STATE OF NEW YORK

8993

IN SENATE

June 12, 2018

Introduced by Sen. ALCANTARA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

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

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

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nal Revenue Code which provide food to other qualified charities which provide food for free to needy persons.

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

§ 27-2803. Availability requirement.

1. Every supermarket shall from time to time make excess food available to qualifying charities.

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

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

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

§ 27-2804. Exclusions.

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

§ 27-2805. Construction.

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

§ 27-2806. Enforcement.

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

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