

# STATE OF NEW YORK

901

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the environmental conservation law, in relation to supermarkets providing excess edible food to food relief organizations; to amend a chapter of the laws of 2020 amending the environmental conservation law relating to requiring supermarkets to make excess food available to qualifying entities, as proposed in legislative bills numbers S. 4176-A and A.4398-A, in relation to the effectiveness thereof; to repeal certain provisions of the environmental conservation law relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Legislative intent. An estimated fifty million Americans,  
2 including nearly sixteen million children, do not have sufficient food.  
3 An estimated 2.8 million New Yorkers face hunger and food insecurity.  
4 This legislation is designed to increase food donations to food banks  
5 and other providers who feed the needy while reducing food waste in  
6 solid waste landfills which create dangerous emissions.

7 § 2. Title 30 of article 27 of the environmental conservation law, as  
8 added by a chapter of the laws of 2020, amending the environmental  
9 conservation law relating to requiring supermarkets to make excess food  
10 available to qualifying entities, as proposed in legislative bills  
11 numbers S. 4176-A and A. 4398-A, is REPEALED.

12 § 3. Section 27-2201 of the environmental conservation law is amended  
13 by adding two new subdivisions 9 and 10 to read as follows:

14 9. "Excess edible food" means edible food that is not sold or used by  
15 a designated food scrap generator and is still safe to be consumed but  
16 is being disposed of by the generator, but shall not include unpackaged  
17 fresh meat, fish or poultry, food damaged by pests, mold, bacteria or

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

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1 other contamination, food subject to governmental or producer recall due  
2 to food safety and food returned to a supplier.

3 10. "Food relief organization" means a religious organization or other  
4 not-for-profit that provides food for free to needy individuals, includ-  
5 ing, but not limited to, a food pantry, food bank, or soup kitchen or  
6 community-based organization that provides food for free to needy indi-  
7 viduals.

8 § 4. The environmental conservation law is amended by adding a new  
9 section 27-2218 to read as follows:

10 § 27-2218. Supermarket excess edible food.

11 1. For the purpose of this section, "supermarket" means a physical  
12 retail store which has at the subject location more than ten thousand  
13 square feet devoted to offering food for human consumption for sale to  
14 the general public.

15 2. Every supermarket shall from time to time make excess edible food  
16 available to food relief organizations. No supermarket shall be required  
17 to make available a particular quantity or level of excess edible food  
18 or to transport or distribute any excess edible food.

19 3. A supermarket shall be deemed in compliance with this section if it  
20 in good faith arranges with a food relief organization that has  
21 requested in writing to collect excess edible food from the supermarket  
22 for the collection of such excess edible food. The rights, liabilities  
23 or immunity of any party under this section shall be governed pursuant  
24 to the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. § 1791  
25 et seq.), as of January seventh, two thousand eleven.

26 4. A supermarket may impose reasonable restrictions as to the time and  
27 manner of collection by a food relief organization so as not to inter-  
28 fere with its business operations.

29 5. A supermarket may, in accordance with any applicable laws, dispose  
30 of any excess edible food which is not picked up by a food relief organ-  
31 ization within a reasonable time.

32 6. Nothing in this section shall be construed to supersede any state  
33 or federal health laws or regulations regarding the handling of excess  
34 edible food.

35 7. A supermarket that does not meet the requirements of this section  
36 shall not be subject to the penalties specified in title twenty-seven of  
37 article seventy-one of this chapter.

38 § 5. Section 2 of a chapter of the laws of 2020, amending the environ-  
39 mental conservation law relating to requiring supermarkets to make  
40 excess food available to qualifying entities, as proposed in legislative  
41 bills numbers S. 4176-A and A. 4398-A, is amended to read as follows:

42 § 2. This act shall take effect [~~on the one hundred eightieth day~~  
43 ~~after it shall have become a law. Effective immediately the addition,~~  
44 ~~amendment and/or repeal of any rule or regulation necessary for the~~  
45 ~~implementation of this act on its effective date are authorized to be~~  
46 ~~made and completed on or before such date] immediately.~~

47 § 6. This act shall take effect immediately; provided, however that  
48 sections one, two, three and four of this act shall take effect on the  
49 same date and in the same manner as a chapter of the laws of 2020,  
50 amending the environmental conservation law relating to requiring super-  
51 markets to make excess food available to qualifying entities, as  
52 proposed in legislative bills numbers S. 4176-A and A. 4398-A, takes  
53 effect, provided, further, that section four of this act shall expire  
54 and be deemed repealed on December 31, 2021.