

NYS Legislative Update

Bill Status as of September 27, 2016

TO: NYSASWM Board

FROM: Kevin Voorhees, Legislative Chair (Ph: 315-457-5200. E-mail: KVoorhees@BartonandLoguidice.com)

SUMMARY

- 132 bills of interest were tracked this year.
- Two (2) of these bills were signed in to law this year:
 - The “Slow Down to Get Around” bill (A.7763/S.426) was signed in to law by the Governor on 8-31-2016 as Chapter 293 of the Session Laws of 2016. This new law adds waste and recycling collection trucks to the list of vehicles that other drivers must move around when stopped on the side of the road.
 - A bill banning -- after April 1, 2018 -- the sale and use of wheel weights containing mercury (A.172/S.5322) was signed in to law by the Governor on 9-9-2016 as Chapter 312 of the Session Laws of 2016.
- Listed below are seven (7) bills that passed in one house this year but not the other. More information on these one-house bills is provided in the main body of this legislative update, where they are highlighted in ***bold italics***.
 - A.5844 passed the Assembly on 5-4-2016. It would establish a product stewardship program for lamps containing mercury.
 - S.4926 passed the Senate on 6-6-2016. It would establish a product stewardship program for paint that includes a paint recycling fee.
 - S.5430 passed the Senate on 5-5-2016. It would expand the net metering law to include electricity generated from publicly owned landfills and treatment works.
 - S. 5248 passed the Senate on 6-8-2016. It would ban the ocean disposal of dredged spoils containing toxics within 3 miles of New York City and Long Island shorelines.
 - S.3060 passed the Senate on 3-22-2016. It would require permits for solid waste management facilities to require radiation detection devices if permitted to accept waste from oil and gas drilling activities.
 - A.3382 passed the Assembly on 5-4-2016. It would require DEC to publish a report that identifies high impact zones that are most adversely affected by existing environmental hazards.
 - A.5612 passed the Assembly on 5-4-2016. It would require manufacturers to disclose priority chemicals contained in children’s products.
- This is the second year of a 2-year legislative session, so the bill numbers from last year have been carried forward to this year. In 2017, however, all new bill numbers will be assigned even though the text of these bills might not be changed at all.
- In the main body of this legislative update that is set forth below, bill sponsors and the current – and likely final (for this legislative session) -- legislative status for each bill are indicated in parentheses.

NYS Legislative Update

As of September 27, 2016

Environmental Protection Fund (\$ 000) – Overall Amount for 2016/2017 is \$300M [\$123M more than last year]								
Category	FY 16/17 Enacted	FY 15/16 Enacted	FY 14/15 Enacted	FY 13/14 Enacted	FY 12/13 Enacted	FY 11/12 Enacted	FY 10/11 Enacted	FY 9/10 Enacted
Landfill Closure/Gas (* Plus \$300 for Essex County & \$150 for Hamilton County)	250*	250	250	250	270	600	600	750
Municipal Recycling (DEC) (** includes \$3,000 for e-waste)	14,000**	7,500	7,000	7,000	6,435	6,435	6,639	10,825
Secondary Materials (DED)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	2,250
TOTALS	15,250	8,750	8,250	8,250	7,705	8,035	8,239	13,825
Grants for Climate Smart Communities***	14,000	*** These new EPF categories proposed for fiscal year 2016/2017 are possible funding sources for organics diversion projects such as composting and/or digester facilities.						
GHG Reduction Outside the Power Sector***	1,000							

