

3098

2015-2016 Regular Sessions

I N S E N A T E

February 2, 2015

Introduced by Sens. KRUEGER, HOYLMAN -- 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
expanding the provisions of the New York state plastic bag reduction,
reuse and recycling law to require the collection and deposit of a
five cent charge for each plastic bag provided by a retailer to its
customers and a five cent charge on each piece of plastic film shipped
to the state and to repeal certain provisions of such law relating
thereto

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

1 Section 1. Subdivisions 4, 5 and 6 of section 27-2701 of the environ-
2 mental conservation law, as added by chapter 641 of the laws of 2008,
3 are amended and a new subdivision 8 is added to read as follows:
4 4. (A) "Plastic carryout bag" means a SINGLE-USE plastic carryout bag
5 WHICH IS 2.25 MM THICK OR LESS, HAS HANDLES, IS INTENDED FOR THE PURPOSE
6 OF CARRYING PURCHASED ITEMS AND IS provided by a store to a customer at
7 the point of sale.
8 (B) PLASTIC BAGS INTENDED TO DIRECTLY CONTAIN FOOD (SUCH AS SANDWICH
9 BAGS, HANDLE-LESS PRODUCE BAGS) ARE NOT SINGLE-USE CARRYOUT BAGS.
10 5. (A) "Reusable bag" means:
11 [(a)] (1) a bag made of cloth or other machine washable fabric that
12 has handles; or
13 [(b)] (2) a durable plastic bag with handles that is specifically
14 designed and manufactured for multiple reuse; SUCH BAG SHALL BE OVER
15 2.25 MM THICK AND BE INTENDED TO CARRY A MINIMUM OF TWENTY POUNDS A
16 MINIMUM OF FIFTY WALKING TRIPS OF A MINIMUM OF ONE HALF MILE.
17 (B) REUSABLE BAGS MUST MEET SAFETY STANDARDS FOR CONTAINING FOOD ITEMS
18 AND MAY NOT CONTAIN TOXIC METALS OR OTHER POTENTIAL FOOD CONTAMINANTS.

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

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6. "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and (a) has over [ten] FIVE thousand square feet of retail space, or (b) such retail establishment is part of a chain engaged in the same general field of business which operates five or more units of over [five] THREE thousand square feet of retail space in this state under common ownership and management. RESTAURANTS AND BUSINESSES WHICH OFFER SOLELY OR PRIMARILY PREPARED FOODS ARE NOT SUBJECT TO THIS LAW.

8. A "DEPOSIT INITIATOR" FOR EACH PLASTIC BAG OR PIECE OF PLASTIC FILM FOR WHICH A CHARGE IS ESTABLISHED UNDER SECTION 27-2713 OF THIS ARTICLE MEANS:

(A) A RETAILER WHO PROVIDES SUCH PLASTIC BAGS TO ITS CUSTOMERS; AND

(B) ANY CORPORATION OR ENTITY WHICH SHIPS ITEMS TO THE STATE IN PLASTIC FILM.

S 2. Subdivision 2 of section 27-2705 of the environmental conservation law, as amended by chapter 481 of the laws of 2014, is amended to read as follows:

2. a collection bin that is visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags and film plastic[. This subdivision shall apply to stores not within an enclosed shopping mall and stores of at least fifty thousand square feet within an enclosed shopping mall. In the case of an enclosed shopping mall, the owner of the enclosed mall shall place bins at reasonable intervals throughout the enclosed mall area];

S 3. Section 27-2713 of the environmental conservation law is REPEALED and three new sections 27-2713, 27-2715 and 27-2717 are added to read as follows:

S 27-2713. CHARGES AND DEPOSITS.

1. A CHARGE OF FIVE CENTS PER BAG SHALL BE IMPOSED BY EACH RETAILER PROVIDING SINGLE-USE CARRYOUT BAGS MADE OF PAPER OR PLASTIC TO ITS CUSTOMERS. THIS CHARGE SHALL BE INCURRED BY THE CUSTOMER AT THE POINT OF SALE, AND WILL APPEAR AS A SEPARATE CHARGE ON THE RECEIPT RECEIVED BY THE CUSTOMER FOR THE PURCHASED ITEMS. COMPOSTABLE, BIODEGRADABLE BAGS ARE EXEMPT FROM THIS CHARGE.

