STATE OF NEW YORK

6907

2025-2026 Regular Sessions

IN SENATE

March 26, 2025

Introduced by Sen. HARCKHAM -- 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 clarifying certain provisions relating to prohibiting plastic carryout bags

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

Section 1. Section 27-2701 of the environmental conservation law, as added by chapter 641 of the laws of 2008, subdivision 2 as amended and subdivision 7 as added by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2701. Definitions.

As used in this title:

1. "Compostable plastic bag" means a plastic bag that at a minimum meets the American Society for Testing and Materials standard D6400 for compostable plastic, as amended.

2. "Manufacturer" means the producer of a plastic carryout bag or **other** film plastic sold to a store or the manufacturer's agent or broker who sold the plastic carryout bag or **other** film plastic to the store.

3. "Operator" means a person in control of, or having daily responsibility for, the daily operation of a store, which may include, but is not limited to, the owner of the store.

4. "Plastic carryout bag" means a [~~plastic~~] carryout bag **made of film plastic of any thickness** provided by a store to a customer at the point of sale **that is not a reusable bag**.

5. "Reusable bag" means **a bag designed and manufactured for multiple reuse that**:

(a) [~~a bag~~] **is either** made of [~~cloth~~] **(i) hand washable** or [~~other~~] machine washable **cloth or** fabric [~~that has handles~~]**, including cotton, jute, canvas, woven or nonwoven polypropylene (PP), polyethylene-tereph-**

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

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thalate (PET), polyester, or nylon fabric, as well as fabric blends that include any such materials; or

[~~(b) a durable plastic bag with handles that is specifically designed and manufactured for multiple reuse~~] (ii) other non-film plastic washable material; and

(b) has at least one strap or handle that does not stretch and allows the bag to meet the strength and durability standards provided in paragraphs (c) and (d) of this subdivision;

(c) has a minimum lifespan of one hundred twenty-five uses, with a use equal to the ability to carry a minimum of twenty-two pounds over a distance of at least one hundred seventy-five feet; and

(d) has a minimum fabric weight of eighty grams per square meter ("GSM") or equivalent for bags made of cotton, jute, canvas, or any non-film plastic, including woven or nonwoven polypropylene (PP), polyethylene-terephthalate (PET), polyester, nylon, or fabric blends.

6. "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product or provided such bags any time prior to March first, two thousand twenty and (a) has over ten thousand square feet of retail space, or (b) such retail establishment is part of a chain engaged in the same general field of business which operates five or more units of over five thousand square feet of retail space in this state under common ownership and management.

7. "Film plastic" means [~~uncontaminated non-rigid film plastic packaging products composed of plastic resins, which include,~~] a flexible sheet or sheets of petroleum or non-petroleum-based plastic resin or other material of any thickness commonly used in and as packaging products, which include, but are not limited to, newspaper bags, [~~dry cleaning bags and~~] garment bags, shrink-wrap, bags used to carryout and deliver prepared food and other plastic overwrap.

8. "Film plastic bag" means a bag that is made of film plastic.

§ 2. Section 27-2703 of the environmental conservation law, as added by chapter 641 of the laws of 2008, subdivision 1 as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2703. Store operator responsibilities.

1. The operator of a store shall establish an at-store recycling program pursuant to the provisions of this title that provides an opportunity for a customer of the store to return to the store clean plastic carryout bags and other film plastic.

2. A retail establishment that does not meet the definition of a store [~~and that provides plastic carryout bags to customers at the point of sale~~] may also adopt an at-store recycling program.

§ 3. Section 27-2705 of the environmental conservation law, as added by chapter 641 of the laws of 2008, subdivisions 2, 3 and 4 as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2705. Recycling program requirements.

An at-store recycling program provided by the operator of a store shall require:

1. [~~a plastic carryout bag provided by the store to have printed or displayed on the bag, in a manner visible to a consumer, the words "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING". Provided, however, such store shall be allowed for one year from the effective date of this subdivision to use its existing stock of plastic carryout bags. A store may also apply to the commissioner for approval of an alternative plastic bag recycling message. The commissioner shall approve or reject the proposed message within forty-five days;~~

~~2.~~] a collection bin that is visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling **uncontaminated** plastic carryout bags and **other** film plastic. This subdivision shall apply to stores not within an enclosed shopping mall and stores of at least fifty thousand square feet within an enclosed shopping mall. In the case of an enclosed shopping mall, the owner of the enclosed mall shall place bins at reasonable intervals throughout the enclosed mall area;

