



Legislation Text

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By Council Member Palma and The Speaker (Council Member Quinn) and Council Members Brewer, Dickens, Dromm, Fidler, James, Koppell, Lander, Lappin, Mark-Viverito, Rodriguez, Seabrook, Vann, Williams, Rose, Eugene, Jackson, Gennaro, Van Bramer, Levin, Koslowitz, Recchia, Chin, Ferreras, Barron, Garodnick, Mealy and Reyna

A Local Law to amend the administrative code of the city of New York, in relation to recycling goals, and to repeal section 16-304, subdivisions a and b of section 16-305 and subchapter three of chapter 3 of title 16 of the administrative code of the city of New York, relating to department-disposed of solid waste, department-collected solid waste and a recycling plan.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The Council finds that, despite the progress that has been made since the enactment of the New York City Recycling Law (Local Law 19 of 1989), there remains a significant amount of recyclable material that could be re-directed from the City's solid waste stream to the recycling stream. The recovery and reuse of such recyclable material will: (1) minimize environmentally unsound solid waste disposal methods; (2) conserve energy and reduce the City's contribution to global warming emissions; (3) reduce the quantity of heavy metals and other harmful substances in the waste stream; (4) reduce the amount of waste materials that must be exported at ever-increasing costs to out-of-state landfills and incinerators; and (5) reduce the costs to the City of handling solid waste.

The Council further finds that according to the Independent Budget Office, the costs per ton for collection and recycling of City solid waste are now similar to the costs per ton for curbside collection and disposal of non-recycled waste. It is projected that within the next five years, the costs to the City of recycling may actually fall below the costs for out-of-state export of City waste, and thereafter City taxpayers will benefit with each ton of waste that is recycled rather than exported for landfilling or incineration.

Additionally, the Council finds that recycling can benefit the City's economy by creating opportunities for new jobs in industries performing activities related to the recycling of City waste, as is exemplified by the Pratt Industries paper recycling plant on Staten Island and the new Sims Group recycling processing facility that is soon to be constructed at the South Brooklyn Marine Terminal in Sunset Park.

The New York State Solid Waste Management Act of 1988 established a hierarchy that identifies preferred waste management practices to reduce the State's dependency on land burial of solid wastes. The hierarchy, in descending order of preference, is waste prevention, reuse and recycling, followed by incineration and, lastly, landfilling. Pursuant to that law, the City has adopted its own 20-year Comprehensive Solid Waste Management Plan, which was most recently approved by the New York State Department of Environmental Conservation in 2006. Among the highlights of the 2006 Plan are commitments to a 20-year contract for the handling of City recyclables and a commitment to use rail and water-based modes of transportation instead of relying on environmentally harmful truck transportation when exporting our waste outside of the City.

The Council finds that while the City has made substantial progress in the implementation of its citywide recycling program since the passage of the New York City Recycling Law, there remain significant additional opportunities to increase recycling in New York City to the benefit of the City's environment and its economy. In the more than 20 years since Local Law 19 was enacted, recycling methods, markets and technologies have evolved, and recycling has become a major global industry. This bill revises the City's residential and institutional recycling programs to reflect changes to recycling systems, while also striving to set the course for continuing improvements to the City's recycling program in the future. The Council also expects this bill to ensure that the Department of Sanitation continues to explore improvements to and the expansion of recycling in New York City in the next decade.

Accordingly, the Council finds that two decades after the passage of the landmark New York City Recycling Law, it is necessary to amend that law to enhance its effectiveness and take advantage of new opportunities to move the City's recycling program into the 21st century.

§2. Section 16-303 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, subparagraph viii of paragraph 3 of subdivision n, as amended by local law number 75 for the year 1989, is amended to read as follows:

§16-303 Definitions. When used in this chapter:

[a. "Buy-back center" means a recycling center that purchases and may otherwise accept recyclable materials from the public for the purpose of recycling such materials.]

[b. "Department-collected solid waste"]

"Architectural paint" means interior and exterior architectural coatings, including paints and stains purchased for commercial or residential use, but does not include architectural coatings purchased for industrial use or for use in the manufacture of products.

"Compostable waste" means any material found in the waste stream that can be broken down into, or otherwise become part of, usable compost, such as food scraps, soiled paper, and plant trimmings. Such term may also include disposable plastic food service ware and bags that meet the american society for the testing of materials standard specification for compostable plastics, but shall not include liquids and textiles.

"Department-managed solid waste" means all solid waste that the department and its contractors collect [and], all solid waste that the department receives for free disposal, all solid waste collected for recycling or reuse through special events or programs promoted, operated or funded by the department, and all solid waste diverted from collection by the department that is accepted through non-department infrastructure for recycling or reuse and counted towards the department's recycling goals as set forth in subdivision h of section 16-305 of this chapter.

