

# STATE OF NEW YORK

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5160

2023-2024 Regular Sessions

## IN SENATE

February 23, 2023

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Introduced by Sen. SANDERS -- 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 requiring contractors to recycle construction and demolition site waste

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

1 Section 1. Legislative intent. The purpose of this act is to signif-  
2 ically reduce the amount of waste produced by construction and demoli-  
3 tion activities in the state of New York. There are many opportunities  
4 to reduce or recycle materials from construction and demolition, includ-  
5 ing metals, cardboard, drywall, glass, wood and asphalt. This act is  
6 consistent with the goals of the state's solid waste management plan,  
7 complementing other recycling and recovery programs currently in effect.

8 § 2. The environmental conservation law is amended by adding a new  
9 section 27-0721 to read as follows:

10 § 27-0721. Construction and demolition site waste recycling.

11 1. Definitions. As used in this section:

12 (a) "Contractor" means a general contractor and shall also include any  
13 subcontractor engaged in the demolition or wrecking of a structure for  
14 which a permit is required.

15 (b) "Construction and demolition debris" shall include, but not be  
16 limited to, metals, cardboard, drywall, glass, wood, concrete, brick and  
17 asphalt, but shall not include any material that is contaminated by  
18 lead, asbestos or other hazardous material such that recycling thereof  
19 would be illegal or unfeasible.

20 (c) "Recycler" means a recycling facility, transfer station or other  
21 waste handling facility permitted pursuant to this article which accepts  
22 construction and demolition debris for recycling or for further transfer  
23 to a recycling facility.

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

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1 (d) "Reuse" means (i) the on-site use of reprocessed construction and  
2 demolition debris if the use of such debris is authorized by the commis-  
3 sioner; and (ii) the off-site redistribution of a material which would  
4 otherwise be disposed of, for use in the same or similar form as it was  
5 produced.

6 2. Applicability. (a) Contractors shall recycle or reuse construction  
7 and demolition debris produced on site as part of construction or demo-  
8 lition activities by meeting the following requirements:

9 (i) On a project that is issued a permit with an application date  
10 within one year of the effective date of this section, the contractor  
11 shall cause to be recycled or reused at least twenty-five percent of the  
12 construction and demolition debris, as measured by weight, produced on  
13 site.

14 (ii) On a project that is issued a permit with an application date a  
15 year or more after the effective date of this section, the contractor  
16 shall cause to be recycled or reused at least fifty percent of the  
17 construction and demolition debris, as measured by weight, produced on  
18 site.

19 (b) The following projects shall be subject to the provisions of this  
20 section:

21 (i) Construction of new residential buildings with four or more dwell-  
22 ing units;

23 (ii) Construction of new non-residential buildings, other than  
24 projects for which the total area is four thousand square feet or less;

25 (iii) Any rehabilitation of non-residential buildings of more than  
26 four thousand square feet that will require certification of occupancy  
27 to be issued from the appropriate city, town or village department;

28 (iv) Demolition of residential buildings with four or more dwelling  
29 units that includes the demolition of at least one outside wall; and

30 (v) Demolition of non-residential buildings, other than projects for  
31 which the total area is four thousand square feet or less.

32 (c) A project shall be exempt from this section if only a plumbing  
33 permit or only an electrical permit is required for such project.

34 3. Contractor responsibilities. (a) Within thirty days of completion  
35 of a project, the contractor shall submit documentation to the appropri-  
36 ate city, town or village to report compliance with this section and the  
37 regulations promulgated pursuant to this section. If the contractor is  
38 unable to meet the recycling and reuse requirements of this section, the  
39 contractor may apply for a waiver from the city, town or village. Such  
40 documentation shall be in a form and manner determined by the city, town  
41 or village.

42 (b) If a contractor is unable or refuses to submit the required  
43 documentation, a property owner may submit a waiver application  
44 supported by an affidavit that the contractor is unavailable or refuses  
45 to provide the required documentation.

46 (c) A contractor shall comply with all reasonable requests for infor-  
47 mation and documentation by the city, town or village pursuant to an  
48 audit to monitor compliance with this section. Documentation required by  
49 this section shall be maintained for at least three years.

50 4. City, town and village responsibilities. (a) Each city, town and  
51 village shall establish a procedure for contractors to apply for waivers  
52 of the requirements of this section. Such requirements shall include  
53 documentation of the amount of material the contractor is actually able  
54 to recycle or reuse and the reason or reasons for which the contractor  
55 cannot meet the recycling and reuse requirements in this section.

1 (b) A city, town or village shall not issue any new building or demo-  
2 lition permit to a contractor who has failed to timely submit the  
3 required documentation with respect to any completed project, until such  
4 contractor either submits (i) the required documents including, where  
5 applicable, proof that any fine due pursuant to subdivision five of this  
6 section has been paid in full, or (ii) proof of a waiver issued by the  
7 city, town or village and, the payment of any fine due.

8 (c) The city, town or village may withhold a certificate of occupancy  
9 for a project until the contractor submits either the required documen-  
10 tation including, where applicable, proof that any fine due pursuant to  
11 subdivision five of this section has been paid in full; or proof of a  
12 waiver issued by the city, town or village and, payment of any fine due.

13 (d) The city, town or village is authorized to conduct audits of  
14 contractors to determine and validate compliance with the requirements  
15 of this section. The city, town or village may request information and  
16 documentation relevant to such an audit from any contractor.

17 (e) The city, town or village is authorized to promulgate such rules  
18 and regulations as necessary to implement the provisions of this  
19 section. Such rules and regulations shall contain provisions for seek-  
20 ing and obtaining a waiver from the provisions of this section.

21 5. Fines and penalties. (a) Contractors who fail to provide the  
22 documentation required by this section or who have not received a waiver  
23 from the city, town or village shall be subject to a fine of five  
24 hundred dollars for each day that they fail to provide the information  
25 or apply for a waiver.

26 (b) Contractors who fail to meet the recycling or reuse requirements  
27 of this section and have applied for and not received a waiver from the  
28 city, town or village shall be assessed a fine as follows:

29 (i) For projects involving ten thousand square feet or more of reno-  
30 ated, newly constructed or demolished space, five hundred dollars for  
31 each percentage point of difference between the amount required by this  
32 section to be recycled or reused and the amount actually recycled or  
33 reused; and

34 (ii) For projects involving less than ten thousand square feet of  
35 renovated, newly constructed or demolished space, two hundred fifty  
36 dollars for each percentage point of difference between the amount  
37 required by this section to be recycled or reused and the amount actual-  
38 ly recycled or reused.

39 (c) The city, town or village may modify the penalties required by  
40 paragraph (a) or (b) of this subdivision for failure to provide documen-  
41 tation or meet the recycling and reuse requirements, if it finds that  
42 there are extenuating circumstances for such failures.

43 § 3. This act shall take effect on the first of January next succeed-  
44 ing the date on which it shall have become a law.