

# STATE OF NEW YORK

4895

2019-2020 Regular Sessions

## IN SENATE

March 28, 2019

Introduced by Sens. PARKER, BAILEY -- read twice and ordered printed,  
and when printed to be committed to the Committee on Environmental  
Conservation

AN ACT to amend the environmental conservation law, in relation to  
prevention and diversion of food waste

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "state food waste prevention and diversion act".

3 § 2. Article 27 of the environmental conservation law is amended by  
4 adding a new title 28 to read as follows:

### TITLE 28

#### STATE FOOD WASTE PREVENTION AND DIVERSION ACT

7 Section 27-2801. Definitions.

8 27-2803. Required state food service organics waste management.

9 27-2805. Powers of agencies.

10 § 27-2801. Definitions.

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

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

15 2. "Compostable" means all the materials in the product or package  
16 will (a) undergo degradation by biological processes during composting  
17 to yield carbon dioxide, water, inorganic compounds, and biomass at a  
18 rate consistent with other known compostable materials and (b) leave no  
19 visible, distinguishable or toxic residue, including no adverse impact  
20 on the ability of composts to support plant growth once the finished  
21 compost is placed in soil.

22 3. "Contractors" and "lessees" mean any person or entity that has a  
23 contract with an agency for public works or improvements to be  
24 performed, for a franchise, concession or lease of property, for grant

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

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1 monies or goods and services or supplies to be purchased at the expense  
2 of the agency or to be paid out of monies deposited in the treasury or  
3 out of trust monies under the control or collected by the agency.

4 4. "Covered food service establishment" means any premises or part of  
5 a premises to which all of the following apply:

6 (a) it is operated by an agency or any contractor or lessee of an  
7 agency;

8 (b) it generates, from its food preparation and service, as averaged  
9 over the course of the previous ten weeks:

10 (i) in two thousand twenty and two thousand twenty-one, over two thou-  
11 sand pounds of food waste per week;

12 (ii) in two thousand twenty-two and two thousand twenty-three, over  
13 one thousand pounds of food waste per week; and

14 (iii) in two thousand twenty-four and thereafter, over five hundred  
15 pounds of food waste per week; and

16 (c) it is located where food is prepared and provided directly to the  
17 consumer, whether such food is provided free of charge or sold, and  
18 whether consumption occurs on or off the premises.

19 "Covered food service establishments" shall include, but not be limit-  
20 ed to, the following which also meet the conditions of paragraphs (a),  
21 (b), and (c) of this subdivision: full-service restaurants, fast food  
22 restaurants, cafes, delicatessens, coffee shops, and cafeterias, but  
23 shall not include retail food stores, convenience stores, pharmacies and  
24 mobile food vending units.

25 5. "Excess food" means food that is not required to meet the needs of  
26 the covered food service establishment.

27 6. "Organic" means materials produced by or from living organisms.

28 7. "Organic waste" means readily degradable organic material includ-  
29 ing, but not limited to, food waste, soiled or unrecyclable paper, and  
30 yard waste in combination with any of the former materials. It does not  
31 include biosolids, sludge, or septage.

32 § 27-2803. Required state food service organics waste management.

33 1. Any covered food service establishment shall do the following:

34 (a) To the greatest extent practicable, minimize its generation of  
35 excess, unused foods in addition to food scraps and organic waste  
36 including, but not limited to, food trimmings and packaging;

37 (b) To the greatest extent practicable, reduce the need for disposal  
38 of its generated excess, unused food, food scraps and any other compost-  
39 able or organic waste, by providing it for the following purposes in  
40 descending order of priority:

41 (i) feeding or distributing excess, unused, apparently wholesome food  
42 to people, such as the food insecure, through local voluntary community  
43 not-for-profit food assistance or similar programs as authorized by  
44 state and federal law;

45 (ii) feeding excess, unused food, or food scraps to animals as feed as  
46 authorized by state and federal law;

47 (iii) composting, anaerobic digestion, or other processing of food,  
48 food waste, or organic waste to generate soil amendment or other  
49 products for use in agricultural, horticultural, manufacturing, or other  
50 applications;

51 (c) Effectuate paragraph (b) of this subdivision by doing the follow-  
52 ing:

53 (i) for management of excess foods or food scrap pursuant to subpara-  
54 graphs (i) and (ii) of paragraph (b) of this subdivision, other than  
55 those managed on-site, transfer, or arrange for such transfer, to

1 locations intended for their consumption or from which they will be  
2 distributed for ultimate consumption; and

3 (ii) for management of organic wastes pursuant to subparagraph (iii)  
4 of paragraph (b) of this subdivision, by taking actions to (A) source  
5 separate organic wastes from other waste and subscribe to a basic level  
6 of recycling service that includes their collection and recycling; (B)  
7 recycle its organic wastes on-site or self-haul them for recycling; or  
8 (C) subscribe to an organic waste recycling service that may include  
9 mixed waste processing that specifically recycles organic waste;

10 (d) provide collection and educational resources, including regular  
11 periodical guidance, training, updates, signage, and flyers, for its  
12 workforce and the public for the purposes of teaching and retaining  
13 effective procedures for sorting materials for organics and other recy-  
14 cling.