2. A CHARGE OF FIVE CENTS PER PIECE OF PLASTIC FILM PROVIDED IN OR BEING SHIPPED TO NEW YORK STATE SHALL BE IMPOSED BY EACH CORPORATION OR OTHER ENTITY SHIPPING ITEMS TO THE STATE IN PLASTIC FILM. THIS CHARGE SHALL APPEAR AS A SEPARATE CHARGE ON THE SHIPPING BILL.

3. THE FIVE CENT CHARGE SHALL BE DIVIDED AS FOLLOWS:

(A) THE RETAILER DISPERSING THE PLASTIC BAG SHALL RETAIN TWO CENTS OF EACH CHARGE;

(B) THREE CENTS SHALL BE DEPOSITED IN A PLASTIC BAG AND FILM CHARGE ACCOUNT AS PROVIDED IN SECTION 27-2715 OF THIS TITLE AND SHALL BE UTILIZED AS FOLLOWS:

(1) ONE CENT OF EACH CHARGE SHALL BE DESIGNATED FOR THE PURPOSE OF MAINTAINING THE STATE PARKS; AND

(2) TWO CENTS OF EACH CHARGE SHALL BE DESIGNATED FOR THE PURPOSE OF SUPPORTING AN EXPANSION OF THE RECYCLING PROGRAM THROUGH PUBLIC EDUCATION AND SUPPORT OF RETAILERS IN OBTAINING BINS AND/OR SIGNAGE NEEDED AT THE DISCRETION OF THE DEPARTMENT.

S 27-2715. DEPOSIT AND DISPOSITION OF CHARGES; REGISTRATION; REPORTS.

1. EACH DEPOSIT INITIATOR SHALL DEPOSIT IN A PLASTIC BAG AND FILM CHARGE ACCOUNT AN AMOUNT EQUAL TO THE CHARGE ESTABLISHED UNDER SECTION 27-2713 OF THIS TITLE WHICH IS RECEIVED WITH RESPECT TO EACH PLASTIC BAG PROVIDED TO CUSTOMERS OR PIECE OF PLASTIC FILM SHIPPED TO THE STATE BY

1 SUCH DEPOSIT INITIATOR. SUCH DEPOSIT INITIATOR SHALL HOLD THE AMOUNTS IN
2 THE PLASTIC BAG AND FILM CHARGE ACCOUNT IN TRUST FOR THE STATE. A PLAS-
3 TIC BAG AND FILM CHARGE ACCOUNT SHALL BE AN INTEREST-BEARING ACCOUNT
4 ESTABLISHED IN A BANKING INSTITUTION LOCATED IN THIS STATE, THE DEPOSITS
5 IN WHICH ARE INSURED BY AN AGENCY OF THE FEDERAL GOVERNMENT. DEPOSITS OF
6 SUCH AMOUNTS INTO THE PLASTIC BAG AND FILM CHARGE ACCOUNT SHALL BE MADE
7 NOT LESS FREQUENTLY THAN EVERY FIVE BUSINESS DAYS. ALL INTEREST, DIVI-
8 DENDS AND RETURNS EARNED ON THE PLASTIC BAG AND FILM CHARGE ACCOUNT
9 SHALL BE PAID DIRECTLY INTO SAID ACCOUNT. THE MONIES IN SUCH ACCOUNTS
10 SHALL BE KEPT SEPARATE AND APART FROM ALL OTHER MONIES IN THE POSSESSION
11 OF THE DEPOSIT INITIATOR. THE COMMISSIONER OF TAXATION AND FINANCE MAY
12 SPECIFY A SYSTEM OF ACCOUNTS AND RECORDS TO BE MAINTAINED WITH RESPECT
13 TO ACCOUNTS ESTABLISHED UNDER THIS SUBDIVISION.

