

# STATE OF NEW YORK

1400

2023-2024 Regular Sessions

## IN SENATE

January 11, 2023

Introduced by Sens. LIU, KRUEGER -- 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, in relation to false claims about recyclability and plastic container labelling

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

1 Section 1. The Legislature finds and declares that it is the public  
2 policy of the state that environmental marketing claims, whether explic-  
3 it or implied, should be substantiated by competent and reliable  
4 evidence to prevent deceiving or misleading consumers about the environ-  
5 mental impact of plastic products. For consumers to have accurate and  
6 useful information about the environmental impact of plastic products,  
7 environmental marketing claims should adhere to uniform and recognized  
8 standards.

9 The Legislature further finds and declares that it is the public poli-  
10 cy of the state that claims related to the recyclability of a plastic  
11 product be truthful in practice and accurate. Consumers deserve accurate  
12 and useful information related to how to properly handle the end of life  
13 of a plastic product.

14 § 2. The environmental conservation law is amended by adding a new  
15 section 27-0511 to read as follows:

16 § 27-0511. Recycling truth in labeling.

17 1. It is deceptive to misrepresent, directly or by implication, that a  
18 product or package is recyclable unless it can be collected, separated,  
19 or otherwise recovered from the waste stream through an established  
20 mechanical or manual recycling program for reuse or use in manufacturing  
21 or assembling another item.

22 2. No person shall offer for sale, sell or distribute any product or  
23 packaging for which a deceptive or misleading claim about the recycla-  
24 bility of the product or packaging is made.

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

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1 3. Subdivision two of this section applies to any product or packaging  
2 that is manufactured one hundred eighty days or more after the date the  
3 list of approved material types and forms is published pursuant to  
4 subdivision four of this section.

5 4. On or before January 1, 2026, the department shall develop regu-  
6 lations to:

7 (a) include the types and forms of plastic products and packaging for  
8 which a claim of recyclability, including through the use of a universal  
9 recycling symbol or chasing arrows symbol may be made; and

10 (b) develop a list of material types and forms that are determined to  
11 be recyclable based on the criteria listed in subdivision five and shall  
12 publish the list on the department website within ninety days of approv-  
13 ing the regulations.

14 5. For purposes of determining which material types and forms are  
15 recyclable, the department shall consider, at a minimum, all of the  
16 following criteria:

17 (a) Whether the material type and form is regularly collected, sepa-  
18 rated, for mechanical or manual recycling by recyclers;

19 (b) Whether the material type and form is regularly sorted and aggre-  
20 gated into defined streams for recycling processes;

21 (c) Whether the material type and form is regularly processed and  
22 reclaimed or recycled with commercial recycling processes;

23 (d) Whether the material type and form regularly becomes feedstock  
24 that is used in the production of new products; and

25 (e) Whether the material type and form is recycled in sufficient quan-  
26 tity, and is of sufficient quality, to maintain a market value.

27 6. The department shall regularly, but no less than once every three  
28 years, evaluate the list described in paragraph (b) of subdivision four  
29 of this section and may amend the list to remove or add a material type  
30 and form based on whether the material meets the criteria of subdivision  
31 five of this section at the time of evaluation. The department shall  
32 post any updates to the list on the department's website.

33 7. If a material type or form no longer meets the criteria in subdivi-  
34 sion five of this section and is removed from the published list, a  
35 person shall not offer for sale, sell or distribute any product or pack-  
36 aging manufactured one hundred eighty days after the date the updated  
37 list is published if the product or packaging displays a chasing arrows  
38 symbol or any other symbol or statement indicating the product or pack-  
39 aging is recyclable, or directing the consumer to recycle the product or  
40 packaging.

41 8. (a) A producer, or group of producers, that seeks to have a materi-  
42 al type and form that does not meet the criteria in subdivision five of  
43 this section included on the list shall submit a plan to the department  
44 detailing how and by what date the product type and form will meet the  
45 criteria.

46 (b) The department shall review the plan and determine if the material  
47 type and form will meet the criteria in subdivision five by the date  
48 prescribed in the plan if the plan is implemented. If the department  
49 determines it will, the department shall include the material type and  
50 form on the list.

51 (c) The department may offer revisions to the plan if necessary,  
52 including requiring that the material type and form meet the criteria in  
53 a more timely manner.

54 (d) The department may require the producer, or group of producers,  
55 who submitted the plan to provide an annual report detailing the  
56 progress made toward implementing the plan. If the department determines

1 the producer, or group of producers, is not implementing the plan or  
2 that progress is not sufficient to ensure the product type and form can  
3 meet the criteria by the date included in the plan, the department may  
4 do either of the following:

5 (i) Remove the material type and form from the list within one hundred  
6 eighty days; or

7 (ii) Allow the producer, or group of producers, to update and resubmit  
8 the plan.

9 § 3. The environmental conservation law is amended by adding a new  
10 section 27-0513 to read as follows:

11 § 27-0513. Plastic container labelling.

12 1. All rigid plastic bottles and rigid plastic containers sold in New  
13 York shall be labeled with a code that indicates the resin used to  
14 produce the rigid plastic bottle or rigid plastic container. Rigid plas-  
15 tic bottles or rigid plastic containers with labels and basecups of a  
16 different material shall be coded by their basic material. The code  
17 shall be visible on the label and consist of a number placed inside a  
18 chasing arrows symbol. The numbers used shall be as follows:

19 1 = PETE (polyethylene terephthalate)

20 2 = HDPE (high density polyethylene)

21 3 = V (vinyl)

22 4 = LDPE (low density polyethylene)

23 5 = PP (polypropylene)

24 6 = PS (polystyrene)

25 7 = OTHER (includes multilayer)

26 2. A "7" shall appear below the resin abbreviation when the bottle or  
27 container is composed of more than one layer of that resin.

28 3. The department shall maintain a list of abbreviations used on  
29 labels pursuant to subdivision one and shall post such information on  
30 the department's website.

31 4. The resin identification code required pursuant to subdivision  
32 one of this section shall not be placed inside a chasing arrows symbol  
33 unless the product is recyclable in the state pursuant to section  
34 27-0511 of this title.

35 § 4. This act shall take effect immediately.