

STATE OF NEW YORK

4603--A

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

Introduced by M. of A. ROZIC, PAULIN, LUPARDO, COLTON, ENGLEBRIGHT, GALEF, L. ROSENTHAL, OTIS, ABINANTI, FAHY, STIRPE, LIFTON, SIMOTAS, WEPRIN, GOTTFRIED, SIMON -- Multi-Sponsored by -- M. of A. COOK, DINOWITZ, GLICK, GRIFFIN, PERRY, THIELE -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to polystyrene waste reduction

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 POLYSTYRENE WASTE REDUCTION

Section 27-3001. Definitions.

27-3003. Prohibited disposable food service containers.

27-3005. Required compostable or recyclable disposable food service containers.

27-3007. Powers of municipalities.

§ 27-3001. Definitions.

For the purposes of this title, the following terms shall have the following meanings:

1. "Affordable" means purchasable for not more than fifteen percent more than the purchase cost of the non-compostable or non-recyclable alternative.

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

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

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1 3. "Compostable" means all the materials in the product or package
2 meet the American Society for Testing and Materials (ASTM) International
3 Standard Specification for Compostable Plastics D6400, and will: (a)
4 undergo degradation by biological processes during composting in an
5 appropriate municipal or industrial composting facility to yield carbon
6 dioxide, water, inorganic compounds, and biomass at a rate consistent
7 with other known compostable materials in similar facilities; and (b)
8 leave no visible, distinguishable or toxic residue, including no adverse
9 impact on the ability of composts to support plant growth once the
10 finished compost is placed in soil.

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

18 5. "Disposable food service container" means all containers, bowls,
19 plates, trays, cartons, cups, lids and other items that are designed or
20 generally recognized by the public as being designed for one-time use to
21 hold, contain, or transport foods, including without limitation,
22 containers for takeout foods and/or leftovers from partially consumed
23 meals prepared by retail food vendors. The term "disposable food service
24 containers" does not include items composed entirely of aluminum or
25 polystyrene foam coolers and ice chests that are intended for reuse.

26 6. "Home compostable" means all the materials in the product or pack-
27 age conform with the Vincotte OK Compost Home certification using the
28 European Norm 13432 standard, or a comparable standard as determined by
29 the department, and will: (a) undergo degradation by biological proc-
30 esses during composting in a home compost pile or device to yield carbon
31 dioxide, water, inorganic compounds, and biomass at a rate consistent
32 with other known compostable materials in similar facilities; and (b)
33 leave no visible, distinguishable or toxic residue, including no adverse
34 impact on the ability of composts to support plant growth once the
35 finished compost is placed in soil.

36 7. "Municipality" means a village, town, city, or county, or any
37 designated agency thereof.

38 8. "Polystyrene foam" means blown polystyrene and expanded and extrud-
39 ed foams that are thermoplastic petrochemical materials utilizing a
40 styrene monomer and processed by any number of techniques including, but
41 not limited to, fusion of polymer spheres, injection molding, foam mold-
42 ing, and extrusion-blown molding. Polystyrene foam is generally used to
43 make cups, bowls, plates, trays, clamshell containers, meat trays and
44 egg cartons. Such term shall not include rigid polystyrene.

45 9. "Recyclable" means material that can be sorted, cleansed and recon-
46 stituted using available recycling collection programs for the purpose
47 of using the altered form in the manufacture of a new product. Recycling
48 does not include burning, incinerating, converting, or otherwise ther-
49 maximally destroying solid waste.

50 § 27-3003. Prohibited disposable food service containers.

51 1. Agencies, municipalities, and their contractors and lessees shall
52 not purchase, acquire, possess, sell, use, or offer for use disposable
53 food service containers that contain polystyrene.

54 2. Nothing in this section shall be construed to govern the activities
55 of contractors and lessees that occur outside of the state or activities

1 of contractors and lessees that occur with entities other than agencies
2 and municipalities.

3 § 27-3005. Required compostable or recyclable disposable food service
4 containers.

5 Agencies, municipalities, and their contractors and lessees shall use
6 disposable food service containers made from material, other than polys-
7 tyrene foam, that is compostable, home compostable or recyclable unless
8 there is no affordable compostable, home compostable or recyclable prod-
9 uct available. Nothing in this section shall be construed to govern the
10 activities of contractors and lessees that occur outside of the state or
11 activities of contractors of lessees that occur with entities other than
12 agencies or municipalities.

13 § 27-3007. Powers of municipalities.

14 Any agency or municipality may promulgate regulations, ordinances, or
15 laws to take any and all reasonable actions necessary to implement and
16 enforce this title.

17 § 2. The department of environmental conservation shall conduct a
18 study on the desirability, feasibility and environmental impact of a
19 statewide prohibition on the use of disposable food service ware that
20 contains polystyrene foam. The department shall issue a report contain-
21 ing the results of the study to the legislature no later than the thir-
22 ty-first of January next succeeding the date on which this act shall
23 have become a law.

24 § 3. This act shall take effect immediately; provided, however, that
25 section one of this act shall take effect on the one hundred twentieth
26 day after it shall have become a law.