[c. "Department-disposed of solid waste" means all solid waste, including department-collected solid waste, disposed of at a department landfill, incinerator, resource recovery facility or other waste disposal facility owned, operated or used by the department.

d. "Drop-off center" means a recycling center that accepts and may otherwise purchase

recyclable materials from the public for the purpose of recycling such materials.

e.] "Household" means a single dwelling or a residential unit within a multiple dwelling, hotel, motel, campsite, ranger station, public or private recreation area, or other residence.

[f.]

"Household and institutional compostable waste" means any compostable waste, excluding yard waste, in or otherwise destined for any waste stream collected by the department.

"Household hazardous waste" means:

1. any household waste that is ignitable, corrosive, reactive or toxic and that, but for its point of generation, would be a hazardous waste under part three hundred seventy-one of title six of the New York code, rules and regulations, as may be amended from time to time, and includes all pesticides, as defined in article thirty-three of the environmental conservation law, and hazardous waste, as defined in section 27-0901 of the environmental conservation law, as such laws may be amended from time to time; and

2. any other household waste that the commissioner determines, by rule, to be hazardous and require special handling.

"Post-collection separation" means the dividing of solid waste into some or all of its component parts after the point of collection.

[g.] "Post-consumer material" means [only] those products generated by a business or a consumer which have served their intended end uses, and which have been separated or diverted from solid waste for the purposes of collection, recycling and disposition.

[h.] "Private carter" means any person required to be licensed or permitted pursuant to [subchapter eighteen of chapter two of title twenty] chapter one of title sixteen-A of this code.

[i.]

"Publicly accessible textile drop-off bin" means any enclosed container that allows for members of the public to deposit textiles into such container for reuse or recycling in accordance with the textile reuse

and recycling program established by section 16-310.1 of this chapter.

"Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to, types of metal, glass, paper, plastic, [food waste, tires and] yard waste and any other solid waste required to be recycled or composted pursuant to this chapter, solid waste collected for recycling or reuse through special events or programs promoted, operated or funded by the department, and solid waste accepted through non-department infrastructure for recycling or reuse.

[j.] "Recycled" or "recycling" means any process by which recyclable materials are separated, collected, processed, marketed and returned to the economy in the form of raw materials or products.

[k.] "Recycling center" means any facility operated to facilitate the separation, collection, processing or marketing of recyclable materials for reuse or sale.

[l.] "Recycling district" means any borough or smaller geographic area the commissioner deems appropriate for the purpose of implementing this chapter.

[m. "Secondary material" means any material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other companies, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

n.]

"Rigid plastic container" means any plastic container having a semi-flexible or inflexible finite shape or form that is capable of maintaining its shape while holding other products and is designed to hold food, beverages, and consumer household products, including, but not limited to, the following types of containers: plastic bottles, plastic jugs, plastic tubs, plastic trays, plastic cups, plastic buckets, plastic crates and plastic flower pots, and any other rigid plastic material that the commissioner may designate by rule, but not including containers made of polystyrene foam.

"Solid waste" means all putrescible and non-putrescible materials or substances, except as described in paragraph three of this subdivision, that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to, garbage, refuse, industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

1. A material is discarded if it is abandoned by being:

i. disposed of;

ii. burned or incinerated, including being burned as a fuel for the purpose of recovering useable energy; or

iii. accumulated, stored, or physically, chemically or biologically treated (other than burned or incinerated) instead of or before being disposed of.

2. A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface water.

3. The following are not solid waste for the purpose of this chapter:

i. domestic sewage;

ii. any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment, except (A) any material that is introduced into such system in order to avoid the provisions of this chapter or the state regulations promulgated to regulate solid waste management facilities pursuant to 6 NYCRR [Part] part 360 or (B) food waste;

iii. industrial wastewater discharges that are actual point source discharges subject to permits under article seventeen of the environmental conservation law; industrial wastewaters while they are being collected, stored, or treated before discharge and sludges that are generated by industrial wastewater treatment are solid wastes;

iv. irrigation return flows;

v. radioactive materials that are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2011 et seq.;

vi. materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

vii. hazardous waste as defined in section 27-0901 of the environmental conservation law; and

viii. regulated medical waste or other medical waste as described in section 16-120.1 of this title.

[o.] "Source separation" means the dividing of solid waste into some or all of its component parts at the point of generation.

[p.] "Yard waste" means leaves, grass clippings, garden debris, and vegetative residue that is recognizable as part of a plant or vegetable, small or chipped branches, and similar material.

