

# STATE OF NEW YORK

4168

2017-2018 Regular Sessions

## IN SENATE

February 6, 2017

Introduced by Sens. KRUEGER, HAMILTON, HOYLMAN, SERRANO, SQUADRON --  
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 food  
service waste reduction

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

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

3 § 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

#### Section 27-2801. Definitions.

8 27-2803. Required compostable or recyclable disposable food  
9 service ware.

10 27-2805. Powers of municipalities.

#### § 27-2801. Definitions.

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  
15 more than the purchase cost of the non-compostable or non-recyclable  
16 alternative.

17 2. "Agency" means any state department, agency, board, public benefit  
18 corporation, public authority, or commission.

19 3. "Compostable" means all the materials in the product or package  
20 will (a) undergo degradation by biological processes during composting  
21 to yield carbon dioxide, water, inorganic compounds, and biomass at a

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

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1 rate consistent with other known compostable materials and (b) leave no  
2 visible, distinguishable or toxic residue, including no adverse impact  
3 on the ability of composts to support plant growth once the finished  
4 compost is placed in soil.

5 4. "Contractors and lessees" mean any person or entity that has a  
6 contract with an agency or a municipality for public works or improve-  
7 ments to be performed, for a franchise, concession or lease of property,  
8 for grant monies or goods and services or supplies to be purchased at  
9 the expense of the agency or municipality or to be paid out of monies  
10 deposited in the treasury or out of trust monies under the control or  
11 collected by the agency or municipality.

12 5. "Disposable food service ware" means all containers, bowls, plates,  
13 trays, cartons, cups, lids, straws, forks, spoons, knives, napkins and  
14 other items that are designed for one-time use for prepared foods,  
15 including without limitation, service ware for takeout foods and/or  
16 leftovers from partially consumed meals prepared by food vendors. The  
17 term "disposable food service ware" does not include items composed  
18 entirely of aluminum or polystyrene foam coolers and ice chests that are  
19 intended for reuse nor does this term include recyclable food service  
20 ware.

21 6. "Municipality" means a village, town, city, or county, or any  
22 designated agency thereof.

23 7. "Polystyrene foam" means blown polystyrene and expanded foams  
24 utilizing a styrene monomer and processed by any number of techniques.  
25 Polystyrene foam is generally used to make cups, bowls, plates, trays,  
26 clamshell containers, meat trays and egg cartons.

27 8. "Recyclable" means material that can be sorted, cleansed and recon-  
28 stituted using available recycling collection programs for the purpose  
29 of using the altered form in the manufacture of a new product. Recycling  
30 does not include burning, incinerating, converting, or otherwise ther-  
31 mally destroying solid waste.

32 § 27-2803. Required compostable or recyclable disposable food service  
33 ware.

34 Agencies, municipalities, and their contractors and lessees shall use  
35 disposable food service ware made from material, other than polystyrene  
36 foam, that is compostable or recyclable unless there is no affordable  
37 compostable or recyclable product available. Nothing in this section  
38 shall be construed to govern the activities of contractors and lessees  
39 that occur outside of the state or activities of contractors of lessees  
40 that occur with entities other than agencies or municipalities.

41 § 27-2805. Powers of municipalities.

42 Any agency or municipality may promulgate regulations, ordinances, or  
43 laws to take any and all reasonable actions necessary to implement and  
44 enforce this title.

45 § 3. The department of environmental conservation shall conduct a  
46 study on the desirability, feasibility and environmental impact of a  
47 statewide prohibition on the use of disposable food service ware that  
48 contains polystyrene foam. The department shall issue a report contain-  
49 ing the results of the study to the legislature no later than the thir-  
50 ty-first of January next succeeding the date on which this act shall  
51 have become a law.

52 § 4. This act shall take effect immediately; provided, however, that  
53 sections one and two of this act shall take effect on the one hundred  
54 twentieth day after it shall have become a law.