

# STATE OF NEW YORK

3911--B

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 -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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.

6 27-3403. Restriction on providing excess food service items.

7 27-3405. Violations.

8 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.

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

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

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

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

13 7. "Single-use utensil" means a single-use tool used for eating or  
14 drinking, including, but not limited to, a knife, fork, spoon, drinking  
15 straw, beverage stirrer or chopsticks, that is designed for one-time use  
16 and is composed in whole or in part of plastic, paper, or other dispos-  
17 able material.

18 § 27-3403. Restriction on providing excess food service items.

19 1. No public food service establishment operating in the state shall  
20 provide single-use utensils, condiments, napkins or extra eating  
21 containers to a customer, whether directly to such customer or through a  
22 third-party food delivery service, except upon, and in accordance with,  
23 the express request of such customer. The provisions of this subdivision  
24 shall apply to all meals ordered for the purposes of consuming meals  
25 off-site from the public food service establishment regardless of wheth-  
26 er the customer's meal order is placed in person, over the phone,  
27 online, or using other available means or methods.

28 2. Any public food service establishment that elects to supply custom-  
29 ers with single-use utensils, condiments, napkins or extra eating  
30 containers upon request, as authorized by subdivision one of this  
31 section, shall provide each customer with only those types and amounts  
32 of single-use utensils, condiments, napkins or extra eating containers  
33 that have been expressly requested thereby.

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

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

42 5. Nothing in this section shall be construed to restrict or regulate  
43 the provision of reusable or non-disposable utensils, including metal or  
44 other reusable utensils, for on-premises dining.

45 § 27-3405. Violations.

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

53 2. The department, the department of agriculture and markets, and the  
54 attorney general are hereby authorized to enforce the provisions of this  
55 title, and all monies collected shall be deposited to the credit of the

1 environmental protection fund established pursuant to section ninety-  
2 two-s of the state finance law.  
3 § 27-3407. Preemption.

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

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

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

1 environmental protection fund, for application as provided in subdivi-  
2 sion five of this section.

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