

Subject:	Re: Fw: Health Concerns of Polystyrene Food Containers
From:	Meg Brown (megbrown@nyenate.gov)
To:	considerthis@verizon.net;
Date:	Wednesday, November 15, 2017 11:14 AM

S 4168 KRUEGER Same as [A 1013](#) Kavanagh (MS)
 ON FILE: 02/06/17 Environmental Conservation Law
 TITLE....Relates to food service waste reduction
 02/06/17REFERRED TO ENVIRONMENTAL
 CONSERVATION

A1013 Kavanagh (MS) Same as **S 4168** KRUEGER
 Environmental Conservation Law
 TITLE....Relates to food service waste reduction
 01/10/17 referred to environmental
 conservation
 06/07/17 reported referred to ways and means
 06/08/17 reported referred to rules
 06/15/17 reported
 06/15/17 rules report cal.365
 06/15/17 ordered to third reading rules cal.365

KRUEGER, BRESLIN, HAMILTON, HOYLMAN, SERRANO, SQUADRON

Add Art 27 Title 28 §§27-2801 - 27-2805, En Con L

Relates to food service waste reduction; prohibits the use of polystyrene foam by contractors and lessees who deal with the state through state and municipal contracts.

STATE OF NEW YORK

4168

2017-2018 Regular Sessions

IN SENATE

February 6, 2017

Introduced by Sens. KRUEGER, HAMILTON, HOYLMAN, SERRANO, SQUADRON --
 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 food
 service waste reduction

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

1 Section 1. Short title. This act shall be known and may be cited as
 2 the "food service waste reduction act".
 3 § 2. Article 27 of the environmental conservation law is amended by
 4 adding a new title 28 to read as follows:

5 TITLE 28
 6 FOOD SERVICE WASTE REDUCTION

7 Section 27-2801. Definitions.

8 27-2803. Required compostable or recyclable disposable food
 9 service ware.

10 27-2805. Powers of municipalities.

11 § 27-2801. Definitions.

12 For the purposes of this title, the following terms shall have the
 13 following meanings:

14 1. "Affordable" means purchasable for not more than fifteen percent
 15 more than the purchase cost of the non-compostable or non-recyclable
 16 alternative.

17 2. "Agency" means any state department, agency, board, public benefit
 18 corporation, public authority, or commission.

19 3. "Compostable" means all the materials in the product or package
 20 will (a) undergo degradation by biological processes during composting
 21 to yield carbon dioxide, water, inorganic compounds, and biomass at a

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

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1 rate consistent with other known compostable materials and (b) leave no
 2 visible, distinguishable or toxic residue, including no adverse impact
 3 on the ability of composts to support plant growth once the finished
 4 compost is placed in soil.

5 4. "Contractors and lessees" mean any person or entity that has a
 6 contract with an agency or a municipality for public works or improve-
 7 ments to be performed, for a franchise, concession or lease of property,
 8 for grant monies or goods and services or supplies to be purchased at
 9 the expense of the agency or municipality or to be paid out of monies
 10 deposited in the treasury or out of trust monies under the control or
 11 collected by the agency or municipality.

12 5. "Disposable food service ware" means all containers, bowls, plates,
 13 trays, cartons, cups, lids, straws, forks, spoons, knives, napkins and
 14 other items that are designed for one-time use for prepared foods,
 15 including without limitation, service ware for takeout foods and/or
 16 leftovers from partially consumed meals prepared by food vendors. The
 17 term "disposable food service ware" does not include items composed
 18 entirely of aluminum or polystyrene foam coolers and ice chests that are
 19 intended for reuse nor does this term include recyclable food service
 20 ware.

