New York State Bag Waste Reduction Act

The full text of the 2019 New York State budget is A02008C. Scroll down to Section H for the New York State Bag Waste Reduction Act. The full text of the language is also pasted below.

PART H

Section 1. This act shall be known and may be cited as the "New York state bag waste reduction act".

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 28 to read as follows:

TITLE 28

BAG WASTE REDUCTION

Section 27-2801. Definitions.

As used in this title:

1. "Exempt bag" means a bag: (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 in bulk to a consumer at the point of sale; (f) trash bags; (g) food storage bags; (h) garment bags; (i) bags prepackaged for sale to a customer; (j) plastic carryout bags provided by a restaurant, tavern or similar food service establishment, as defined in the state sanitary code, to carryout or deliver food; or (k) bags provided by a pharmacy to carry prescription drugs.

2. "Plastic carryout bag" means any plastic 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.

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: (a) made of cloth or other machine washable fabric that has handles; or (b) a durable bag with handles that is specifically designed and manufactured for multiple reuse.

5. "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.


1. No person required to collect tax shall distribute 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.

§ 27-2805. Paper carryout bag reduction fee.

1. (a) Notwithstanding any other provision of law to the contrary, any city and any county, other than a county wholly within such a city, acting through its local legislative body, is hereby authorized and empowered to adopt and amend local laws, ordinances or resolutions imposing a paper carryout bag reduction fee within the territorial limits of such city or county, to take effect on or after March first, two thousand twenty. Notwithstanding the foregoing, if a county and a city wholly within such county both impose such fee, the fee imposed by such county shall not apply within the territorial limits of such city.

(b) Such paper carryout bag reduction fee, whether or not any tangible personal property is sold therewith, shall be imposed at a rate of five cents on each paper carryout bag provided by a person required to collect tax to a customer in this state; provided, however, that such paper carryout bag reduction fee shall not be imposed on paper carryout bags that are subject to a fee on the provision of such paper carryout bag pursuant to a local law or ordinance that was adopted prior to the effective date of this section. The paper carryout bag reduction fee must be reflected and made payable on the sales slip, invoice, receipt, or other statement of the price rendered to the customer.

(c) Such paper carryout bag reduction fee shall not constitute a receipt for the sale of tangible personal property subject to tax pursuant to article twenty-eight and pursuant to the authority of article twenty-nine of the tax law, and transfer of a bag to a customer by a person required to collect tax shall not constitute a retail sale.

(d) It shall be unlawful for a municipal corporation to adopt or amend a local law, ordinance or resolution requiring the imposition of any fee on the provision of a paper carryout bag except as expressly authorized by this section. Where a municipal corporation that adopted such a local law, ordinance or resolution prior to the effective date of this section is, or is located in, a county that has imposed a paper carryout bag reduction fee pursuant to this section, such municipal corporation shall be prohibited from requiring the imposition of a fee on any provision of paper carryout bags that occurs more than one year after such county paper carryout bag reduction fee takes effect.

2. Any such local law, ordinance or resolution adopted pursuant to this section shall state the amount of the paper carryout bag reduction fee and the date on which a person required to collect tax shall begin to add such paper carryout bag reduction fee to the sales slip, invoice, receipt, or other statement of the price rendered to its customers. No
such local law, ordinance or resolution shall be effective unless a
certified copy of such law, ordinance or resolution is mailed by regis-
tered or certified mail to the commissioner of taxation and finance in
accordance with the provisions of subdivisions (d) and (e) of section
twelve hundred ten of the tax law.

3. The paper carryout bag reduction fee imposed by this section shall
not apply to any customer using the supplemental nutritional assistance
program, special supplemental nutrition program for women, infants and
children, or any successor programs used as full or partial payment for
the items purchased.

4. The paper carryout bag reduction fee must be reported and paid to
the commissioner of taxation and finance on a quarterly basis on or
before the twentieth day of the month following each quarterly period
ending on the last day of February, May, August and November, respec-
tively. The payments must be accompanied by a return in the form and
containing the information the commissioner of taxation and finance may
prescribe.

5. Any sales slip, invoice, receipt, or other statement of price
furnished by a person required to collect tax to a customer shall sepa-
rately state the paper carryout bag reduction fee and shall state the
number of bags provided to the customer.