15 2. Each covered food service establishment may provide to the depart-  
16 ment information on its practices, including amounts of excess food,  
17 food scraps, or organic waste managed by various methods such as those  
18 implemented pursuant to subdivision one of this section, entities or  
19 resources utilized for reducing and managing such materials, or financ-  
20 ing mechanisms and incentives utilized.

21 3. If the cost for a covered food service establishment to comply with  
22 the requirements of paragraph (c) of subdivision one of this section for  
23 any or all portions of excess food, food scraps, or organic waste  
24 exceeds fifteen percent of the cost of its disposal by landfill or  
25 incineration, the covered food service establishment may request from  
26 the commissioner a waiver of the requirements for the portions, based on  
27 documented efforts to comply. The commissioner shall review the request  
28 and, if validated, grant the waiver for a period of no greater than  
29 twenty-four months.

30 4. The provisions of this section shall not apply to contracts in  
31 effect on the effective date of this section; provided, however, that  
32 the provisions of this section shall apply to all renewals or extensions  
33 of such contracts entered into on or after the effective date of this  
34 section.

35 5. In the event that two or more covered food service establishments  
36 share a common physical facility and share services such as  
37 waste/recycling collection and hauling, dining areas and/or restrooms,  
38 all facilities shall be considered to be one covered food service estab-  
39 lishment for the purpose of calculating the amount of food waste as  
40 provided in subdivision four of section 27-2801 of this title.

41 6. The department shall promote actions for covered food service  
42 establishments to take pursuant to the requirements of subdivision one  
43 of this section, and for all entities and the public to take in efforts  
44 to manage excess food, food scraps, and organic waste in a similar  
45 manner.

46 7. The department may collect and report information to promote  
47 improved management of excess food, food scraps and organic waste,  
48 including information on practices by covered food establishments, other  
49 entities and the public, or lists of entities and resources providing  
50 assistance for reducing such materials, facilities accepting such mate-  
51 rials, or financing mechanisms and incentives available for recovery  
52 practices and facilities.

53 § 27-2805. Powers of agencies.

54 Any agency may promulgate regulations to take any and all reasonable  
55 actions necessary to implement and enforce this title.

1 § 3. Paragraph (c) of subdivision 1 of section 27-0107 of the environ-  
2 mental conservation law, as added by chapter 70 of the laws of 1988, is  
3 amended to read as follows:

4 (c) Such plan shall take into account the objectives of the state  
5 solid waste management policy, provide for or take into account manage-  
6 ment of all solid waste within the planning unit, and embody, as may be  
7 appropriate to the circumstances, sound principles of solid waste  
8 management, natural resources conservation, energy production, and  
9 employment creating opportunities, including but not limited to:

10 (i) description of efforts of a state planning unit to facilitate,  
11 participate, or assist in the management of excess food, food scraps,  
12 and other organic waste in the solid waste stream including, but not  
13 limited to, description of programs providing (A) assistance with reduc-  
14 ing the amount of excess food, food scraps, and organic waste generated,  
15 (B) excess food to entities for feeding the food insecure, (C) excess  
16 food and food scraps for feeding animals, and (D) food and other organic  
17 waste to process and generate soil amendment or other products for use  
18 in agricultural, horticultural, manufacturing, or other applications;  
19 and

20 (ii) assessment and description of (A) known entities accepting excess  
21 food donations for the purpose of providing nourishment to the food  
22 insecure and estimated amounts, according to any useful categories, such  
23 as perishable and non-perishable, that are available, (B) known entities  
24 that accept excess food and food scraps for feeding animals, and esti-  
25 ated amounts according to available useful categories, and (C) known  
26 entities that accept food and other organic waste to process and gener-  
27 ate soil amendment or other products, and estimated amounts, according  
28 to available useful categories.

29 § 4. This act shall take effect on the first of the month following  
30 the one hundred eightieth day after it shall have become a law.