14 2. PAYMENTS OF CHARGES ESTABLISHED UNDER SECTION 27-2713 OF THIS TITLE
15 SHALL BE PAID FROM EACH DEPOSIT INITIATOR'S PLASTIC BAG AND FILM CHARGE
16 ACCOUNT. NO OTHER PAYMENT OR WITHDRAWAL FROM SUCH ACCOUNT MAY BE MADE
17 EXCEPT AS PRESCRIBED BY THIS SECTION.

18 3. EACH DEPOSIT INITIATOR SHALL FILE QUARTERLY REPORTS WITH THE
19 COMMISSIONER OF TAXATION AND FINANCE ON A FORM AND IN THE MANNER
20 PRESCRIBED BY SUCH COMMISSIONER. THE COMMISSIONER OF TAXATION AND
21 FINANCE MAY REQUIRE SUCH REPORTS TO BE FILED ELECTRONICALLY. THE QUAR-
22 TERLY REPORTS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE QUAR-
23 TERLY PERIODS ENDING ON THE LAST DAY OF MAY, AUGUST, NOVEMBER AND FEBRU-
24 ARY OF EACH YEAR, AND EACH SUCH REPORT SHALL BE FILED WITHIN TWENTY DAYS
25 AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY. EACH SUCH REPORT
26 SHALL INCLUDE ALL INFORMATION SUCH COMMISSIONER SHALL DETERMINE APPRO-
27 PRIATE INCLUDING BUT NOT LIMITED TO THE FOLLOWING INFORMATION:

28 (A) THE BALANCE IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE
29 BEGINNING OF THE QUARTER FOR WHICH THE REPORT IS PREPARED;

30 (B) ALL SUCH DEPOSITS CREDITED TO THE PLASTIC BAG AND FILM CHARGE
31 ACCOUNT AND ALL INTEREST, DIVIDENDS OR RETURNS RECEIVED ON SUCH ACCOUNT,
32 DURING SUCH QUARTER;

33 (C) ALL WITHDRAWALS FROM THE PLASTIC BAG AND FILM CHARGE ACCOUNT
34 DURING SUCH QUARTER, INCLUDING ALL REIMBURSEMENTS PAID PURSUANT TO
35 SUBDIVISION TWO OF THIS SECTION, ALL SERVICE CHARGES ON THE ACCOUNT, AND
36 ALL PAYMENTS MADE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION; AND

37 (D) THE BALANCE IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE
38 CLOSE OF SUCH QUARTER.

39 4. (A) QUARTERLY PAYMENTS. AN AMOUNT EQUAL TO EIGHTY PERCENT OF THE
40 BALANCE OUTSTANDING IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT AT THE
41 CLOSE OF EACH QUARTER SHALL BE PAID TO THE COMMISSIONER OF TAXATION AND
42 FINANCE AT THE TIME THE REPORT PROVIDED FOR IN SUBDIVISION THREE OF THIS
43 SECTION IS REQUIRED TO BE FILED. THE COMMISSIONER OF TAXATION AND
44 FINANCE MAY REQUIRE THAT THE PAYMENTS BE MADE ELECTRONICALLY. THE
45 REMAINING TWENTY PERCENT OF THE BALANCE OUTSTANDING AT THE CLOSE OF EACH
46 QUARTER SHALL BE THE MONIES OF THE DEPOSIT INITIATOR AND MAY BE WITH-
47 DRAWN FROM SUCH ACCOUNT BY THE DEPOSIT INITIATOR. IF THE PROVISIONS OF
48 THIS SECTION WITH RESPECT TO SUCH ACCOUNT HAVE NOT BEEN FULLY COMPLIED
49 WITH, EACH DEPOSIT INITIATOR SHALL PAY TO SUCH COMMISSIONER AT SUCH
50 TIME, IN LIEU OF THE AMOUNT DESCRIBED IN THE PRECEDING SENTENCE, AN
51 AMOUNT EQUAL TO THE BALANCE WHICH WOULD HAVE BEEN OUTSTANDING ON SUCH
52 DATE HAD SUCH PROVISIONS BEEN FULLY COMPLIED WITH. THE COMMISSIONER OF
53 TAXATION AND FINANCE MAY REQUIRE THAT THE PAYMENTS BE MADE ELECTRON-
54 ICALLY.