§3. Section 16-304 of the administrative code of the city of New York is REPEALED.

§4. The section heading of section 16-305 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, is amended to read as follows:

§16-305 [Department-collected] Recycling of department-managed solid waste.

§5. Subdivisions a and b of section 16-305 of the administrative code of the city of New York are REPEALED and new subdivisions a and b are added to read as follows:

a. 1. The following recycling percentage goals are established for the recycling of department-managed solid waste:

i. by July first, two thousand eleven, sixteen percent of department-managed solid waste;

ii. by July first, two thousand thirteen, nineteen percent of department-managed solid waste;

iii. by July first, two thousand fourteen, twenty-one percent of department-managed solid waste;

iv. by July first, two thousand sixteen, twenty-four percent of department-managed solid waste;

v. by July first, two thousand eighteen, twenty-seven percent of department-managed solid

waste;

vi. by July first, two thousand nineteen, thirty percent of department-managed solid waste; and

vii. by July first, two thousand twenty, thirty-three percent of department-managed solid waste.

2. In addition, the following recycling goals are established for curbside and containerized waste collected by the department:

i. By July first, two thousand eleven, sixteen percent of curbside and containerized waste collected by the department;

ii. By July first, two thousand thirteen, eighteen percent of curbside and containerized waste collected by the department;

iii. By July first, two thousand fourteen, nineteen percent of curbside and containerized waste collected by the department;

iv. By July first, two thousand sixteen, twenty-one percent of curbside and containerized waste collected by the department;

v. By July first, two thousand eighteen, twenty-three percent of curbside and containerized waste collected by the department;

vi. By July first, two thousand nineteen, twenty-four percent of curbside and containerized waste collected by the department; and

vii. by July first, two thousand twenty, twenty-five percent of curbside and containerized waste collected by the department.

b. The commissioner shall adopt and implement rules designating at least six recyclable materials, including plastics to the extent required in subdivision c of this section and yard waste to the extent required in section 16-308 of this chapter, contained in department-managed solid waste and requiring households to source separate such designated materials.

§6. Section 16-305 of the administrative code of the city of New York is amended by adding new subdivisions h, i, j and k to read as follows:

h. 1. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraph one of subdivision a of this section, the department shall include in its calculations all curbside and institutional recycling it collects, including materials collected from households, schools, not-for-profit institutions and city agencies, and all recyclable materials collected as part of the public space recycling program pursuant to section 16-310 of this chapter, and may include yard waste collected pursuant to section 16-308 of this chapter and any other material collected for composting pursuant to this chapter, Christmas trees collected pursuant to section 16-309 of this chapter, clothing and textiles donated or collected pursuant to section 16-310.1 of this chapter, household hazardous waste diverted pursuant to section 16-310.3 of this chapter, rechargeable batteries collected pursuant to chapter four of this title, beverage containers returned within the city pursuant to title ten of article twenty-seven of the environmental conservation law, electronic waste collected within the city or otherwise diverted from the city's waste stream, including such waste collected or diverted pursuant to title twenty-six of article twenty-seven of the environmental conservation law, and plastic bags collected within the city or otherwise diverted from the city's waste stream, including such plastic bags collected or diverted pursuant to title twenty seven of article twenty seven of the environmental conservation law. Only recyclable materials specifically enumerated in this paragraph shall be counted for purposes of calculating the extent to which the department has met the recycling percentage goals set forth in paragraph one of subdivision a of this section.

2. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraph two of subdivision a of this section, the department shall include in its calculations all curbside and institutional recycling it collects, including materials collected from households, schools, not-for-profit institutions and city agencies, and all recyclable materials collected as part of the public space recycling program pursuant to section 16-310 of this chapter.

3. In calculating the extent to which the department has met the recycling percentage goals set forth in paragraphs one and two of subdivision a of this section, the department shall not include recycling of abandoned vehicles or recycling from lot cleaning operations, asphalt and mill tailings, construction and demolition debris or other commercial recycling programs. The commissioner shall not designate any such materials as recyclable materials under this section for purposes of calculating the extent to which the department has met such recycling percentage goals.

4. In calculating the percent of the department-managed solid waste stream recycled in connection with the percentage goals set forth in paragraph one of subdivision a of this section, the department shall ensure that any quantity of material counted as recycled must be fully included in the calculation of the city's total department-managed solid waste stream.

