

STATE OF NEW YORK

3911--A

2025-2026 Regular Sessions

IN SENATE

January 30, 2025

Introduced by Sen. HARCKHAM -- 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 state finance law, in relation to food service item waste reduction

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

1 Section 1. Article 27 of the environmental conservation law is amended
2 by adding a new title 34 to read as follows:

TITLE 34

FOOD SERVICE ITEM WASTE REDUCTION

Section 27-3401. Definitions.

27-3403. Restriction on providing excess food service items.

27-3405. Violations.

27-3407. Preemption.

§ 27-3401. Definitions.

10 As used in this title, the following terms shall have the following
11 meanings:

12 1. "Condiment" means an individual, single-use container, sealed by
13 the manufacturer, containing a sauce or other substance used to enhance
14 the flavor of food, including but not limited to, ketchup, mustard,
15 mayonnaise, hot sauce, salt, or pepper.

16 2. "Customer" means an individual who receives or purchases food or
17 beverages from a public food service establishment on a take-out, drive-
18 thru, or delivery basis.

19 3. "Eating container" means a tool used for holding food or beverages,
20 including but not limited to, a plate, bowl, cup, or lid.

21 4. "Napkin" means a piece of cloth or paper used to wipe a person's
22 hands or face or protect garments while eating.

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

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1 5. "Public food service establishment" means a premises or part of a
2 premises where food is provided directly to a person, whether such food
3 is provided free of charge or sold, and whether consumption occurs on or
4 off the premises or is provided from a pushcart, stand or vehicle. Food
5 service establishment shall include, but not be limited to, full-service
6 restaurants, fast food restaurants, cafes, delicatessens, coffee shops,
7 bars, nightclubs, grocery stores, vending trucks or carts and cafeteri-
8 as.

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

11 7. "Utensil" means a tool used for eating or drinking, including, but
12 not limited to, a knife, fork, spoon, drinking straw, beverage stirrer
13 or chopsticks.

14 § 27-3403. Restriction on providing excess food service items.

15 1. No public food service establishment operating in the state shall
16 provide utensils, condiments, napkins or extra eating containers to a
17 customer, whether directly to such customer or through a third-party
18 food delivery service, except upon, and in accordance with, the express
19 request of such customer. The provisions of this subdivision shall apply
20 regardless of whether the customer's meal order is placed in person,
21 over the phone, online, or using other available means or methods.

22 2. Any public food service establishment that elects to supply custom-
23 ers with utensils, condiments, napkins or extra eating containers upon
24 request, as authorized by subdivision one of this section, shall provide
25 each customer with only those types and amounts of utensils, condiments,
26 napkins or extra eating containers that have been expressly requested
27 thereby.

28 3. Nothing in this section shall be deemed to require a public food
29 service establishment to provide any utensils, condiments, napkins or
30 extra eating containers to customers, upon their request, as authorized
31 by subdivision one of this section.

32 4. A public food service establishment maintaining a self-service
33 station at which utensils, condiments, napkins or extra eating contain-
34 ers are offered shall not be a violation of subdivision one of this
35 section.

36 § 27-3405. Violations.

37 1. Any public food service establishment that violates any provision
38 of this title shall receive a warning notice for the first such
39 violation and a civil penalty of up to one hundred dollars for any
40 subsequent violation in the same calendar year. For purposes of this
41 section, each commercial transaction shall constitute no more than one
42 violation. A hearing or opportunity to be heard shall be provided prior
43 to the assessment of any civil penalty.

44 2. The department, the department of agriculture and markets, and the
45 attorney general are hereby authorized to enforce the provisions of this
46 title, and all monies collected shall be deposited to the credit of the
47 environmental protection fund established pursuant to section ninety-
48 two-s of the state finance law.

49 § 27-3407. Preemption.

50 This title shall not apply in a city with a population of one million
51 or more that has a local law, ordinance or regulation in place that
52 restricts the provision of utensils, condiments, napkins and extra
53 eating containers by a public food service establishment to a customer
54 and is not in conflict with this title.

1 § 2. Subdivision 3 of section 92-s of the state finance law, as
2 amended by section 3 of part YY of chapter 58 of the laws of 2025, is
3 amended to read as follows:

4 3. Such fund shall consist of the amount of revenue collected within
5 the state from the amount of revenue, interest and penalties deposited
6 pursuant to section fourteen hundred twenty-one of the tax law, the
7 amount of fees and penalties received from easements or leases pursuant
8 to subdivision fourteen of section seventy-five of the public lands law
9 and the money received as annual service charges pursuant to section
10 four hundred four-n of the vehicle and traffic law, all moneys required
11 to be deposited therein from the contingency reserve fund pursuant to
12 section two hundred ninety-four of chapter fifty-seven of the laws of
13 nineteen hundred ninety-three, all moneys required to be deposited
14 pursuant to section thirteen of chapter six hundred ten of the laws of
15 nineteen hundred ninety-three, repayments of loans made pursuant to
16 section 54-0511 of the environmental conservation law, all moneys to be
17 deposited from the Northville settlement pursuant to section one hundred
18 twenty-four of chapter three hundred nine of the laws of nineteen
19 hundred ninety-six, provided however, that such moneys shall only be
20 used for the cost of the purchase of private lands in the core area of
21 the central Suffolk pine barrens pursuant to a consent order with the
22 Northville industries signed on October thirteenth, nineteen hundred
23 ninety-four and the related resource restoration and replacement plan,
24 the amount of penalties required to be deposited therein by section
25 71-2724 of the environmental conservation law, all moneys required to be
26 deposited pursuant to article thirty-three of the environmental conser-
27 vation law, all fees collected pursuant to subdivision eight of section
28 70-0117 of the environmental conservation law, all moneys collected
29 pursuant to title thirty-three of article fifteen of the environmental
30 conservation law, beginning with the fiscal year commencing on April
31 first, two thousand thirteen, nineteen million dollars, and all fiscal
32 years thereafter, twenty-three million dollars plus all funds received
33 by the state each fiscal year in excess of the greater of the amount
34 received from April first, two thousand twelve through March thirty-
35 first, two thousand thirteen or one hundred twenty-two million two
36 hundred thousand dollars, from the payments collected pursuant to subdi-
37 vision four of section 27-1012 of the environmental conservation law and
38 all funds collected pursuant to section 27-1015 of the environmental
39 conservation law, all moneys required to be deposited pursuant to
40 sections 27-2805 and 27-2807 of the environmental conservation law, all
41 moneys collected pursuant to section 71-2730 of the environmental
42 conservation law, all moneys required to be deposited pursuant to
43 section seven hundred sixty-five of the general business law, all moneys
44 required to be deposited pursuant to section 27-3205 of the environ-
45 mental conservation law, all moneys required to be deposited pursuant to
46 section 27-3405 of the environmental conservation law, and all other
47 moneys credited or transferred thereto from any other fund or source
48 pursuant to law. All such revenue shall be initially deposited into the
49 environmental protection fund, for application as provided in subdivi-
50 sion five of this section.

51 § 3. This act shall take effect one year after it shall have become a
52 law. Effective immediately, the addition, amendment and/or repeal of any
53 rule or regulation necessary for the implementation of this act on its
54 effective date are authorized to be made and completed on or before such
55 effective date.