[~~3.~~] **2.** all plastic carryout bags and **other** film plastic collected by the store to be collected, transported and recycled along with any other in-store plastic recycling, except for **plastic carryout bags and other film** plastic [~~bags~~] that are not sufficiently free of foreign material to enter the recycling stream. Plastic carryout bags and **other** film plastic collected by the store or the manufacturer, which are free of foreign material, shall not be disposed of in any solid waste disposal facility permitted or authorized pursuant to title seven of this article;

[~~4.~~] **3.** the store or its agent to maintain, for a minimum of three years, records describing the collection, transport and recycling of plastic carryout bags and **other** film plastic collected by weight, provided however that stores or its agents may weigh such **plastic** bags, film plastic and any other in-store plastic recycling at a regional collection center. Such records shall be made available to the department upon request, to demonstrate compliance with this title; and

[~~5.~~] **4.** the operator of the store to (a) make reusable bags available to customers within the store for purchase, and (b) permit a [~~reuseable~~] **reusable** bag to be used in lieu of a [~~plastic carryout bag or~~] paper **carryout** bag.

§ 4. Section 27-2707 of the environmental conservation law, as added by chapter 641 of the laws of 2008, subdivision 1 as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2707. Manufacturer responsibilities.

1. When the manufacturer accepts plastic carryout bags and **other** film plastic for return, it or its agent shall maintain, for a minimum of three years, records describing the collection, transport and recycling of plastic carryout bags and **other** film plastic collected by weight, provided that the manufacturer or its agents may weigh such bags, film plastic and any other plastic resins at a regional collection center. Such records shall be made available to the department upon request, to demonstrate compliance with this title.

2. Manufacturers of compostable plastic bags sold to stores in the state that are subject to the provisions of this title shall have printed on the bag, in a manner visible to the consumer, the words "COMPOSTABLE BAG -- DO NOT PLACE IN RECYCLING BIN". [~~Provided however, such bags may be sold or distributed for one year from the effective date of this section to use the store's existing stock of compostable bags.~~]

§ 5. Section 27-2709 of the environmental conservation law, as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2709. Department responsibility.

1. The department shall develop educational materials to encourage the reduction, reuse and recycling of plastic carryout bags and **other** film plastic and shall make those materials available to stores required to comply with this article.

2. The department shall provide information regarding the availability of recycling facilities and companies that recycle **film** plastic bags and

other film plastic, including the addresses and phone numbers of such facilities and companies to stores required to comply with this article.

§ 6. Section 27-2713 of the environmental conservation law, as amended by chapter 481 of the laws of 2014, is amended to read as follows:

§ 27-2713. Preemption.

Jurisdiction in all matters pertaining to plastic carryout bag and other film plastic recycling is by this article vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the recycling of plastic carryout bags and other film plastic shall, upon the effective date of this title, be preempted. Provided however, nothing in this section shall preclude a person from coordinating for recycling or reuse the collection of plastic carryout bags or other film plastic.

§ 7. Section 27-2801 of the environmental conservation law, as added by section 2 of part H of chapter 58 of the laws of 2019, is amended to read as follows:

§ 27-2801. Definitions.

As used in this title:

1. "Exempt bag" means a bag that is: (a) used solely to contain or wrap uncooked meat, fish, or poultry; (b) [~~bags~~] used by a customer solely to package bulk items such as fruits, vegetables, grains, or candy; (c) [~~bags~~] used solely to contain food sliced or prepared to order; (d) [~~bags~~] used solely to contain a newspaper for delivery to a subscriber; (e) [~~bags sold~~] prepackaged by the manufacturer or distributor in bulk quantities and sold to a consumer [~~at the point of sale~~]; (f) sold as a trash [~~bags~~] or yard waste bag; (g) sold as a food storage [~~bags~~] bag; (h) used as a garment [~~bags~~] bag; (i) [~~bags~~] prepackaged, prelabeled, or tagged as merchandise for sale to a customer; (j) a plastic carryout [~~bags~~] bag provided by a restaurant, tavern or similar food service establishment, as defined in the state sanitary code, to carry-out or deliver prepared food; [~~or~~] (k) [~~bags~~] provided by a pharmacy to carry prescription drugs; or (l) a reusable bag.

2. "Plastic carryout bag" means [~~any plastic~~] a carryout bag made of film plastic of any thickness, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to [~~carry~~] transport tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article twenty-eight of the tax law. A bag that meets the requirements of a reusable bag, as defined in subdivision four of this section, is not a plastic carryout bag.

3. "Paper carryout bag" means a paper bag, other than an exempt bag, that is provided to a customer by a person required to collect tax to be used by the customer to carry tangible personal property, regardless of whether such person required to collect tax sells any tangible personal property or service to the customer, and regardless of whether any tangible personal property or service sold is exempt from tax under article twenty-eight of the tax law.

