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:

Section 1. Article 27 of the environmental conservation law is amended 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.

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

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

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

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

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

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

LBD05329-05-5

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

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

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

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

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

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

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

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

§ 27-3405. Violations.

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

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

§ 27-3407. Preemption.

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

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

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law, all moneys required to be deposited pursuant to sections 27-2805 and 27-2807 of the environmental conservation law, all moneys collected pursuant to section 71-2730 of the environmental conservation law, all moneys required to be deposited pursuant to section seven hundred sixty-five of the general business law, all moneys required to be deposited pursuant to section 27-3205 of the environmental conservation law, **all moneys required to be deposited pursuant to section 27-3405 of the environmental conservation law,** and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

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