## 5743

2015-2016 Regular Sessions

IN ASSEMBLY

March 4, 2015

Introduced by M. of A. KAVANAGH, PAULIN, SCHIMEL, TITONE, LUPARDO, COLTON, ENGLEBRIGHT, GALEF, ROSENTHAL, OTIS, ABINANTI, ROZIC --Multi-Sponsored by -- M. of A. COOK, DINOWITZ, FARRELL, GLICK, HOOPER, PERRY, THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to food service waste reduction

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

Section 1. Short title. This act shall be known and may be cited as 1 the "food service waste reduction act". 2

3 S 2. Article 27 of the environmental conservation law is amended by 4 adding a new title 28 to read as follows:

> TITLE 28 FOOD SERVICE WASTE REDUCTION

7 SECTION 27-2801. DEFINITIONS.

- 8 27-2803. REOUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE WARE. 9 10
  - 27-2805. POWERS OF MUNICIPALITIES.

11 S 27-2801. DEFINITIONS.

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12 FOR THE PURPOSES OF THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE 13 FOLLOWING MEANINGS:

14 1. "AFFORDABLE" MEANS PURCHASABLE FOR NOT MORE THAN FIFTEEN PERCENT MORE THAN THE PURCHASE COST OF THE NON-COMPOSTABLE OR NON-RECYCLABLE 15 16 ALTERNATIVE.

17 "AGENCY" MEANS ANY STATE DEPARTMENT, AGENCY, BOARD, PUBLIC BENEFIT 2. 18 CORPORATION, PUBLIC AUTHORITY, OR COMMISSION.

"COMPOSTABLE" MEANS ALL THE MATERIALS IN THE PRODUCT OR PACKAGE 19 3. (A) UNDERGO DEGRADATION BY BIOLOGICAL PROCESSES DURING COMPOSTING 20 WILL TO YIELD CARBON DIOXIDE, WATER, INORGANIC COMPOUNDS, AND BIOMASS AT A 21 22 RATE CONSISTENT WITH OTHER KNOWN COMPOSTABLE MATERIALS AND (B) LEAVE NO

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

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VISIBLE, DISTINGUISHABLE OR TOXIC RESIDUE, INCLUDING NO ADVERSE IMPACT 1 2 ON THE ABILITY OF COMPOSTS TO SUPPORT PLANT GROWTH ONCE THE FINISHED 3 COMPOST IS PLACED IN SOIL. 4 4. "CONTRACTORS AND LESSEES" MEAN ANY PERSON OR ENTITY THAT HAS A 5 CONTRACT WITH AN AGENCY OR A MUNICIPALITY FOR PUBLIC WORKS OR IMPROVE-MENTS TO BE PERFORMED, FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY, 6 7 FOR GRANT MONIES OR GOODS AND SERVICES OR SUPPLIES TO BE PURCHASED AT 8 THE EXPENSE OF THE AGENCY OR MUNICIPALITY OR TO BE PAID OUT OF MONIES DEPOSITED IN THE TREASURY OR OUT OF TRUST MONIES UNDER THE CONTROL OR 9 10 COLLECTED BY THE AGENCY OR MUNICIPALITY. 11 5. "DISPOSABLE FOOD SERVICE WARE" MEANS ALL CONTAINERS, BOWLS, PLATES, TRAYS, CARTONS, CUPS, LIDS, STRAWS, FORKS, SPOONS, KNIVES, NAPKINS AND 12 OTHER ITEMS THAT ARE DESIGNED FOR ONE-TIME USE FOR PREPARED FOODS, 13 14 INCLUDING WITHOUT LIMITATION, SERVICE WARE FOR TAKEOUT FOODS AND/OR FROM PARTIALLY CONSUMED MEALS PREPARED BY FOOD VENDORS. THE 15 LEFTOVERS 16 TERM "DISPOSABLE FOOD SERVICE WARE" DOES NOT INCLUDE ITEMS COMPOSED 17 ENTIRELY OF ALUMINUM OR POLYSTYRENE FOAM COOLERS AND ICE CHESTS THAT ARE 18 INTENDED FOR REUSE NOR DOES THIS TERM INCLUDE RECYCLABLE FOOD SERVICE 19 WARE. 20 6. "MUNICIPALITY" MEANS A VILLAGE, TOWN, CITY, OR COUNTY, OR ANY 21 DESIGNATED AGENCY THEREOF. 22 "POLYSTYRENE FOAM" MEANS BLOWN POLYSTYRENE AND EXPANDED FOAMS 7. 23 UTILIZING A STYRENE MONOMER AND PROCESSED BY ANY NUMBER OF TECHNIQUES. POLYSTYRENE FOAM IS GENERALLY USED TO MAKE CUPS, BOWLS, PLATES, TRAYS, 24 25 CLAMSHELL CONTAINERS, MEAT TRAYS AND EGG CARTONS. 26 8. "RECYCLABLE" MEANS MATERIAL THAT CAN BE SORTED, CLEANSED AND RECON-27 STITUTED USING AVAILABLE RECYCLING COLLECTION PROGRAMS FOR THE PURPOSE 28 OF USING THE ALTERED FORM IN THE MANUFACTURE OF A NEW PRODUCT. RECYCLING 29 DOES NOT INCLUDE BURNING, INCINERATING, CONVERTING, OR OTHERWISE THER-30 MALLY DESTROYING SOLID WASTE. S 27-2803. REOUIRED COMPOSTABLE OR RECYCLABLE DISPOSABLE FOOD SERVICE 31 32 WARE. 33 MUNICIPALITIES, AND THEIR CONTRACTORS AND LESSEES SHALL USE AGENCIES, DISPOSABLE FOOD SERVICE WARE MADE FROM MATERIAL, OTHER THAN POLYSTYRENE 34 THAT IS COMPOSTABLE OR RECYCLABLE UNLESS THERE IS NO AFFORDABLE 35 FOAM. COMPOSTABLE OR RECYCLABLE PRODUCT AVAILABLE. NOTHING IN 36 THIS SECTION 37 SHALL BE CONSTRUED TO GOVERN THE ACTIVITIES OF CONTRACTORS AND LESSEES 38 THAT OCCUR OUTSIDE OF THE STATE OR ACTIVITIES OF CONTRACTORS OF LESSEES 39 THAT OCCUR WITH ENTITIES OTHER THAN AGENCIES OR MUNICIPALITIES. 40 S 27-2805. POWERS OF MUNICIPALITIES. ANY AGENCY OR MUNICIPALITY MAY PROMULGATE REGULATIONS, ORDINANCES, OR 41 LAWS TO TAKE ANY AND ALL REASONABLE ACTIONS NECESSARY TO IMPLEMENT AND 42 43 ENFORCE THIS TITLE. 44 S 3. The department of environmental conservation shall conduct a study on the desirability, feasibility and environmental impact of a statewide prohibition on the use of disposable food service ware that 45 46 47 contains polystyrene foam. The department shall issue a report contain-48 ing the results of the study to the legislature no later than the thir-49 ty-first of January next succeeding the date on which this act shall 50 have become a law. 51 4. This act shall take effect immediately; provided, however, that S sections one and two of this act shall take effect on the one hundred 52 twentieth day after it shall have become a law. 53