

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

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

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

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

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

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

9. "Recyclable" means material that can be sorted, cleansed and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product. Recycling does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

§ 27-3003. Prohibited disposable food service containers.

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

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