

STATE OF NEW YORK

4449--A

2023-2024 Regular Sessions

IN SENATE

February 8, 2023

Introduced by Sen. MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the general business law, in relation to prohibitions on single-use food service items at restaurants and third-party food delivery services

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 34 to read as follows:

TITLE 34

SINGLE-USE FOOD SERVICE

ITEMS

Section 27-3401. Definitions.

27-3403. Single-use food service items.

27-3405. Enforcement.

§ 27-3401. Definitions.

1. "Beverage splash stick" means a device primarily intended to be used to keep heat and liquid from escaping a lidded cup.

2. "Beverage stirrer" means a device primarily intended for stirring beverages.

3. "Condiment pack" means an individual single-use container, sealed by the manufacturer or a restaurant, containing a condiment.

4. "Plastic" means a synthetic material made from organic polymers.

5. "Restaurant" means any diner or other eating or beverage establishment, which offers for sale food or beverages to the public, guests, members, or patrons, whether consumption occurs on or off the premises.

6. "Single-use food service items" shall mean any eating utensil or other item used as part of food or beverage service that is designed and intended by the manufacturer for only one use before being discarded

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

LBD01372-13-3

1 including, but not limited to condiment packs, forks, spoons, sporks,
2 knives, chopsticks, beverage straws, cocktail sticks, toothpicks, non-
3 plastic beverage splash sticks, non-plastic beverage stirrers, napkins,
4 wet wipes, cup sleeves, beverage trays, beverage lids, empty plates,
5 empty bowls, and empty cups. For purposes of this title, single-use food
6 service items shall not include: (a) a plastic beverage stirrer or a
7 plastic beverage splash stick as defined in this section; or (b)
8 containers actively holding food or beverages for dine-in or take-away
9 customers, such as plates, bowls, and cups.

10 7. "Third-party food delivery service" shall have the same meaning as
11 section three hundred ninety-one-v of the general business law.

12 § 27-3403. Single-use food service items.

13 1. (a) Restaurants and third-party food delivery services shall only
14 provide single-use food service items to customers when explicitly
15 requested by the customer. Restaurants and third-party food delivery
16 services shall provide options to allow a customer to request single-use
17 food service items upon submission of an order. Such options shall be
18 available for all methods of ordering, including but not limited to
19 phone, internet, or mobile phone application orders. The default
20 selected options shall be that no single-use food service items are
21 requested.

22 (b) No inquiry into the reason for the request shall be made by a
23 restaurant, third-party food delivery service, or any of its employees
24 in carrying out the request authorized by paragraph (a) of this subdivi-
25 sion.

26 2. Restaurants and third-party food delivery services are prohibited
27 from providing customers with single-use plastic food service items.
28 This prohibition does not apply to plastic straws, which may be provided
29 by a restaurant or third-party food delivery service, pursuant to subdivi-
30 sion one of this section.

31 3. Single-use food service items provided by a restaurant, pursuant to
32 subdivision one of this section, shall not be individually wrapped in
33 plastic.

34 4. (a) If a restaurant fills an order placed through a third-party
35 food delivery service, such restaurant may rely on the information
36 provided by such third-party food delivery service regarding whether the
37 customer has requested single-use food service items. In a proceeding to
38 collect a civil penalty pursuant to section 27-3505 of this title, it
39 shall be a complete defense for a respondent restaurant to establish
40 that such restaurant relied on the information provided to it by the
41 third-party food delivery service regarding the customer's choice pursu-
42 ant to paragraph (a) of subdivision one of this section.

43 (b) A copy or screenshot of a communication by the third-party food
44 delivery service to the restaurant regarding the customer's choice
45 pursuant to paragraph (a) of subdivision one of this section shall
46 constitute prima facie evidence that the restaurant relied on the infor-
47 mation provided to it by the third-party food delivery service. Each
48 third-party food delivery service shall provide such communication in
49 writing to a restaurant within seventy-two hours of such restaurant's
50 request for such communication.

51 § 27-3405. Enforcement.

52 Every local department of health shall ensure compliance with this
53 title as part of an inspection of a food place pursuant to section thir-
54 teen hundred fifty-one of the public health law, the provisions of the
55 sanitary code and provisions of local ordinances or regulations. Any
56 establishment that violates this title shall be liable for a civil

1 penalty in the amount of two hundred dollars for the first violation,
2 three hundred dollars for the second violation committed on a different
3 day within a period of twelve months, and five hundred dollars for the
4 third and each subsequent violation committed on different days within a
5 period of twelve months, except that the local department of health
6 shall not issue a notice of violation, but shall issue a warning and
7 provide information on compliance with such section, for any violation
8 that occurs within one year of the effective date of this section.

9 § 2. The general business law is amended by adding a new section 399-
10 tt to read as follows:

11 § 399-tt. Single-use food service items. Restaurants and third-party
12 food delivery services shall only provide single-use food service items
13 to customers when explicitly requested by the customer pursuant to title
14 thirty-four of article twenty-seven of the environmental conservation
15 law.

16 § 3. This act shall take effect on the one hundred twentieth day after
17 it shall have become a law.