STATE OF NEW YORK

4414--A

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. KRUEGER -- 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 prohibiting the sale or distribution of expanded polystyrene containers that are designed or intended to be used for cold storage

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

Section 1. The title heading of title 30 of article 27 of the environmental conservation law, as added by section 1 of part PP of chapter 58 of the laws of 2020, is amended to read as follows:

EXPANDED POLYSTYRENE FOAM [~~CONTAINER~~] **CONTAINERS** AND POLYSTYRENE LOOSE FILL PACKAGING BAN

§ 2. Subdivision 4 of section 27-3001 of the environmental conservation law, as added by section 1 of part PP of chapter 58 of the laws of 2020, is amended to read as follows:

4. "Manufacturer" means every person, firm or corporation that produces or imports polystyrene loose fill packaging **or expanded polystyrene containers that are not wholly encapsulated or encased within a more durable container and are designed or intended to be used for cold storage** that is sold, offered for sale, or distributed in the state.

§ 3. The section heading of section 27-3003 of the environmental conservation law, as added by section 1 of part PP of chapter 58 of the laws of 2020, is amended and a new paragraph (c) is added to subdivision 1 to read as follows:

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

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Expanded polystyrene foam [~~container~~] **containers** and polystyrene loose fill packaging ban.

(c) Beginning January first, two thousand twenty-six, no covered food service provider, manufacturer or store shall sell, offer for sale, or distribute expanded polystyrene containers that are not wholly encapsulated or encased within a more durable container and are designed or intended to be used for cold storage, including but not limited to coolers and ice chests.

§ 4. Paragraph (b) of subdivision 1 of section 27-3005 of the environmental conservation law, as added by section 1 of part PP of chapter 58 of the laws of 2020, is amended and a new paragraph (c) is added to read as follows:

(b) Raw meat, pork, seafood, poultry or fish sold for the purpose of cooking or preparing off-premises by the customer[~~.~~]**; or**

(c) Expanded polystyrene containers that are not wholly encapsulated or encased within a more durable container and are designed or intended to be used for cold storage:

(i) for drugs, medical devices, and biological materials as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.); or

(ii) animal biologics, including vaccines, bacterins, antisera, diagnostic kits, and other products of biological origin, and other packaging materials regulated by the United States department of agriculture under the virus, serum, toxin act (21 U.S.C. 151-159), including vaccines.

§ 5. Subdivision 1 of section 27-3007 of the environmental conservation law, as added by section 1 of part PP of chapter 58 of the laws of 2020, is amended to read as follows:

1. Except as provided in subdivisions two and three of this section, this title shall supersede and preempt all local laws, ordinances or regulations governing the sale, offer for sale, or distribution of disposable food service containers **or containers designed or intended to be used for cold storage** containing expanded polystyrene foam and polystyrene loose fill packaging.

§ 6. This act shall take effect immediately.