5. All data used to make calculations pursuant to paragraphs one and two of this subdivision shall be made available on the department's website in raw form disaggregated by material type and using a non-proprietary format on a monthly basis, or, if such data is not generated by the department, within one month from the date that the department receives reports of such information.

i. In the event that the department does not meet any recycling percentage goal set forth in paragraphs one or two of subdivision a of this section by the dates specified therein, the department shall, within sixty days of the date for meeting such goal, expand recycling outreach and education and shall take such other appropriate measures including, but not limited to, directing such outreach and education to the neighborhoods and community districts in which recycling diversion rates fall below the median city recycling diversion rate and consulting with the council to explore additional measures to meet the recycling percentage goals set forth in such subdivision. In expanding recycling outreach and education, the department may work with other agencies or entities designated for that purpose by the commissioner.

j. In the event that the department is unable to achieve two consecutive recycling percentage goals set forth in paragraphs one and two of subdivision a of this section by the dates specified therein, in

addition to the requirements of subdivision i of this section, the commissioner shall retain a special advisor, who shall be selected by the mayor and the speaker, provided that the commissioner need not retain such special advisor more than once every three years. Within one hundred twenty days of such retention, such adviser shall submit a report to the mayor and council recommending additional measures that may be taken by the city following such report in order to meet such recycling percentage goals.

k. 1. Beginning on March first, two thousand eleven and annually thereafter, the department shall submit to the mayor and the council and make available on its website, an annual department recycling report which shall include provisions addressing: the extent to which the department has met the recycling percentage goals set forth in paragraphs one and two of subdivision a of this section and including a description of the methodology used to arrive at its recycling percentages; city agency recycling pursuant to section 16-307 of this chapter; department of education recycling pursuant to section 16-307.1 of this chapter; yard waste composting pursuant to section 16-308 of this chapter; Christmas tree composting or recycling pursuant to section 16-309 of this chapter; the public space recycling program pursuant to section 16-310 of this chapter; the clothing and textiles collection program pursuant to section 16-310.1 of this chapter; household hazardous waste collected pursuant to section 16-310.3 of this chapter or otherwise collected by the department; and any composting capacity determinations or food waste composting pilot programs pursuant to section 16-316.2 of this chapter.

2. Beginning the year that the department commences delivering department-managed recyclable materials to a designated recycling processing facility, the department shall annually report to the council the cost to the city of designating as recyclable materials any rigid plastic containers not previously designated by the commissioner pursuant to subdivision c of this section, and the then-current market value of any such materials.

§7. Sections 16-312, 16-313 and 16-314 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, are amended to read as follows:

§16-312 Processing recyclable materials. The commissioner shall establish procedures and standards for processing recyclable materials designated pursuant to section 16-305 of this chapter in city owned or operated recycling centers, city owned or operated transfer stations or any city owned or operated facility that renders recyclable materials suitable for reuse or marketing and sale. The commissioner shall annually review [the]such procedures and standards [at least annually] and make any changes necessary to conform to the requirements of the marketplace.

§16-313 Marketing recyclable materials. [a.]The department shall establish procedures, standards and strategies to market the [department-collected] recyclable materials designated pursuant to section 16-305 of this chapter, including, but not limited to, maintaining a list of prospective buyers, establishing contact with prospective buyers, entering into contracts with buyers, and reviewing and making any necessary changes in collecting or processing the materials to improve their marketability.

[b. Within eighteen months of the effective date of this chapter, the commissioner in conjunction with the office for economic development shall submit to the mayor, the council, the board of estimate, each citizens' board created under section 16-317 of this chapter and the citywide board created under section 16-319 of this chapter a study of existing markets for processing and purchasing recyclable materials, and the potential and the steps necessary to expand these markets. Such study shall also include a proposal developed in conjunction with the department of finance to use, where feasible, the city's tax and finance authority to stimulate recycling and the demand for recycled materials.]

§16-314 Recycling program revisions. [a.] The commissioner shall annually review the recycling program and all rules [and regulations] promulgated [therefor] thereunder, and shall make the necessary revisions to improve the efficiency of collecting, processing, marketing and selling the materials recycled pursuant to this chapter. These revisions may include designating additional recyclable materials. The commissioner shall not delete designated materials without designating additional materials so that the total quantity, by weight, of all designated recyclable materials collected, processed, marketed and sold does not

decrease. [b. By the end of the fifth year following the enactment date of this chapter, the commissioner shall designate two additional recyclable materials contained in residential or commercial solid waste and provide for the recycling of these materials in accordance with the provisions of this chapter.] Where the commissioner determines that it is appropriate to delete a designated material, the department shall provide notice of such deletion to the mayor and the council, including the reason for such deletion, and shall provide any relevant data supporting such decision.

