STATE OF NEW YORK

8614

2017-2018 Regular Sessions

IN ASSEMBLY

September 1, 2017

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the recycling of plastic carryout bags and film plastic

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 6 of section 27-2701 of the environmental conservation law, as added by chapter 641 of the laws of 2008, is amended to read as follows:

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 thousand square feet of retail space **or, in a city with a population of one million or more, has over 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~~] **that** operates five or more units of over five thousand square feet of retail space in this state under common ownership and management **or, in a city with a population of one million or more, such retail establishment is part of a chain engaged in the same general field of business that operates five or more units in such city under common ownership and management**.

§ 2. Section 27-2713 of the environmental conservation law, as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2713. Preemption.

Jurisdiction in all matters pertaining to plastic bag and film plastic recycling is by this article vested exclusively in the state**, except that in a city with a population of one million or more, an agency or agencies designated by the mayor of such city may enforce section 27-2703 and subdivisions one, two and five of section 27-2705 of this title**. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the recycling of plastic bags and film plastic shall, upon the effective date of this title, be preempted.

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

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Provided however, nothing in this section shall preclude a person from coordinating for recycling or reuse the collection of plastic bags or film plastic.

§ 3. Subdivision 1 of section 71-2728 of the environmental conservation law, as added by chapter 641 of the laws of 2008, is amended to read as follows:

1. Any person who knowingly or intentionally violates any provision of or fails to perform any duty imposed pursuant to title 27 of article 27 of this chapter shall [~~upon the first finding of such a violation be provided with a warning that future violations shall result in the imposition of a fine~~] **be liable for a civil penalty**. Any person convicted of a [~~second~~] **first** violation shall be liable for a civil penalty not to exceed one hundred dollars. **Any person convicted of a second violation shall be liable for a civil penalty not to exceed two hundred fifty dollars.** Any person convicted of a third or subsequent violation shall be liable for a civil penalty not to exceed five hundred dollars.

§ 4. Section 71-2728 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any provision of subdivision one, two or three of this section to the contrary, in a city with a population of one million or more, section 27-2703 and subdivisions one, two and five of section 27-2705 of this chapter may also be enforced by an agency or agencies designated by the mayor of such city. Any notice of violation issued by an agency designated by the mayor of such city charging a violation of section 27-2703 or subdivision one, two or five of section 27-2705 of this chapter shall be returnable to the environmental control board of such city. Such environmental control board shall have the power to impose a civil penalty not to exceed one hundred dollars for the first violation, not to exceed two hundred fifty dollars for the second violation and not to exceed five hundred dollars for a third or subsequent violation. All civil penalties collected for any violation of title 27 of article 27 of this chapter that have been imposed by the environmental control board of such city shall be paid into the general fund of such city.

§ 5. This act shall take effect on the sixtieth day after it shall have become a law.