55 (B) PLASTIC BAG AND FILM CHARGE ACCOUNT SHORTFALL. IN THE EVENT A
56 DEPOSIT INITIATOR PAYS OUT MORE IN REFUND VALUES THAN IT COLLECTS IN

1 DEPOSITS OF REFUND VALUES DURING THE COURSE OF A QUARTERLY PERIOD AS
2 DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, THE DEPOSIT INITIATOR
3 MAY APPLY TO THE COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF
4 THE AMOUNT OF SUCH EXCESS PAYMENT OF CHARGES FROM SOURCES OTHER THAN THE
5 PLASTIC BAG AND FILM CHARGE ACCOUNT, IN THE MANNER AS PROVIDED BY THE
6 COMMISSIONER OF TAXATION AND FINANCE. A DEPOSIT INITIATOR MUST APPLY FOR
7 A REFUND NO LATER THAN TWELVE MONTHS AFTER THE DUE DATE FOR FILING THE
8 QUARTERLY REPORT FOR THE QUARTERLY PERIOD FOR WHICH THE REFUND CLAIM IS
9 MADE. NO INTEREST SHALL BE PAYABLE FOR ANY REFUND PAID PURSUANT TO THIS
10 PARAGRAPH.

11 (C) FINAL REPORT. A DEPOSIT INITIATOR WHO CEASES TO DO BUSINESS IN
12 THIS STATE AS A DEPOSIT INITIATOR SHALL FILE A FINAL REPORT AND REMIT
13 PAYMENT OF EIGHTY PERCENT OF ALL AMOUNTS REMAINING IN THE PLASTIC BAG
14 AND FILM CHARGE ACCOUNT AS OF THE CLOSE OF THE DEPOSIT INITIATOR'S LAST
15 DAY OF BUSINESS. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE
16 THAT THE PAYMENTS BE MADE ELECTRONICALLY. THE DEPOSIT INITIATOR SHALL
17 INDICATE ON THE REPORT THAT IT IS A "FINAL REPORT". THE FINAL REPORT IS
18 DUE TO BE FILED WITH PAYMENT TWENTY DAYS AFTER THE CLOSE OF THE QUARTER-
19 LY PERIOD IN WHICH THE DEPOSIT INITIATOR CEASES TO DO BUSINESS. IN THE
20 EVENT THE DEPOSIT INITIATOR PAYS OUT MORE IN CHARGES THAN IT COLLECTS IN
21 SUCH FINAL QUARTERLY PERIOD, THE DEPOSIT INITIATOR MAY APPLY TO THE
22 COMMISSIONER OF TAXATION AND FINANCE FOR A REFUND OF THE AMOUNT OF SUCH
23 EXCESS PAYMENT OF CHARGES FROM SOURCES OTHER THAN THE PLASTIC BAG AND
24 FILM CHARGE ACCOUNT, IN THE MANNER AS PROVIDED BY THE COMMISSIONER OF
25 TAXATION AND FINANCE.

26 5. ALL MONIES COLLECTED OR RECEIVED BY THE DEPARTMENT OF TAXATION AND
27 FINANCE PURSUANT TO THIS TITLE SHALL BE DEPOSITED TO THE CREDIT OF THE
28 COMPTROLLER WITH SUCH RESPONSIBLE BANKS, BANKING HOUSES OR TRUST COMPA-
29 NIES AS MAY BE DESIGNATED BY THE COMPTROLLER. SUCH DEPOSITS SHALL BE
30 KEPT SEPARATE AND APART FROM ALL OTHER MONEYS IN THE POSSESSION OF THE
31 COMPTROLLER. THE COMPTROLLER SHALL REQUIRE ADEQUATE SECURITY FROM ALL
32 SUCH DEPOSITORIES. OF THE TOTAL REVENUE COLLECTED, THE COMPTROLLER SHALL
33 RETAIN THE AMOUNT DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE
34 TO BE NECESSARY FOR REFUNDS OUT OF WHICH THE COMPTROLLER MUST PAY ANY
35 REFUNDS TO WHICH A DEPOSIT INITIATOR MAY BE ENTITLED. AFTER RESERVING
36 THE AMOUNT TO PAY REFUNDS, THE COMPTROLLER MUST, BY THE TENTH DAY OF
37 EACH MONTH, DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL PROTECTION FUND
38 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