§8. Subchapter 3 of chapter 3 of title 16 of the administrative code of the city of New York is REPEALED and a new subchapter 3 is added to read as follows:

Subchapter 3 - Recycling Studies

16-316 - Recycling and composting economic development study

16-316.1 - Waste Characterization Study

§16-316 Recycling and composting economic development study. Within two years of the effective date of this section, the department, in conjunction with the mayor's office of long-term planning and sustainability and the New York city economic development corporation, shall perform a study on the economics of recycling and composting and the development of recycling and composting-related industries in the city of New York. Such study shall: (i) assess the New York city recycling market including but not limited to a growth forecast for recycling markets and related industries for the next five years; (ii) describe those industries or businesses that would address shortcomings in the city's recycling and composting infrastructure and areas where opportunities for recycling and composting-related job growth in the city appear practical, describing barriers to recycling and composting businesses, and outlining financial and other incentives that might be successful in attracting new recycling and composting-related businesses or encouraging the expansion of existing recycling and composting-related businesses; (iii) examine existing markets for processing and purchasing recyclable materials and the potential and steps necessary to expand these markets; and (iv) look at the city's taxation and

finance authority to stimulate recycling and the demand for recycled materials. Sections of such study may be shared with or derived from the composting report required pursuant to section 16-316.2 of this subchapter.

§16-316.1 Waste characterization study. a. The commissioner shall complete follow-up studies to the studies performed in two thousand five regarding the characteristics of the city's residential and institutional waste streams for department-managed solid waste on or before January thirty-first, two thousand twelve, and on or before January thirty-first, two thousand eighteen. The results of each such study and an analysis of those results shall be submitted to the council and the mayor within sixty days of their completion.

b. On or before January thirty-first, two thousand twenty-four, the commissioner shall complete a detailed, comprehensive citywide multi-season study of the city's residential and institutional waste streams for the purpose of determining the composition of the waste stream characterized by type of material. The results of such study and an analysis of those results shall be submitted to the council and the mayor within sixty days of its completion.

§9. Sections 16-318 and 16-319 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, are amended to read as follows:

§16-318 Functions of the citizens' board. a. The department shall submit to each borough president the [recycling plans prepared pursuant to section 16-316 of this chapter] portion of the biennial report addressing the city's recycling program that is prepared pursuant to the city's two thousand six solid waste management plan, simultaneous with [their] the submission of such report to the mayor and the council. Each borough president shall distribute copies of [the plans] such portion to each member of the citizens' board in his or her borough. Within ninety days thereafter, each citizens' board shall review [the plans] such portion, conduct a public hearing on [the plans] such portion and make written recommendations to its borough president, the department and the council with respect to the recycling program within its borough. Each citizens' board shall also annually advise its borough president and the department with respect to the development, promotion and operation of the recycling program in its borough and pursuant to this function

shall formulate and recommend:

1. annual recycling [and reduction] goals equal to or greater than those set forth in [sections 16-304 and] section 16-305 of this chapter and the methods proposed to achieve such goals;

2. means to encourage community participation in the recycling program; and

3. means to promote the recycling program and educate the public with regard to the program.

b. In each borough, the citizens' board shall assume all the responsibilities and functions of the borough's citizens' advisory committee on resource recovery.

§16-319 Citywide recycling advisory board; membership. [Within nine months of the effective date of this chapter,] There shall be a citywide recycling advisory board (the "citywide board") [shall be formed,] consisting of at least one representative from each citizens' board, five members appointed by the council, and five members appointed by the mayor. The membership of the citywide board shall represent community boards, recycling industries, carting industries, environmental organizations, government agencies, labor organizations, business organizations, real property owners, tenant organizations and members of the general public. Members shall serve for a term of one year without compensation and shall designate one member to serve as chairperson and one as vice-chairperson.

§10. Subdivision a of section 16-321 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, is amended to read as follows:

a. Whenever a person, other than a public servant, appointed to any advisory board created pursuant to this subchapter, engages in any business dealings with the department, or engages in business dealings with any other agency [which] that relate to processing or disposal of solid waste or of waste described in paragraph three of [subdivision m of] the definition of solid waste in section 16-303 of this chapter or to recycling, or has an interest in a firm [which] that is engaged in such business dealings with the department or with such other agency, such person shall, prior to appointment, disclose the nature of such business dealings to the commissioner and to the body or officer appointing such person, and, after appointment, disclose the nature

of such business dealings to the commissioner and to all other members of such board; provided that such person need not disclose the amount of such business dealings.

§11. Paragraph 2 of subdivision b of section 16-321 of the administrative code of the city of New York, as added by local law number 19 for the year 1989, is amended to read as follows:

2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the [board] department of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

§12. This local law shall take effect immediately.

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