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

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 30 to read as follows:

TITLE 30
EXCESS FOOD ACT

§ 27-3001. Legislative intent. An estimated fifty million Americans, including nearly sixteen million children, do not have sufficient food. 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 which create dangerous emissions.

§ 27-3002. 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. "Excess food" shall not include: unpackaged fresh meat.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.
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 qualify-
ing entity; food sold to a food remarketer or restaurant or other
preparer of food for human consumption or sold to a farmer or other
producer.
2. "Qualifying entity" means a religious or other not-for-profit
organization which provides food for free to needy persons, including,
but not limited to a food pantry, food bank, soup-kitchen or community-
based organization that provides 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. "Supermar-
et" shall not include hotels, motels, restaurants and cafeterias,
bakeries, caterers, hospitals, assisted living facilities, nursing
homes, hospices, group homes, drug stores, educational institutions, and
food courts in shopping malls, food retailers at airports and other
transportation facilities, gas stations, sports arenas, movie theaters
or any other similar establishment.
§ 27-3003. Availability requirement.
1. Every supermarket shall from time to time make excess food avail-
able to qualifying entities.
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 entity that has requested in
writing to collect excess food from the supermarket for the collection
of such excess food. A supermarket acting in compliance with this
section shall have no liability for the food transferred in the absence
of gross negligence or intentional misconduct.
4. A supermarket may impose reasonable restrictions as to the time and
manner of collection by a qualifying entity so as not to interfere with
its business operations.
5. A supermarket may, in accordance with any applicable laws, dispose
of any excess food which is not picked up by a qualifying entity within
a reasonable time.
§ 27-3004. Construction.
Nothing in this title shall be construed to supersede any state or
federal health laws or regulations regarding the handling of food.
§ 27-3005. 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 arti-
cle seventy-one of this chapter.
§ 2. This act shall take effect on the one hundred eightieth day after
it shall have become a law. Effective immediately the addition, amend-
ment and/or repeal of any rule or regulation necessary for the implemen-
tation of this act on its effective date are authorized to be made and
completed on or before such date.