STATE OF NEW YORK

3069--B

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 -- reported favorably from said committee and committed to the Committee on Finance -- 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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3. "Compostable" means all the materials in the product or package meet the American Society for Testing and Materials (ASTM) International 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. For the purpose of this title, the term "disposable food service container" does not include containers or other items that are used for the transportation, storage, or display of raw eggs, or raw or uncooked butchered meats, fish, seafood, and/or poultry sold from a butcher case or similar retail appliance.

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 foam.

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.

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

All agencies, municipalities, and their contractors and lessees using any disposable food service container shall use a compostable, home compostable, or recyclable product, unless there is no affordable compostable, home compostable or recyclable product available. 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 of lessees that occur with entities other than agencies or municipalities.

§ 27-3007. Powers of municipalities.

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

§ 2. The department of environmental conservation shall conduct a study on the desirability, feasibility and environmental impact of a statewide prohibition on the use of disposable food service containers that contain polystyrene foam. The department shall issue a report containing the results of the study to the legislature no later than the thirty-first of January next succeeding the date on which this act shall have become a law.

§ 3. Nothing in this title shall be construed to apply to public school districts.

§ 4. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to contracts executed or extended on and after such date; provided, however, that section two of this act shall take effect immediately.