

# STATE OF NEW YORK

3148--A

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to requiring contractors to recycle construction and demolition site waste

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

Section 1. Legislative intent. The purpose of this act is to significantly reduce the amount of waste produced by construction and demolition activities in the state of New York. There are many opportunities to reduce or recycle materials from construction and demolition, including metals, cardboard, drywall, glass, wood and asphalt. This act is consistent with the goals of the state's solid waste management plan, complementing other recycling and recovery programs currently in effect.

§ 2. The environmental conservation law is amended by adding a new section 27-0721 to read as follows:

§ 27-0721. Construction and demolition site waste recycling.

1. Definitions. As used in this section:

(a) "Contractor" means a general contractor and shall also include any subcontractor engaged in the demolition or wrecking of a structure for which a permit is required.

(b) "Construction and demolition debris" shall include, but not be limited to, metals, cardboard, drywall, glass, wood, concrete, brick and asphalt, but shall not include any material that is contaminated by lead, asbestos or other hazardous material such that recycling thereof would be illegal or unfeasible.

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

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1 (c) "Recycler" means a recycling facility, transfer station or other  
2 waste handling facility permitted pursuant to this article which accepts  
3 construction and demolition debris for recycling or for further transfer  
4 to a recycling facility.

5 (d) "Reuse" means (i) the on-site use of reprocessed construction and  
6 demolition debris if the use of such debris is authorized by the commis-  
7 sioner; and (ii) the off-site redistribution of a material which would  
8 otherwise be disposed of, for use in the same or similar form as it was  
9 produced.

10 2. Applicability. (a) Contractors shall recycle or reuse construction  
11 and demolition debris produced on site as part of construction or demo-  
12 lition activities by meeting the following requirements:

13 (i) On a project that is issued a permit with an application date  
14 within one year of the effective date of this section, the contractor  
15 shall cause to be recycled or reused at least twenty-five percent of the  
16 construction and demolition debris, as measured by weight, produced on  
17 site.

18 (ii) On a project that is issued a permit with an application date a  
19 year or more after the effective date of this section, the contractor  
20 shall cause to be recycled or reused at least fifty percent or as close  
21 to fifty percent as feasible of the construction and demolition debris,  
22 as measured by weight at a transfer site, produced on site.

23 (b) The following projects shall be subject to the provisions of this  
24 section:

25 (i) Construction of new residential buildings with four or more dwell-  
26 ing units;

27 (ii) Construction of new non-residential buildings, other than  
28 projects for which the total area is four thousand square feet or less;

29 (iii) Any rehabilitation of non-residential buildings of more than  
30 four thousand square feet that will require certification of occupancy  
31 to be issued from the appropriate city, town or village department;

32 (iv) Demolition of residential buildings with four or more dwelling  
33 units that includes the demolition of at least one outside wall; and

34 (v) Demolition of non-residential buildings, other than projects for  
35 which the total area is four thousand square feet or less.

36 (c) A project shall be exempt from this section if only a plumbing  
37 permit or only an electrical permit is required for such project.

38 3. Contractor responsibilities. (a) Within thirty days of completion  
39 of a project, the contractor shall submit documentation to the appropri-  
40 ate city, town or village to report compliance with this section and the  
41 regulations promulgated pursuant to this section. If the contractor is  
42 unable to meet the recycling and reuse requirements of this section, the  
43 contractor may apply for a waiver from the city, town or village. Such  
44 documentation shall be in a form and manner determined by the city, town  
45 or village.

46 (b) If a contractor is unable or refuses to submit the required  
47 documentation, a property owner may submit a waiver application  
48 supported by an affidavit that the contractor is unavailable or refuses  
49 to provide the required documentation.

50 (c) A contractor shall comply with all reasonable requests for infor-  
51 mation and documentation by the city, town or village pursuant to an  
52 audit to monitor compliance with this section. Documentation required by  
53 this section shall be maintained for at least three years.

54 (d) A contractor shall be exempt from the requirements of this section  
55 if no construction and delivery recycling facility is located within

1 twenty-five miles of the contractor's construction site or within the  
2 county in which such site is located.

3 4. City, town and village responsibilities. (a) Each city, town and  
4 village shall establish a procedure for contractors to apply for waivers  
5 of the requirements of this section. Such requirements shall include  
6 documentation of the amount of material the contractor is actually able  
7 to recycle or reuse and the reason or reasons for which the contractor  
8 cannot meet the recycling and reuse requirements in this section.

9 (b) A city, town or village shall not issue any new building or demo-  
10 lition permit to a contractor who has failed to timely submit the  
11 required documentation with respect to any completed project, until such  
12 contractor either submits (i) the required documents including, where  
13 applicable, proof that any fine due pursuant to subdivision five of this  
14 section has been paid in full, or (ii) proof of a waiver issued by the  
15 city, town or village and, the payment of any fine due.

16 (c) The city, town or village may withhold a certificate of occupancy  
17 for a project until the contractor submits either the required documen-  
18 tation including, where applicable, proof that any fine due pursuant to  
19 subdivision five of this section has been paid in full; or proof of a  
20 waiver issued by the city, town or village and, payment of any fine due.

21 (d) The city, town or village is authorized to conduct audits of  
22 contractors to determine and validate compliance with the requirements  
23 of this section. The city, town or village may request information and  
24 documentation relevant to such an audit from any contractor.

25 (e) The city, town or village is authorized to promulgate such rules  
26 and regulations as necessary to implement the provisions of this  
27 section. Such rules and regulations shall contain provisions for seek-  
28 ing and obtaining a waiver from the provisions of this section.

29 5. Fines and penalties. (a) Contractors who fail to provide the  
30 documentation required by this section or who have not received a waiver  
31 from the city, town or village shall be subject to a fine of five  
32 hundred dollars for each day that they fail to provide the information  
33 or apply for a waiver.

34 (b) Contractors who fail to meet the recycling or reuse requirements  
35 of this section and have applied for and not received a waiver from the  
36 city, town or village shall be assessed a fine as follows:

37 (i) For projects involving ten thousand square feet or more of reno-  
38 rated, newly constructed or demolished space, five hundred dollars for  
39 each percentage point of difference between the amount required by this  
40 section to be recycled or reused and the amount actually recycled or  
41 reused; and

42 (ii) For projects involving less than ten thousand square feet of  
43 renovated, newly constructed or demolished space, two hundred fifty  
44 dollars for each percentage point of difference between the amount  
45 required by this section to be recycled or reused and the amount actual-  
46 ly recycled or reused.

47 (c) The city, town or village may modify the penalties required by  
48 paragraph (a) or (b) of this subdivision for failure to provide documen-  
49 tation or meet the recycling and reuse requirements, if it finds that  
50 there are extenuating circumstances for such failures.

51 § 3. This act shall take effect on the first of January next succeed-  
52 ing the date on which it shall have become a law.