STATE OF NEW YORK

4938

2023-2024 Regular Sessions

IN SENATE

February 17, 2023

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:

Section 1. Short title. This act shall be known and may be cited as the "food service packaging recycling funding act".

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

§ 3. Article 27 of the environmental conservation law is amended by adding a new title 34 to read as follows:

TITLE 34

FOOD SERVICE PACKAGING RECYCLING FUNDING ACT

Section 27-3401. Definitions.
27-3403. Food service packaging recycling fees.
27-3405. Recovery rates.
27-3407. Advisory council.
27-3409. Exclusions.

§ 27-3401. Definitions.

For the purpose of this title, "food service packaging" shall mean a product used for serving or transporting prepared, ready-to-consume food or beverages, including but not limited to, plates, bowls, cups, trays, 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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beverage containers or single-use disposable items, including but not limited to, plastic bags or single-use packaging for unprepared foods.

§ 27-3403. Food service packaging recycling fees.

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

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

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

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

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

§ 27-3405. Recovery rates.

No later than July first, two thousand twenty-seven, the department shall determine the recycling and recovery rates for food service packaging sold in the state. If the recycling of such food service packaging has not achieved a twenty-five percent recycling or recovery rate, the advanced recycling fee, pursuant to subdivision one of section 27-3403 of this title, shall increase to five-tenths of one cent per container on January first, two thousand twenty-eight.

§ 27-3407. Advisory council.

1. The department shall create a food service packaging material recycling advisory council to advise the department on how to most efficiently implement the provisions of this title.

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

§ 27-3409. Exclusions.

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

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

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

2. Such fund shall consist of all revenue collected from advanced recycling fees pursuant to section 27-3403 of the environmental conservation law and any cost recoveries or other revenues collected pursuant

to title thirty-four of article twenty-seven of the environmental conservation law, and any other monies deposited into the fund pursuant to law.

3. Monies of the fund, following appropriation by the legislature, shall be used for food service packaging material recycling pursuant to title thirty-four of article twenty-seven of the environmental conservation law, and expended for the purposes as set forth in section 27-3403 of the environmental conservation law.

§ 5. This act shall take effect immediately.