

# STATE OF NEW YORK

5893

2021-2022 Regular Sessions

## IN SENATE

March 22, 2021

Introduced by Sen. PARKER -- 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 and the state finance law, in relation to enacting the "food service packaging recycling funding act"

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 "food service packaging recycling funding act".

3 § 2. Legislative intent. Recognizing that most food service packaging  
4 is not recycled or composted with the state's existing infrastructure,  
5 it is the intent of the legislature to provide sustainable funding to  
6 increase infrastructure investment for the diversion of food service  
7 packaging materials from disposal, assist in establishing domestic end-  
8 use markets for recovered food service packaging materials and reduce  
9 litter and marine debris attributable to food service packaging materi-  
10 als.

11 § 3. Article 27 of the environmental conservation law is amended by  
12 adding a new title 32 to read as follows:

### TITLE 32

#### FOOD SERVICE PACKAGING RECYCLING FUNDING ACT

##### Section 27-3201. Definitions.

16 27-3203. Food service packaging recycling fees.

17 27-3205. Recovery rates.

18 27-3207. Advisory council.

19 27-3209. Exclusions.

##### § 27-3201. Definitions.

21 For the purpose of this title, "food service packaging" shall mean a  
22 product used for serving or transporting prepared, ready-to-consume food  
23 or beverages, including but not limited to, plates, bowls, cups, trays,  
24 and hinged or lidded containers. Such definition shall not include

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

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1 beverage containers or single-use disposable items, including but not  
2 limited to, plastic bags or single-use packaging for unprepared foods.  
3 § 27-3203. Food service packaging recycling fees.

4 1. Advanced recycling fee. An advanced recycling fee is hereby imposed  
5 at a rate of three-tenths of one cent per container on all food service  
6 packaging provided by a manufacturer or distributor at the first point  
7 of sale in the state. Such fee shall be collected by the department and  
8 deposited into the food service packaging recycling fund established  
9 pursuant to section ninety-two-kk of the state finance law.

10 2. Revenue disbursement. (a) Monies collected pursuant to this section  
11 shall be used by the department exclusively for the following purposes:

12 (i) to create and enhance the collection, sortation and processing  
13 infrastructure for food service packaging material recycling, including  
14 but not limited to, providing financial assistance to site new or to  
15 expand existing recycling operations, increasing in-state material proc-  
16 essing capabilities and creating markets for recycled-content products  
17 and the use of collected food service packaging as feedstock in the  
18 production of new products; and

19 (ii) to provide financial assistance to local governments to assist in  
20 recycling education and litter cleanup and reduction.

21 (b) The department shall not utilize more than five percent of the  
22 monies collected pursuant to this section for administrative purposes.

23 § 27-3205. Recovery rates.

24 No later than July first, two thousand twenty-five, the department  
25 shall determine the recycling and recovery rates for food service pack-  
26 aging sold in the state. If the recycling of such food service packaging  
27 has not achieved a twenty-five percent recycling or recovery rate, the  
28 advanced recycling fee, pursuant to subdivision one of section 27-3203  
29 of this title, shall increase to five-tenths of one cent per container  
30 on January first, two thousand twenty-six.

31 § 27-3207. Advisory council.

32 1. The department shall create a food service packaging material recy-  
33 cling advisory council to advise the department on how to most effi-  
34 ciently implement the provisions of this title.

35 2. The council shall consist of fifteen individuals and will meet at  
36 least quarterly. The council shall annually select a chairperson from  
37 its membership. Membership shall include representatives from the  
38 following: local governments, recyclers, material recovery facility  
39 operators, waste haulers, environmental organizations, restaurants, food  
40 service packaging manufacturers or suppliers, and users of recycled  
41 materials.

42 § 27-3209. Exclusions.

43 Any city and any county, other than a county wholly within such a  
44 city, which implements or enforces a local law, ordinance or resolution  
45 prohibiting the use, sale or distribution of any food service packaging  
46 that was adopted after January first, two thousand twenty-one, shall not  
47 be eligible to receive any monies collected pursuant to this title.

48 § 4. The state finance law is amended by adding a new section 92-kk to  
49 read as follows:

50 § 92-kk. Food service packaging recycling fund. 1. There is hereby  
51 established in the joint custody of the state comptroller and the  
52 commissioner of taxation and finance a special fund to be known as the  
53 "food service packaging recycling fund".

54 2. Such fund shall consist of all revenue collected from advanced  
55 recycling fees pursuant to section 27-3203 of the environmental conser-  
56 vation law and any cost recoveries or other revenues collected pursuant

1 to title thirty-two of article twenty-seven of the environmental conser-  
2 vation law, and any other monies deposited into the fund pursuant to  
3 law.

4 3. Monies of the fund, following appropriation by the legislature,  
5 shall be used for food service packaging material recycling pursuant to  
6 title thirty-two of article twenty-seven of the environmental conserva-  
7 tion law, and expended for the purposes as set forth in section 27-3203  
8 of the environmental conservation law.

9 § 5. This act shall take effect immediately.