S T A T E O F N E W Y O R K

5232--A

2015-2016 Regular Sessions

I N A S S E M B L Y

February 13, 2015

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to prohibiting the use of polystyrene containers by restaurants and food vendors

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

Section 1. The general business law is amended by adding a new section 399-ccc to read as follows:

S 399-CCC. PROHIBITING THE USE OF POLYSTYRENE CONTAINERS BY RESTAURANTS, FOOD TRUCKS, AND OTHER FOOD VENDORS. 1. DEFINITIONS. THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS AS USED IN THIS SECTION:

(A) "POLYSTYRENE" OR "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.

(B) "FOOD SERVICE ESTABLISHMENT" MEANS ANY AREA, INCLUDING OUTDOOR SEATING AREAS, IN WHICH THE BUSINESS IS THE SALE OF FOOD FOR ON-PREMISES CONSUMPTION.

(C) "FOOD VENDOR" MEANS ANY STORE, SHOP, SALES OUTLET, OR OTHER ESTABLISHMENT, INCLUDING A GROCERY STORE, DELICATESSEN OR RESTAURANT THAT SELLS PREPARED FOODS.

(D) "DISPOSABLE FOOD SERVICE WARE" MEANS ALL CONTAINERS, BOWLS, PLATES, TRAYS, CARTONS, CUPS, LIDS, AND OTHER ITEMS THAT ARE DESIGNED FOR ONE-TIME USE FOR PREPARED FOODS, INCLUDING WITHOUT LIMITATION, SERVICE WARE TAKEOUT FOODS AND/OR LEFTOVERS FROM PARTIALLY CONSUMED MEALS PREPARED BY FOOD SERVICE ESTABLISHMENTS, FOOD VENDORS, AND/OR MOBILE FOOD SERVICE ESTABLISHMENTS.

(E) "MOBILE FOOD SERVICE ESTABLISHMENT" MEANS A SELF-CONTAINED FOOD SERVICE OPERATION, LOCATED IN A VEHICLE OR A MOVABLE STAND, SELF OR

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

LBD07499-03-5

OTHERWISE PROPELLED, USED TO STORE, PREPARE, DISPLAY OR SERVE FOOD INTENDED FOR INDIVIDUAL PORTION SERVICE.

2. USE OF POLYSTYRENE DISPOSABLE FOOD SERVICE WARE PROHIBITED. NO FOOD SERVICE ESTABLISHMENT, FOOD VENDOR, OR MOBILE FOOD SERVICE ESTABLISHMENT SHALL USE POLYSTYRENE DISPOSABLE FOOD SERVICE WARE FOR THE PACKAGING OF FOOD OR DRINK TO BE TAKEN FROM SUCH FOOD SERVICE ESTABLISHMENT, FOOD VENDOR, OR MOBILE FOOD SERVICE ESTABLISHMENT BY PATRONS.

3. ENFORCEMENT AND VIOLATIONS. (A) WHENEVER THERE SHALL BE A VIOLATION OF THIS SECTION, APPLICATION MAY BE MADE BY THE ATTORNEY GENERAL IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK TO A COURT OR JUSTICE HAVING JURISDICTION BY A SPECIAL PROCEEDING TO ISSUE AN INJUNCTION, AND UPON NOTICE TO THE DEFENDANT OF NOT LESS THAN FIVE DAYS, TO ENJOIN AND RESTRAIN THE CONTINUANCE OF SUCH VIOLATION; AND IF IT SHALL APPEAR TO THE SATISFACTION OF THE COURT OR JUSTICE THAT THE DEFENDANT HAS, IN FACT, VIOLATED THIS SECTION, AN INJUNCTION MAY BE ISSUED BY SUCH COURT OR JUSTICE, ENJOINING AND RESTRAINING ANY FURTHER VIOLATION, WITHOUT REQUIRING PROOF THAT ANY PERSON HAS, IN FACT, BEEN INJURED OR DAMAGED THEREBY. IN CONNECTION WITH ANY SUCH PROPOSED APPLICATION, THE ATTORNEY GENERAL IS AUTHORIZED TO TAKE PROOF AND MAKE A DETERMINATION OF THE RELEVANT FACTS AND TO ISSUE SUBPOENAS IN ACCORDANCE WITH THE CIVIL PRACTICE LAW AND RULES.

(B) ANY PERSON WHO VIOLATES THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION. EACH DAY IN WHICH A FOOD SERVICE ESTABLISHMENT, FOOD VENDOR, OR MOBILE FOOD SERVICE ESTABLISHMENT USES POLYSTYRENE DISPOSABLE FOOD SERVICE WARE IN VIOLATION OF THIS SECTION MAY CONSTITUTE A SEPARATE VIOLATION.

(C) IN ADDITION, THE DISTRICT ATTORNEY, COUNTY ATTORNEY, AND THE CORPORATION COUNSEL SHALL HAVE CONCURRENT AUTHORITY TO SEEK THE RELIEF IN PARAGRAPH (B) OF THIS SUBDIVISION, AND ALL CIVIL PENALTIES OBTAINED IN ANY SUCH ACTION SHALL BE RETAINED BY THE MUNICIPALITY OR COUNTY.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.