STATE OF NEW YORK

6719

2021-2022 Regular Sessions

IN SENATE

May 13, 2021

Introduced by Sen. KAVANAGH -- 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 prohibiting the sale or manufacture of single-use plastic water bottles comprised of less than one hundred percent recycled materials and to prohibiting the sale of single-use plastic beverage containers comprised of less than seventy-five percent recycled materials; and to amend the public health law, in relation to requiring food service establishments to provide tap water, beverages and leftovers to customers in reusable containers, upon request

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 32 to read as follows:

TITLE 32

PLASTIC WATER BOTTLES AND BEVERAGE CONTAINERS

Section 27-3201. Infrastructure assessment.
27-3203. State funds for single-use plastic water bottles.
27-3205. Single-use plastic water bottles comprised of one hundred percent recycled material.
27-3207. Other single-use plastic beverage containers comprised of seventy-five percent recycled materials.
27-3209. Enforcement.

§ 27-3201. Infrastructure assessment.

1. The commissioner, in consultation with the commissioner of health, is hereby authorized and directed to conduct a study relating to single-use plastic water bottles, including but not limited to:

(a) the availability and distribution of public drinking water filling stations and water fountains across the state; and

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

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(b) the environmental and public health impacts of single-use plastic bottled water in New York state, including environmental justice impacts.

2. The commissioner shall submit a report including recommendations and findings based on this study to the governor, the temporary president of the senate, the speaker of the assembly and the chairs of the senate and assembly standing committees on health and the chairs of the senate and assembly standing committees on environmental conservation no later than one year from the effective date of this section.

§ 27-3203. State funds for single-use plastic water bottles.

Beginning one year from the effective date of this section, the use of state funds for the purchase of single-use plastic water bottles shall be prohibited. Water bottles, including those comprised of less than one hundred percent recycled material, may be purchased when:

1. necessary to address health requirements under the following emergencies:

(a) a state of emergency has been declared;

(b) a boil water advisory has been issued;

(c) access to drinking water is being impeded due to a failure of related infrastructure or an ongoing water infrastructure improvement project;

(d) a water utility has reported emergency conditions or other public health hazards; or

(e) there has been an exceedance of a maximum contaminant level or advisory level for a contaminant or an emerging contaminant; and

2. compliance with this title would conflict with contract requirements in existence as of the effective date of this title.

§ 27-3205. Single-use plastic water bottles comprised of one hundred percent recycled material.

1. Beginning five years from the effective date of this section, no person, firm, partnership, association, limited liability company or corporation shall manufacture, sell, or offer for sale any single-use plastic water bottles to any person in the state unless such water bottles are comprised of one hundred percent recycled materials.

2. A person, firm, partnership, association, limited liability company or corporation which manufactures or sells single-use plastic water bottles may apply to the department for a one-year waiver from the requirements of this section, upon such proof that such person or entity is unable to comply with the requirements of this section. Thereafter, such person or entity may apply for additional one-year waivers upon the satisfaction of such similar proof.

3. The requirements of this section shall be suspended in any county, city, town or village where:

(a) a state of emergency has been declared;

(b) a boil water advisory has been issued;

(c) access to drinking water is being impeded due to a failure of related infrastructure or an ongoing water infrastructure improvement project;

(d) a water utility has reported emergency conditions or other public health hazards; or

(e) there has been an exceedance of a maximum contaminant level or advisory level for a contaminant or an emerging contaminant.

§ 27-3207. Other single-use plastic beverage containers comprised of seventy-five percent recycled materials.

1. Beginning five years from the effective date of this section, no deposit initiator, distributor or dealer shall sell or offer for sale,

at wholesale or retail in this state, any single-use plastic beverage container that is comprised of less than seventy-five percent recycled materials.

2. As used in this section, the following terms shall have the following meanings:

(a) "single-use plastic beverage container" shall mean any individual bottle, can, jar, carton or other container that is comprised wholly or in large part of plastic and is intended to be disposed of after one use.

(b) "recycled materials" shall mean any product which has been manufactured from secondary materials, as defined in section 27-0401 of this article.

§ 27-3209. Enforcement.

Any person or entity who violates section 27-3205 or section 27-3207 of this title shall be liable for a civil penalty in the amount of one hundred dollars for the first violation, two hundred dollars for the second violation committed on a different day within a period of twelve months, and four hundred dollars for the third and each subsequent violation committed on different days within a period of twelve months, except that the department shall not issue a notice of violation, but shall issue a warning and provide information on compliance with this title.

§ 2. The public health law is amended by adding a new section 1352-f to read as follows:

§ 1352-f. Reusable beverage and food containers provided by customers. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

(a) "food service establishment" shall mean a public place engaged in the preparation and service on the premises of food and to the general public.

(b) "reusable beverage container" shall mean a bottle, mug, cup or other container that is designed and manufactured to hold beverages and is capable of multiple reuse.

(c) "single-use" shall mean a product that is designed and intended to be used only for drinking or eating, and is generally recognized by the public as an item that is to be discarded after one use.

(d) "disposable food service container" shall mean all containers, bowls, plates, trays, cartons, cups, lids and other items that are designed or generally recognized by the public as being designed for single-use to hold, contain, or transport foods, including but not limited to, containers for leftovers from partially consumed meals prepared by food service establishments. The term "disposable food service container" shall not include items composed entirely of aluminum or polystyrene foam coolers and ice chests that are intended for reuse.

(e) "reusable food container" shall mean all containers, bowls, plates, trays, cartons, cups, lids and other items that are designed and manufactured to hold food and are capable of multiple reuse.

2. Requirements. (a) All food service establishments in the state shall serve tap water to customers, upon request, in a reusable beverage container provided by the customer; provided that:

(i) such reusable beverage container is capable of and appropriate for serving such tap water, as determined based on the size, cleanliness, material, and any other relevant factors, of the reusable beverage container; and

(ii) such tap water shall be dispensed in a manner that prevents contact with, or contamination of, the food-contact surfaces of the beverage dispensing equipment.

(b) Any food service establishment in the state that serves beverages to customers in single-use containers shall not refuse the request of a customer who has ordered a beverage to serve such beverage in a reusable beverage container provided by the customer in substitution for the single-use container provided by the food service establishment, provided that:

(i) such reusable beverage container is capable of and appropriate for serving such beverage, as determined based on the size, cleanliness, material, and any other relevant factors, of the reusable beverage container; and

(ii) such beverage shall be dispensed in a manner that prevents contact with, or contamination of, the food-contact surfaces of the beverage dispensing equipment.

(c) Any food service establishment in the state that serves food to customers in disposable food service containers shall not refuse the request of a customer who has leftovers from partially consumed meals to package such leftovers in a reusable food container provided by the customer in substitution for the disposable food container provided by the food service establishment, provided that:

(i) such reusable food container is capable of and appropriate for packaging such leftovers, as determined based on the size, cleanliness, material, and any other relevant factors, of the reusable food container; and (ii) such leftovers shall be packaged in a manner that prevents contact with, or contamination of, the food-contact surfaces of the food serving equipment.

3. Notification. (a) Every food service establishment in the state shall conspicuously post signage informing customers that they are permitted to request tap water in their own reusable beverage containers.

(b) Every food service establishment in the state that serves beverages to customers in single-use containers shall conspicuously post signage informing customers that they are permitted to request the service of beverages in their own reusable beverage containers.

(c) Every food service establishment in the state that serves food to customers in disposable food service containers shall conspicuously post signage informing customers that they are permitted to request the packaging of leftovers from partially consumed meals in their own reusable food containers.

§ 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.