39 6. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE SHALL
40 PROMULGATE, AND SHALL CONSULT EACH OTHER IN PROMULGATING, SUCH RULES AND
41 REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
42 TITLE. THE COMMISSIONER AND THE COMMISSIONER OF TAXATION AND FINANCE
43 SHALL PROVIDE ALL NECESSARY AID AND ASSISTANCE TO EACH OTHER, INCLUDING
44 THE SHARING OF ANY INFORMATION THAT IS NECESSARY TO THEIR RESPECTIVE
45 ADMINISTRATION AND ENFORCEMENT RESPONSIBILITIES PURSUANT TO THE
46 PROVISIONS OF THIS TITLE.

47 7. (A) ANY PERSON WHO IS A DEPOSIT INITIATOR UNDER THIS TITLE BEFORE
48 APRIL FIRST, TWO THOUSAND SEVENTEEN, MUST APPLY BY JUNE FIRST, TWO THOU-
49 SAND SEVENTEEN TO THE COMMISSIONER OF TAXATION AND FINANCE FOR REGISTRA-
50 TION AS A DEPOSIT INITIATOR. ANY PERSON WHO BECOMES A DEPOSIT INITIATOR
51 ON OR AFTER APRIL FIRST, TWO THOUSAND SEVENTEEN SHALL APPLY FOR REGIS-
52 TRATION PRIOR TO COLLECTING ANY DEPOSITS AS SUCH A DEPOSIT INITIATOR.
53 SUCH APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER OF
54 TAXATION AND FINANCE AND SHALL REQUIRE SUCH INFORMATION DEEMED TO BE
55 NECESSARY FOR PROPER ADMINISTRATION OF THIS TITLE. THE COMMISSIONER OF
56 TAXATION AND FINANCE MAY REQUIRE THAT APPLICATIONS FOR REGISTRATION MUST

1 BE SUBMITTED ELECTRONICALLY. THE COMMISSIONER OF TAXATION AND FINANCE
2 SHALL ELECTRONICALLY ISSUE A DEPOSIT INITIATOR REGISTRATION CERTIFICATE
3 IN A FORM PRESCRIBED BY THE COMMISSIONER OF TAXATION AND FINANCE WITHIN
4 FIFTEEN DAYS OF RECEIPT OF SUCH APPLICATION OR MAY TAKE AN ADDITIONAL
5 TEN DAYS IF THE COMMISSIONER OF TAXATION AND FINANCE DEEMS IT NECESSARY
6 TO CONSULT WITH THE COMMISSIONER BEFORE ISSUING SUCH REGISTRATION
7 CERTIFICATE. A REGISTRATION CERTIFICATE ISSUED PURSUANT TO THIS SUBDI-
8 VISION MAY BE ISSUED FOR A SPECIFIED TERM OF NOT LESS THAN THREE YEARS
9 AND SHALL BE SUBJECT TO RENEWAL IN ACCORDANCE WITH PROCEDURES SPECIFIED
10 BY THE COMMISSIONER OF TAXATION AND FINANCE. THE COMMISSIONER OF TAXA-
11 TION AND FINANCE SHALL FURNISH TO THE COMMISSIONER A COMPLETE LIST OF
12 REGISTERED DEPOSIT INITIATORS AND SHALL CONTINUALLY UPDATE SUCH LIST AS
13 WARRANTED. THE COMMISSIONER SHALL SHARE ANY INFORMATION WITH THE COMMIS-
14 SIONER OF TAXATION AND FINANCE THAT IS NECESSARY FOR THE ADMINISTRATION
15 OF THIS SUBDIVISION.