21 6. "Municipality" means a village, town, city, or county, or any
22 designated agency thereof.
23 7. "Polystyrene foam" means blown polystyrene and expanded foams
24 utilizing a styrene monomer and processed by any number of techniques.
25 Polystyrene foam is generally used to make cups, bowls, plates, trays,
26 clamshell containers, meat trays and egg cartons.
27 8. "Recyclable" means material that can be sorted, cleansed and recon-
28 stituted using available recycling collection programs for the purpose
29 of using the altered form in the manufacture of a new product. Recycling
30 does not include burning, incinerating, converting, or otherwise ther-
31 mally destroying solid waste.
32 § 27-2803. Required compostable or recyclable disposable food service
33 ware.
34 Agencies, municipalities, and their contractors and lessees shall use
35 disposable food service ware made from material, other than polystyrene
36 foam, that is compostable or recyclable unless there is no affordable
37 compostable or recyclable product available. Nothing in this section
38 shall be construed to govern the activities of contractors and lessees
39 that occur outside of the state or activities of contractors of lessees
40 that occur with entities other than agencies or municipalities.
41 § 27-2805. Powers of municipalities.
42 Any agency or municipality may promulgate regulations, ordinances, or
43 laws to take any and all reasonable actions necessary to implement and
44 enforce this title.
45 § 3. The department of environmental conservation shall conduct a
46 study on the desirability, feasibility and environmental impact of a
47 statewide prohibition on the use of disposable food service ware that
48 contains polystyrene foam. The department shall issue a report contain-
49 ing the results of the study to the legislature no later than the thir-
50 ty-first of January next succeeding the date on which this act shall
51 have become a law.
52 § 4. This act shall take effect immediately; provided, however, that
53 sections one and two of this act shall take effect on the one hundred
54 twentieth day after it shall have become a law.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S4168

SPONSOR: KRUEGER

TITLE OF BILL: An act to amend the environmental conservation law, in relation to food service waste reduction

PURPOSE:

The purpose of the bill is to discourage the use of disposable polystyrene foam food service ware by any person or entity that has a contract with an agency or municipality, and to study the feasibility of a polystyrene foam ban in New York State.

SUMMARY OF SPECIFIC PROVISIONS:

Requires that any state department, agency, board, public benefit corporation, public authority, commission, municipality, and their contractors and lessees use disposable food service ware made from material other than polystyrene foam, unless there is no compostable or recyclable alternative available at a price not more than 15 percent higher.

Requires the Department of Environmental Conservation to conduct a study on the desirability, feasibility and environmental impact of a statewide ban on the use of disposable polystyrene foam food service ware.

EFFECTS OF PRESENT LAW WHICH THIS BILL WOULD ALTER:

This bill would add a new title 28 to Article 27 of the Environmental Conservation Law.

JUSTIFICATION:

Polystyrene foam is a liquid hydrocarbon that is commercially manufactured from petroleum, a quickly disappearing commodity. Each year Americans throwaway 25,000,000 polystyrene foam cups, or 1,369 tons of polystyrene products every day. A single polystyrene foam cup can take up to 500 years to fully disintegrate.

Polystyrene foam is a notorious pollutant that is very difficult to recycle due to its light weight and low scrap value. It is generally not accepted in curbside programs, is seldom able to be reused, takes up a considerable amount of space in landfills, and takes a very long time to fully decompose. Due to the physical properties of polystyrene foam, the United States Environmental Protection Agency states "that such materials can have serious impact on human health, wildlife, and the aquatic environment," because the product breaks and can clog waterways, or to be mistaken for food by wildlife.

One of the components of polystyrene foam, styrene is a known hazardous substance which was added to the list of U.S. Health Departments list of carcinogens in June of 2011. Many people do not realize that when they reheat food in a polystyrene foam product using a microwave, toxins may be released into their food. This bill would address the environmental impacts of Polystyrene foam while allowing for exceptions in cases where there is no viable alternative product of comparable cost.

FISCAL IMPACT ON THE STATE:

Minimal.

EFFECTIVE DATE:

This act shall take effect immediately provided, however, that sections one and two of this act shall take effect on the one hundred twentieth day after it shall have become a law.

Meg V. Brown

Office of Senator Martin J. Golden

Director of Administration

518-455-2730