4. "Reusable bag" means a bag designed and manufactured for multiple reuse that: (a) is either made of [~~cloth~~] (i) hand washable or [~~other~~] machine washable cloth or fabric [~~that has handles~~], including cotton, jute, canvas, woven or nonwoven polypropylene (PP), polyethylene-terephthalate (PET), polyester, or nylon fabric, as well as fabric blends that include any such materials; or [~~(b) a durable bag with handles that is~~

~~specifically designed and manufactured for multiple reuse.~~] (ii) other non-film plastic washable material; and

(b) has at least one strap or handle that does not stretch and allows the bag to meet the strength and durability standards in paragraphs (c) and (d) of this subdivision;

(c) has a minimum lifespan of one hundred twenty-five uses, with a use equal to the ability to carry a minimum of twenty-two pounds over a distance of at least one hundred seventy-five feet; and

(d) has a minimum fabric weight of eighty grams per square meter ("GSM") or equivalent for bags made of any non-film plastic, including woven or nonwoven polypropylene (PP), polyethylene-terephthalate (PET), cotton, jute, or canvas.

5. "Film plastic" means a flexible sheet or sheets of petroleum or non-petroleum based plastic resin or other material, of any thickness, (not including a paper carryout bag) commonly used in and as packaging products, which include, but are not limited to, newspaper bags, garment bags, shrink-wrap, bags used to carryout and deliver prepared food, and other plastic overwrap.

[~~5.~~] 6. "Person required to collect tax" means any vendor of tangible personal property subject to the tax imposed by subdivision (a) of section eleven hundred five of the tax law.

§ 8. Section 27-2803 of the environmental conservation law, as added by section 2 of part H of chapter 58 of the laws of 2019, is amended to read as follows:

§ 27-2803. Plastic carryout bag ban.

1. No person required to collect tax shall distribute, for free or for sale, any plastic carryout bags to its customers unless such bags are exempt bags as defined in subdivision one of section 27-2801 of this title.

2. No person required to collect tax shall prevent a person from using a bag of any kind that they have brought for purposes of carrying goods.

3. [~~Nothing in this section shall be deemed to exempt the provisions set forth in title 27 of this article relating to at store recycling~~] Any person who was required to comply with the collection and recycling requirements in title 27 of this article prior to March first, two thousand twenty, including the requirement to maintain a collection bin for collection and recycling plastic carryout bags and other film plastic, shall continue to comply.

§ 9. Subdivision 1 of section 27-2807 of the environmental conservation law, as added by section 2 of part H of chapter 58 of the laws of 2019, is amended to read as follows:

1. Any person required to collect tax who violates any provision of [~~section 27-2803 of~~] this title [~~shall receive a warning notice for the first such violation. A person required to collect tax~~] or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this chapter shall be liable to the state of New York for a civil penalty [~~of two hundred fifty~~] not to exceed one thousand dollars for the first violation [~~after receiving a warning~~] and [~~five hundred~~] a civil penalty not to exceed five thousand 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.

§ 10. Subdivision 1 of section 71-2728 of the environmental conservation law, as added by chapter 641 of the laws of 2008, is amended to read as follows:

1. Any person who [~~knowingly or intentionally~~] violates any provision of or fails to perform any duty imposed pursuant to title 27 of article 27 of this chapter [~~shall upon the first finding of such a violation be provided with a warning that future violations shall result in the imposition of a fine. Any person convicted of a second violation~~] **or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this chapter** shall be liable for a civil penalty not to exceed one [~~hundred~~] **thousand** dollars[~~. Any person convicted of a third or subsequent violation shall be liable~~] for **the first violation and** a civil penalty not to exceed five [~~hundred~~] **thousand** dollars **for any subsequent violations**.

§ 11. Subdivision 1 of section 71-2730 of the environmental conservation law, as added by section 2 of part PP of chapter 58 of the laws of 2020, is amended to read as follows:

1. Any person who [~~shall violate section 27-3003~~] **violates title 30 of article 27** of this chapter **or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commissioner made pursuant to this chapter** shall be liable to the state of New York for a civil penalty of not more than [~~two~~] **five** hundred [~~fifty~~] dollars for the first violation, not more than [~~five hundred~~] **one thousand** dollars for the second violation [~~in the same calendar year~~], and not more than [~~one~~] **five** thousand dollars for the third and each subsequent violation [~~in the same calendar year~~]. A hearing or opportunity to be heard shall be provided prior to the assessment of any civil penalty.

§ 12. This act shall take effect on the thirtieth day after it shall have become a law.