16 (B) THE COMMISSIONER OF TAXATION AND FINANCE SHALL HAVE THE AUTHORITY
17 TO REVOKE OR REFUSE TO RENEW ANY REGISTRATION ISSUED PURSUANT TO THIS
18 SUBDIVISION WHEN HE OR SHE HAS DETERMINED OR HAS BEEN INFORMED BY THE
19 COMMISSIONER THAT ANY OF THE PROVISIONS OF THIS TITLE OR RULES AND REGU-
20 LATIONS PROMULGATED THEREUNDER HAVE BEEN VIOLATED. SUCH VIOLATIONS SHALL
21 INCLUDE, BUT NOT BE LIMITED TO, THE FAILURE TO FILE QUARTERLY REPORTS,
22 THE FAILURE TO MAKE PAYMENTS PURSUANT TO THIS SUBDIVISION, THE PROVIDING
23 OF FALSE OR FRAUDULENT INFORMATION TO EITHER THE DEPARTMENT OF TAXATION
24 AND FINANCE OR THE DEPARTMENT, OR KNOWINGLY AIDING OR ABETTING ANOTHER
25 PERSON IN VIOLATING ANY OF THE PROVISIONS OF THIS TITLE. A NOTICE OF
26 PROPOSED REVOCATION OR NON-RENEWAL SHALL BE GIVEN TO THE DEPOSIT INITI-
27 ATOR IN THE MANNER PRESCRIBED FOR A NOTICE OF DEFICIENCY OF TAX AND ALL
28 THE PROVISIONS APPLICABLE TO A NOTICE OF DEFICIENCY UNDER ARTICLE TWEN-
29 TY-SEVEN OF THE TAX LAW SHALL APPLY TO A NOTICE ISSUED PURSUANT TO THIS
30 PARAGRAPH, INsofar AS SUCH PROVISIONS CAN BE MADE APPLICABLE TO A NOTICE
31 AUTHORIZED BY THIS PARAGRAPH, WITH SUCH MODIFICATIONS AS MAY BE NECES-
32 SARY IN ORDER TO ADAPT THE LANGUAGE OF SUCH PROVISIONS TO THE NOTICE
33 AUTHORIZED BY THIS PARAGRAPH. ALL SUCH NOTICES ISSUED BY THE COMMISSION-
34 ER OF TAXATION AND FINANCE PURSUANT TO THIS PARAGRAPH SHALL CONTAIN A
35 STATEMENT ADVISING THE DEPOSIT INITIATOR THAT THE REVOCATION OR NON-RE-
36 NEWAL OF REGISTRATION MAY BE CHALLENGED THROUGH A HEARING PROCESS AND
37 THE PETITION FOR SUCH A CHALLENGE MUST BE FILED WITH THE COMMISSIONER OF
38 TAXATION AND FINANCE WITHIN NINETY DAYS AFTER SUCH NOTICE IS ISSUED. A
39 DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED OR NOT RENEWED
40 SHALL CEASE TO DO BUSINESS AS A DEPOSIT INITIATOR IN THIS STATE, UNTIL
41 THIS TITLE HAS BEEN COMPLIED WITH AND A NEW REGISTRATION HAS BEEN
42 ISSUED. ANY DEPOSIT INITIATOR WHOSE REGISTRATION HAS BEEN SO REVOKED MAY
43 NOT APPLY FOR REGISTRATION FOR TWO YEARS FROM THE DATE SUCH REVOCATION
44 TAKES EFFECT.

