

# STATE OF NEW YORK

8127

2021-2022 Regular Sessions

## IN ASSEMBLY

June 11, 2021

Introduced by M. of A. PICHARDO, RODRIGUEZ -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the state finance law, in relation to enacting the healthy bodega fund act; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "healthy bodega fund act".

3 § 2. The environmental conservation law is amended by adding a new  
4 section 27-2811 to read as follows:

5 § 27-2811. Statewide carryout bag reduction fee.

6 1. (a) There shall be a statewide tax imposed at a rate of five cents  
7 on any plastic carryout bag or paper carryout bag to be known as a  
8 carryout bag reduction fee. Such carryout bag reduction fee, whether or  
9 not any tangible personal property is sold therewith, shall be imposed  
10 at a rate of five cents on each plastic carryout bag and paper carryout  
11 bag provided by a person required to collect tax to a customer in this  
12 state. The plastic carryout bag and paper carryout bag reduction fee  
13 must be reflected and made payable on the sales slip, invoice, receipt,  
14 or other statement of the price rendered to the customer.

15 (b) Such carryout bag reduction fee shall not constitute a receipt for  
16 the sale of tangible personal property subject to tax, pursuant to arti-  
17 cles twenty-eight and twenty-nine of the tax law, and transfer of a bag  
18 to a customer by a person required to collect tax shall not constitute a  
19 retail sale.

20 (c) It shall be unlawful for a municipal corporation to adopt or amend  
21 a local law, ordinance or resolution requiring the imposition of any fee  
22 on the provision of a plastic carryout bag or paper carryout bag before  
23 July first, two thousand twenty-two.

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

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1     2. The carryout bag reduction fee imposed by this section shall not  
2 apply to any customer using the supplemental nutritional assistance  
3 program, special supplemental nutrition program for women, infants and  
4 children, or any successor programs used as full or partial payment for  
5 the items purchased.

6     3. The carryout bag reduction fee shall be reported and paid to the  
7 commissioner of taxation and finance on a quarterly basis on or before  
8 the twentieth day of the month following each quarterly period ending on  
9 the last day of February, May, August and November, respectively. The  
10 payments shall be accompanied by a return in the form and containing the  
11 information the commissioner of taxation and finance may prescribe.

12     4. Any sales slip, invoice, receipt, or other statement of price  
13 furnished by a person required to collect tax to a customer shall sepa-  
14 rately state the carryout bag reduction fee and shall state the number  
15 of bags provided to the customer.

16     5. (a) Except as otherwise provided in this section, the carryout bag  
17 reduction fee imposed under the authority of this section shall be  
18 administered and collected by the commissioner of taxation and finance  
19 in a like manner as the taxes imposed by articles twenty-eight and twen-  
20 ty-nine of the tax law. All the provisions of articles twenty-eight and  
21 twenty-nine of the tax law, including the provisions relating to defi-  
22 nitions, exemptions, returns, personal liability for the tax, collection  
23 of tax from the customer, payment of tax and the administration of the  
24 taxes imposed by such articles, shall apply to the carryout bag  
25 reduction fee imposed under the authority of this section.

26     (b) Notwithstanding the provisions of paragraph (a) of this subdivi-  
27 sion:

28     (i) the exemptions provided for in section eleven hundred sixteen of  
29 the tax law, other than the exemptions in paragraphs one, two and three  
30 of subdivision (a) of such section, shall not apply to the carryout bag  
31 reduction fee imposed under the authority of this section; and

32     (ii) the credit provided in subdivision (f) of section eleven hundred  
33 thirty-seven of the tax law shall not apply to this section.

34     (c) Notwithstanding the provisions of paragraph (a) of this subdivi-  
35 sion or subdivision (a) of section eleven hundred forty-six of the tax  
36 law, the commissioner of taxation and finance may, in his or her  
37 discretion, permit the commissioner, or his or her authorized represen-  
38 tative, to inspect any return related to the carryout bag reduction fee  
39 filed under this section, or may furnish to the commissioner, or his or  
40 her authorized representative, any such return or supply him or her with  
41 information concerning an item contained in any such return, or  
42 disclosed by any investigation of a liability under this section.

43     6. All carryout bag reduction fee monies and any related penalties and  
44 interest remitted to the commissioner of taxation and finance under this  
45 section, shall be deposited daily with such responsible banks, banking  
46 houses, or trust companies as may be designated by the state comp-  
47 ptroller. Of the revenues deposited, the comptroller shall retain in the  
48 comptroller's hands such amount as the commissioner of taxation and  
49 finance may determine to be necessary for refunds or reimbursements of  
50 the fees collected or received pursuant to this section, out of which  
51 the comptroller shall pay any refunds or reimbursements of such fees to  
52 which persons shall be entitled under the provisions of this section.  
53 The comptroller shall deposit two cents of the carryout bag reduction  
54 fee rate of five cents on each plastic carryout bag and paper carryout  
55 bag into the healthy bodega program fund established pursuant to section  
56 ninety-nine-nn of the state finance law on a quarterly basis. The comp-

1 troller shall deposit any remaining monies and any related penalties and  
2 interest into the general fund on a quarterly basis.

3 7. This section shall preempt sections 27-2803, 27-2805 and 27-2807 of  
4 this title and any local law, ordinance or resolution previously adopted  
5 in relation to plastic carryout bags, paper and reusable carryout bags,  
6 and reusable bags.

7 § 3. The state finance law is amended by adding a new section 99-nn to  
8 read as follows:

9 § 99-nn. Healthy bodega program fund. 1. There is hereby established  
10 in the joint custody of the state comptroller and commissioner of taxa-  
11 tion and finance a special fund to be known as the "healthy bodega  
12 program fund".

13 2. Such fund shall consist of all monies appropriated to such fund and  
14 any grant, gift or bequest made to the fund.

15 3. Monies of the fund shall be available for the purposes of funding a  
16 healthy bodega program that will bolster small immigrant retailers and  
17 address the serious health consequences that the COVID-19 pandemic had  
18 on black and Hispanic communities. Such monies shall be used to estab-  
19 lish a training and planning infrastructure and prepare the store owners  
20 for the conversion to healthier food outlets.

21 4. The monies of the fund shall be paid out on the audit and warrant  
22 of the comptroller on vouchers certified or approved by the commissioner  
23 of environmental conservation, or by an officer or employee of the  
24 department of environmental conservation designated by such commission-  
25 er.

26 § 4. This act shall take effect immediately; provided, however, that  
27 section one of this act shall expire July 1, 2022 when upon such date  
28 the provisions of this act shall be deemed repealed.