

# STATE OF NEW YORK

3069--A

2019-2020 Regular Sessions

## IN SENATE

February 1, 2019

Introduced by Sens. KRUEGER, BRESLIN, HOYLMAN, LIU, SEPULVEDA, SERRANO  
-- read twice and ordered printed, and when printed to be committed 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 Assem-  
bly, do enact as follows:

1 Section 1. Article 27 of the environmental conservation law is  
2 amended by adding a new title 30 to read as follows:

3 TITLE 30  
4 POLYSTYRENE WASTE REDUCTION

5 Section 27-3001. Definitions.  
6 27-3003. Prohibited disposable food service containers.  
7 27-3005. Required compostable or recyclable disposable food  
8 service containers.  
9 27-3007. Powers of municipalities.

10 § 27-3001. Definitions.  
11 For the purposes of this title, the following terms shall have the  
12 following meanings:  
13 1. "Affordable" means purchasable for not more than fifteen percent  
14 more than the purchase cost of the non-compostable or non-recyclable  
15 alternative.  
16 2. "Agency" means any state department, agency, board, public benefit  
17 corporation, public authority, or commission.  
18 3. "Compostable" means all the materials in the product or package  
19 meet the American Society for Testing and Materials (ASTM) International

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

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

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

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

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

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

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

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

48 § 27-3003. Prohibited disposable food service containers.

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

52 2. Nothing in this section shall be construed to govern the activities  
53 of contractors and lessees that occur outside of the state or activities  
54 of contractors and lessees that occur with entities other than agencies  
55 and municipalities.

1 § 27-3005. Required compostable or recyclable disposable food service  
2 containers.

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

11 § 27-3007. Powers of municipalities.

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

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

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