45 8. THE COMMISSIONER OF TAXATION AND FINANCE MAY REQUIRE THE MAINTENANCE
46 OF SUCH ACCOUNTS, RECORDS OR DOCUMENTS RELATING TO THE PROVISION
47 OF PLASTIC BAGS OR THE SHIPPING OF ITEMS TO THE STATE IN PLASTIC FILM AS
48 SUCH COMMISSIONER MAY DEEM APPROPRIATE FOR THE ADMINISTRATION OF THIS
49 SECTION. SUCH COMMISSIONER MAY MAKE EXAMINATIONS, INCLUDING THE CONDUCT
50 OF FACILITY INSPECTIONS DURING REGULAR BUSINESS HOURS, WITH RESPECT TO
51 THE ACCOUNTS, RECORDS OR DOCUMENTS REQUIRED TO BE MAINTAINED UNDER THIS
52 SUBDIVISION. SUCH ACCOUNTS, RECORDS AND DOCUMENTS SHALL BE PRESERVED FOR
53 A PERIOD OF THREE YEARS, EXCEPT THAT SUCH COMMISSIONER MAY CONSENT TO
54 THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY BE KEPT
55 LONGER. SUCH ACCOUNTS, RECORDS AND DOCUMENTS MAY BE KEPT WITHIN THE
56 MEANING OF THIS SUBDIVISION WHEN REPRODUCED BY ANY PHOTOGRAPHIC, PHOTOS-

TATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER PROCESS WHICH ACTUALLY REPRODUCES THE ORIGINAL ACCOUNTS, RECORDS OR DOCUMENTS.

9. (A) ANY PERSON REQUIRED TO BE REGISTERED UNDER THIS SECTION WHO, WITHOUT BEING SO REGISTERED, PROVIDES PLASTIC BAGS TO CUSTOMERS OR SHIPS ITEMS TO THE STATE IN PLASTIC FILM, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO A PENALTY TO BE ASSESSED BY THE COMMISSIONER OF TAXATION AND FINANCE IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS FOR THE FIRST DAY ON WHICH SUCH SALES OR OFFERS FOR SALE ARE MADE, PLUS AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT DAY ON WHICH SUCH SALES OR OFFERS FOR SALE ARE MADE, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE.

(B) ANY DEPOSIT INITIATOR WHO FAILS TO FILE REPORTS, MAKE QUARTERLY PAYMENTS OR MAINTAIN ACCOUNTS OR RECORDS PURSUANT TO THIS SECTION, UNLESS IT IS SHOWN THAT SUCH FAILURE WAS DUE TO REASONABLE CAUSE AND NOT DUE TO NEGLIGENCE OR WILLFUL NEGLECT, IN ADDITION TO ANY OTHER PENALTY IMPOSED BY THIS TITLE, SHALL BE SUBJECT TO A PENALTY TO BE ASSESSED BY THE COMMISSIONER OF TAXATION AND FINANCE OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH QUARTER DURING WHICH SUCH FAILURE OCCURRED, AND AN ADDITIONAL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH QUARTER SUCH FAILURE CONTINUES.

10. THE PROVISIONS OF ARTICLE TWENTY-SEVEN OF THE TAX LAW SHALL APPLY TO THE PROVISIONS OF THIS TITLE FOR WHICH THE COMMISSIONER OF TAXATION AND FINANCE IS RESPONSIBLE, INCLUDING COLLECTION OF REFUND VALUE AMOUNTS, IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF SUCH ARTICLE HAD BEEN INCORPORATED IN FULL INTO THIS SECTION EXCEPT TO THE EXTENT THAT ANY PROVISION OF SUCH ARTICLE IS EITHER INCONSISTENT WITH A PROVISION OF THIS SECTION OR IS NOT RELEVANT TO THIS SECTION AS DETERMINED BY THE COMMISSIONER OF TAXATION AND FINANCE. FURTHERMORE, FOR PURPOSES OF APPLYING THE PROVISIONS OF ARTICLE TWENTY-SEVEN OF THE TAX LAW, WHERE THE TERMS "TAX" AND "TAXES" APPEAR IN SUCH ARTICLE, SUCH TERMS SHALL BE CONSTRUED TO MEAN "CHARGE" OR "BALANCE IN THE PLASTIC BAG AND FILM CHARGE ACCOUNT".

