

STATE OF NEW YORK

7936--A

2017-2018 Regular Sessions

IN ASSEMBLY

May 19, 2017

Introduced by M. of A. ABINANTI, WILLIAMS, RODRIGUEZ, ORTIZ, SIMON, GALEF, BLAKE, RA, D'URSO, DE LA ROSA -- Multi-Sponsored by -- M. of A. HOOPER -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to requiring supermarkets to make excess food available to qualifying charities

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

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

TITLE 28

EXCESS FOOD ACT

Section 27-2801. Legislative intent.

27-2802. Definitions.

27-2803. Availability requirement.

27-2804. Exclusions.

27-2805. Construction.

27-2806. Enforcement.

§ 27-2801. Legislative intent.

An estimated 2.8 million New Yorkers face hunger and food insecurity. This legislation is designed to increase food donations to food banks and other providers who feed the needy while reducing food waste in solid waste landfills.

§ 27-2802. Definitions.

As used in this title, the following terms shall mean:

1. "Excess food" means edible food that is not sold or used by a supermarket and is still safe to be consumed but is being disposed of by

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

LBD10758-07-8

1 the supermarket due to labeling, appearance, surplus or other similar
2 conditions.

3 2. "Qualifying charity" means (a) a religious organization which
4 provides food for free to needy persons, or (b) a charity qualified
5 under section 501(c)(3) of the Internal Revenue Code which provides food
6 for free to needy persons. Qualifying charities shall include food
7 banks and food pantries qualified under section 501(c)(3) of the Inter-
8 nal Revenue Code which provide food to other qualified charities which
9 provide food for free to needy persons.

10 3. "Supermarket" means a physical retail store which has at the
11 subject location more than ten thousand square feet devoted to offering
12 food for human consumption for sale to the general public.

13 § 27-2803. Availability requirement.

14 1. Every supermarket shall from time to time make excess food avail-
15 able to qualifying charities.

16 2. No supermarket shall be required to make available a particular
17 quantity or level of excess food or to transport or distribute any
18 excess food.

19 3. A supermarket shall be deemed in compliance with this section if
20 it in good faith arranges with a qualifying charity that has requested
21 in writing to collect excess food from the supermarket for the
22 collection of such excess food.

23 4. A supermarket may impose reasonable restrictions as to the time and
24 manner of collection by a qualifying charity so as not to interfere with
25 its business operations.

26 § 27-2804. Exclusions.

27 Excess food shall not include: unpackaged fresh meat, fish, or poul-
28 try; food damaged by storage conditions, pests, mold, bacteria or other
29 contamination; food which has been offered for sale from a hot, cold or
30 prepared food bar; food subject to a governmental or producer recall;
31 food returned to a supplier; food donated to a qualifying charity; food
32 sold to a food remarketer or restaurant or other preparer of food for
33 human consumption or sold to a farmer or other producer.

34 § 27-2805. Construction.

35 Nothing in this title shall be construed to supersede any state or
36 federal health laws or regulations regarding the handling of food.

37 § 27-2806. Enforcement.

38 A supermarket that does not meet the requirements of this title shall
39 not be subject to the penalties specified in title twenty-seven of arti-
40 cle seventy-one of this chapter.

41 § 2. This act shall take effect one year after it shall have become a
42 law.