND MANAGING SUCH MATERIALS, OR FINANC ING MECHANISMS AND INCENTIVES UTILIZED.

17 3. IF THE COST FOR A COVERED FOOD SERVICE ESTABLISHMENT TO COMPLY WITH THE REQUIREMENTS OF PARAGRAPH (C) OF SUBDIVISION ONE OF THIS SECTION FOR 18 19 ANY OR ALL PORTIONS OF EXCESS FOOD, FOOD SCRAPS, OR ORGANIC WASTE EXCEEDS FIFTEEN PERCENT OF THE COST OF ITS DISPOSAL BY LANDFILL OR 20 21 INCINERATION, THE COVERED FOOD SERVICE ESTABLISHMENT MAY REQUEST FROM THE COMMISSIONER A WAIVER OF THE REQUIREMENTS FOR THE PORTIONS, BASED ON 22 DOCUMENTED EFFORTS TO COMPLY. THE COMMISSIONER SHALL REVIEW THE REQUEST 23 AND, IF VALIDATED, GRANT THE WAIVER FOR A PERIOD OF NO GREATER THAN 24 25 TWENTY-FOUR MONTHS.

4. 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.

THE EVENT THAT TWO OR MORE COVERED FOOD SERVICE ESTABLISHMENTS 31 5. IN 32 Α COMMON PHYSICAL FACILITY AND SHARE SERVICES SHARE SUCH AS 33 WASTE/RECYCLING COLLECTION AND HAULING, DINING AREAS AND/OR RESTROOMS, ALL FACILITIES SHALL BE CONSIDERED TO BE ONE COVERED FOOD SERVICE ESTAB-34 35 LISHMENT FOR THE PURPOSE OF CALCULATING THE AMOUNT OF FOOD WASTE AS PROVIDED IN SUBDIVISION FOUR OF SECTION 27-2801 OF THIS TITLE. 36

6. THE DEPARTMENT SHALL PROMOTE ACTIONS FOR COVERED FOOD SERVICE SETABLISHMENTS TO TAKE PURSUANT TO THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION, AND FOR ALL ENTITIES AND THE PUBLIC TO TAKE IN EFFORTS TO MANAGE EXCESS FOOD, FOOD SCRAPS, AND ORGANIC WASTE IN A SIMILAR MANNER.

7. THE DEPARTMENT MAY COLLECT AND REPORT INFORMATION TO PROMOTE
IMPROVED MANAGEMENT OF EXCESS FOOD, FOOD SCRAPS AND ORGANIC WASTE,
INCLUDING INFORMATION ON PRACTICES BY COVERED FOOD ESTABLISHMENTS, OTHER
ENTITIES AND THE PUBLIC, OR LISTS OF ENTITIES AND RESOURCES PROVIDING
ASSISTANCE FOR REDUCING SUCH MATERIALS, FACILITIES ACCEPTING SUCH MATERIALS, OR FINANCING MECHANISMS AND INCENTIVES AVAILABLE FOR RECOVERY
PRACTICES AND FACILITIES.

49 S 27-2805. POWERS OF AGENCIES.

50 ANY AGENCY MAY PROMULGATE REGULATIONS TO TAKE ANY AND ALL REASONABLE 51 ACTIONS NECESSARY TO IMPLEMENT AND ENFORCE THIS TITLE.

52 S 3. Paragraph (c) of subdivision 1 of section 27-0107 of the environ-53 mental conservation law, as added by chapter 70 of the laws of 1988, is 54 amended to read as follows:

55 (c) Such plan shall take into account the objectives of the state 56 solid waste management policy, provide for or take into account manage1 ment of all solid waste within the planning unit, and embody, as may be 2 appropriate to the circumstances, sound principles of solid waste 3 management, natural resources conservation, energy production, and 4 employment creating opportunities, INCLUDING BUT NOT LIMITED TO:

5 (I) DESCRIPTION OF EFFORTS OF A STATE PLANNING UNIT TO FACILITATE, PARTICIPATE, OR ASSIST IN THE MANAGEMENT OF EXCESS FOOD, FOOD SCRAPS, 6 7 AND OTHER ORGANIC WASTE IN THE SOLID WASTE STREAM INCLUDING, BUT NOT LIMITED TO, DESCRIPTION OF PROGRAMS PROVIDING (A) ASSISTANCE WITH REDUC-8 ING THE AMOUNT OF EXCESS FOOD, FOOD SCRAPS, AND ORGANIC WASTE GENERATED, 9 10 (B) EXCESS FOOD TO ENTITIES FOR FEEDING THE FOOD INSECURE, (C) EXCESS FOOD AND FOOD SCRAPS FOR FEEDING ANIMALS, AND (D) FOOD AND OTHER ORGANIC 11 WASTE TO PROCESS AND GENERATE SOIL AMENDMENT OR OTHER PRODUCTS FOR USE 12 IN AGRICULTURAL, HORTICULTURAL, MANUFACTURING, OR OTHER APPLICATIONS; 13 14 AND

15 (II) ASSESSMENT AND DESCRIPTION OF (A) KNOWN ENTITIES ACCEPTING EXCESS 16 FOOD DONATIONS FOR THE PURPOSE OF PROVIDING NOURISHMENT TO THE FOOD INSECURE AND ESTIMATED AMOUNTS, ACCORDING TO ANY USEFUL CATEGORIES, SUCH 17 AS PERISHABLE AND NON-PERISHABLE, THAT ARE AVAILABLE, (B) KNOWN ENTITIES 18 19 THAT ACCEPT EXCESS FOOD AND FOOD SCRAPS FOR FEEDING ANIMALS, AND ESTI-MATED AMOUNTS ACCORDING TO AVAILABLE USEFUL CATEGORIES, AND (C) KNOWN 20 21 ENTITIES THAT ACCEPT FOOD AND OTHER ORGANIC WASTE TO PROCESS AND GENER-ATE SOIL AMENDMENT OR OTHER PRODUCTS, AND ESTIMATED AMOUNTS, ACCORDING 22 23 TO AVAILABLE USEFUL CATEGORIES.

24 S 4. This act shall take effect on the first of the month following 25 the one hundred eightieth day after it shall have become a law.