6. (a) Except as otherwise provided in this section, any paper carry-
out bag reduction fee imposed under the authority of this section shall
be administered and collected by the commissioner of taxation and
finance in a like manner as the taxes imposed by articles twenty-eight
and twenty-nine of the tax law. All the provisions of articles twenty-
eight and twenty-nine of the tax law, including the provisions relating
to definitions, exemptions, returns, personal liability for the tax,
collection of tax from the customer, payment of tax and the adminis-
tration of the taxes imposed by such article, shall apply to the paper
carryout bag reduction fee imposed under the authority of this section,
with such modifications as may be necessary in order to adapt the
language of those provisions to the paper carryout bag reduction fee
imposed under the authority of this section. Those provisions shall
apply with the same force and effect as if the language of those
provisions had been set forth in full in this section, except to the
extent that any of those provisions is either inconsistent with a
provision of this section or is not relevant to the paper carryout bag
reduction fee imposed under the authority of this section. For purposes
of this section, any reference in this chapter to a tax or the taxes
imposed by articles twenty-eight and twenty-nine of the tax law shall be
deemed also to refer to the paper carryout bag reduction fee imposed
under the authority of this section unless a different meaning is clear-
ly required.

(b) Notwithstanding the provisions of paragraph (a) of this subdivi-
sion:

(1) The exemptions provided for in section eleven hundred sixteen of
the tax law, other than the exemptions in paragraphs one, two and three
of subdivision (a) of such section, shall not apply to the paper carry-
out bag reduction fees imposed under the authority of this section;

(2) The credit provided in subdivision (f) of section eleven hundred
thirty-seven of the tax law shall not apply to this section.

(c) Notwithstanding the provisions of paragraph (a) of this subdivi-
sion or subdivision (a) of section eleven hundred forty-six of the tax
law, the commissioner of taxation and finance may, in his or her
discretion, permit the commissioner or his or her authorized represen-
tative to inspect any return related to the paper carryout bag reduction fee filed under this section, or may furnish to the commissioner or his or her authorized representative any such return or supply him or her with information concerning an item contained in any such return, or disclosed by any investigation of a liability under this section.

7. All paper carryout bag reduction fee monies and any related penalties and interest remitted to the commissioner of taxation and finance under this section, except as hereinafter provided, shall be deposited daily with such responsible banks, banking houses, or trust companies as may be designated by the state comptroller. Of the revenues deposited, the comptroller shall retain in the comptroller's hands such amount as the commissioner of taxation and finance may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to this section, out of which the comptroller shall pay any refunds or reimbursements of such fees to which persons shall be entitled under the provisions of this section. The comptroller, after reserving such refund and reimbursement fund shall, on or before the twelfth day of each month, pay to the appropriate fiscal officers of the counties or cities imposing tax under subdivision one of this section an amount equal to forty percent of the paper carryout bag reduction fee monies and any related penalties and interest collected by the commissioner of taxation and finance in respect of each such county or city in the preceding calendar month to be used for the purpose of purchasing and distributing reusable bags, with priority given to low- and fixed-income communities. Provided further that at the end of each fiscal year, any funds which have not been used for the purpose defined in this section shall be returned to the comptroller and be deposited into the general fund to be used for the purpose of purchasing and distributing reusable bags with priority given to low- and fixed-income communities. Any remaining amount of paper carryout bag reduction fee monies and any related penalties and interest shall be deposited monthly into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 27-2807. Violations.

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 shall be liable to the state of New York for a civil penalty of two hundred fifty dollars for the first violation after receiving a warning and five 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.

§ 27-2809. Preemption of local law.

Jurisdiction in all matters pertaining to plastic carryout bags is vested exclusively in the state.

§ 3. Subdivision 4 of section 63 of the alcoholic beverage control law, as amended by chapter 360 of the laws of 2017, is amended to read as follows:

4. No licensee under this section shall be engaged in any other business on the licensed premises. The sale of lottery tickets, when duly
authorized and lawfully conducted, the sale of reusable bags as defined in section 27-2801 of the environmental conservation law, the sale of corkscrews or the sale of ice or the sale of publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license, or the sale of non-carbonated, non-flavored mineral waters, spring waters and drinking waters or the sale of glasses designed for the consumption of wine, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked, or the sale of gift bags, gift boxes, or wrapping, for alcoholic beverages purchased at the licensed premises shall not constitute engaging in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article.

§ 4. Subdivision 3 of section 92-s of the state finance law, as amended by section 1 of part AA of chapter 58 of the laws of 2018, 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 seventy 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, nineteen hundred twenty-one, 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, nineteen hundred 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.
conservation law, all moneys required to be deposited pursuant to
sections 27-2805 and 27-2807 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.
§ 5. This act shall take effect March 1, 2020.