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:

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

§ 2. Title 30 of article 27 of the environmental conservation law, as added by 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make excess food available to qualifying entities, as proposed in legislative bills numbers S. 4176-A and A. 4398-A, is REPEALED.

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

9. "Excess edible food" means edible food that is not sold or used by a designated food scrap generator and is still safe to be consumed but is being disposed of by the generator, but shall not include unpackaged 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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other contamination, food subject to governmental or producer recall due to food safety and food returned to a supplier.

10. "Food relief organization" means a religious organization or other not-for-profit that provides food for free to needy individuals, including, but not limited to, a food pantry, food bank, or soup kitchen or community-based organization that provides food for free to needy individuals.

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

§ 27-2218. Supermarket excess edible food.

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

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

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

4. A supermarket may impose reasonable restrictions as to the time and manner of collection by a food relief organization so as not to interfere with its business operations.

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

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

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

§ 5. Section 2 of 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, is amended to read as follows:

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

§ 6. This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect on the same date and in the same manner as 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, takes effect, provided, further, that section four of this act shall expire and be deemed repealed on December 31, 2021.