11. IF ANY DEPOSIT INITIATOR FAILS OR REFUSES TO FILE A REPORT OR FURNISH ANY INFORMATION REQUESTED IN WRITING BY THE DEPARTMENT OF TAXATION AND FINANCE OR THE DEPARTMENT, THE DEPARTMENT OF TAXATION AND FINANCE WITH THE ASSISTANCE OF THE DEPARTMENT MAY, FROM ANY INFORMATION IN ITS POSSESSION, MAKE AN ESTIMATE OF THE DEFICIENCY AND COLLECT SUCH DEFICIENCY FROM SUCH DEPOSIT INITIATOR.

12. EACH DEPOSIT INITIATOR SHALL PROVIDE A REPORT TO THE DEPARTMENT DESCRIBING ALL THE TYPES OF PLASTIC BAGS AND PLASTIC FILM ON WHICH IT INITIATES CHARGES. THE REPORT SHALL INCLUDE SUCH INFORMATION THE DEPARTMENT MAY REQUIRE. THE DEPARTMENT MAY REQUIRE THAT SUCH FORMS BE FILED ELECTRONICALLY.

S 27-2717. VIOLATIONS.

1. ANY PERSON WHO SHALL VIOLATE ANY PROVISION OF THIS SECTION SHALL BE LIABLE TO THE STATE OF NEW YORK FOR A CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION CONTINUES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTUNITY TO BE HEARD.

2. ANY RETAILER WHO VIOLATES ANY PROVISION OF THIS TITLE SHALL BE LIABLE TO THE STATE OF NEW YORK FOR A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS, AND AN ADDITIONAL CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH DAY DURING WHICH EACH SUCH VIOLATION CONTINUES. ANY CIVIL PENALTY MAY BE ASSESSED FOLLOWING A HEARING OR OPPORTUNITY TO BE HEARD.

1 3. (A) THE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE AND MARKETS, THE
2 DEPARTMENT OF TAXATION AND FINANCE AND THE ATTORNEY GENERAL ARE HEREBY
3 AUTHORIZED TO ENFORCE THE PROVISIONS OF THIS TITLE AND ALL MONIES
4 COLLECTED SHALL BE DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL
5 PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE
6 STATE FINANCE LAW.

7 (B) THE PROVISIONS OF THIS SECTION MAY ALSO BE ENFORCED BY A COUNTY,
8 CITY, TOWN OR VILLAGE AND THE LOCAL LEGISLATIVE BODY THEREOF MAY ADOPT
9 LOCAL LAWS, ORDINANCES OR REGULATIONS CONSISTENT WITH THIS TITLE PROVID-
10 ING FOR THE ENFORCEMENT OF SUCH PROVISIONS.

11 4. ANY FINES THAT ARE COLLECTED BY THE STATE DURING PROCEEDINGS BY THE
12 STATE TO ENFORCE THE PROVISIONS OF THIS TITLE SHALL BE RETAINED BY THE
13 STATE. ANY FINES THAT ARE COLLECTED BY A MUNICIPALITY DURING PROCEEDINGS
14 BY THE MUNICIPALITY TO ENFORCE THE PROVISIONS OF THIS TITLE AGAINST A
15 RETAILER LOCATED IN THE MUNICIPALITY SHALL BE DIVIDED EQUALLY BETWEEN
16 THE STATE AND THE MUNICIPALITY.

17 5. NOTHING IN THIS TITLE SHALL PROHIBIT A MUNICIPALITY FROM IMPOSING
18 FURTHER RESTRICTIONS ON THE PROVISION OF SINGLE-USE BAGS BY RETAILERS
19 LOCATED IN THE MUNICIPALITY OR FROM IMPLEMENTING FURTHER MEASURES TO
20 EXPAND THE MUNICIPALITY'S PLASTIC BAG RECYCLING PROGRAM.

21 S 4. This act shall take effect on April 1, 2017; provided however
22 that the amendments to subdivision 2 of section 27-2705 of the environ-
23 mental conservation law made by section two of this act, shall take
24 effect on the same date and in the same manner as section 3 of chapter
25 481 of the laws of 2014, takes effect.