1. Product Stewardship Bills

- a. E-Waste Funding (S.6532 [Young] in EnCon Com/No Same As in Assembly). Authorizes payments to e-waste collection sites for e-waste recycling costs not paid for by manufacturers for e-waste collected after December 31, 2015. However, as noted above, \$3 million has been included in the EPF during this fiscal year to provide municipalities with up to 50% reimbursement for e-waste costs not paid for by manufacturers.
- b. Pharmaceuticals (A.710 [Englebright] in EnCon Com/No Same As in Senate). Requires manufacturers to establish take back programs for prescription and over the counter drugs. Includes a landfill disposal ban. Previously introduced in 2009/2010 and last year but died in EnCon Com.
- c. Pharmaceuticals from health care facilities (A.2855 [Englebright] in Health Com/ No Same As in Senate). Introduced since 2013 but never passed.
- d. Packaging (A.4724 [Colton]/S.5377 [Avella] in EnCon Coms). Introduced in Assembly since 1993 legislative session but has never passed.
- e. Thermostats containing mercury (S.686 [Avella] in EnCon Com/No Same As in Assembly).
- f. Mercury containing lamps (**A.5844 [Kavanagh] passed in the Assembly on 5-4-2016**/S. 3261 [Sanders] in EnCon Com). 7th time introduced; it has passed 4 times in the Assembly including this session and last year. A similar bill (A.1906 [Englebright] on 3rd Reading (Cal.574)/S.890 [Avella]) is in EnCon Com; 5th time introduced but never passed. Another similar bill is in the Senate (S.919 [Avella], in EnCon Com), but there is no Same As bill in the Assembly.
- g. Requires removal of mercury switches before disposal of automobiles and includes requirement for manufacturers to establish a collection program (A.4732 [Colton]/S.1911 [Marcellino] in EnCon Coms). 6th time introduced in Assembly, but never passed.

NYS Legislative Update

As of September 27, 2016

- h. Phased ban on sale and disposal of virtually all products containing mercury (A.647 [Rosenthal] in EnCon Com/No Same As in Senate). Introduced since 2005 but never passed.
- i. Ionization smoke detectors (A.2740 [Englebright] in EnCon Com/No Same As in Senate).
- j. Paint stewardship program (A.3304 [Peoples-Stokes] on 3rd Reading [Cal.755]/No Same As in Senate). 1st introduced in 2010, but this bill is not supported by the American Coatings Association (ACA) due to the absence of a paint recycling fee. The bill sponsor's memo calls this a pilot program, but the text of the bill is for a full-blown paint stewardship program.
- k. Paint stewardship program that includes a paint recycling fee (A.6199 [Stirpe] in EnCon Com/**S.4926 [O'Mara] passed in the Senate on 6-6-2016**). Passed in the Senate this year and last year but died in Assembly both times.
- l. Carpeting (A.5792 [Kavanagh] in EnCon Com/No Same As in Senate). Introduced in Assembly since 2011 but never passed.
- m. Primary batteries (A.9921 [Englebright] on 3rd Reading [Cal. 847]/S.4522 [Avella] in Rules Com.

2. Slow Down To Get Around Bill

- a. Adds waste and recycling collection trucks to the list of vehicles that other drivers must move around when stopped on the side of the road (**A.7763 [DenDekker]/S.426 [Marcellino] signed in to law by Governor on 8-31-2016 as Chapter 293 of the Session Laws of 2016**). A similar bill was introduced in the Senate (S.6494 [Ortt] in Transportation Com/No Same as in Assembly). 3rd year introduced; S.426 passed the Senate last year but died in Assembly.

3. Expansion of Net Metering

- a. Expands the net metering law to include electricity generated from publicly owned landfills and treatment works (A.7576 [Magee] in Energy Com/**S.5430 [Valesky] passed Senate on 5-5-2016**). This bill passed in the Senate this year and last year but died in the Assembly both times.

4. Food Waste

- a. Requires certain state agencies, municipalities and schools to reduce their disposal of food waste "to the greatest extent practicable" (A.7905 [Kavanagh] in EnCon Com/No Same As in Senate). 3rd year introduced in Assembly but never passed. This food waste reduction bill would apply to state agencies, municipalities, and schools that:
 - i. Serve prepared foods at a facility that they operate or that is operated for them by a contractor; AND
 - ii. Generate, as averaged over the previous 10 weeks, more waste from its food preparation and service operations than the thresholds shown below:
 - 1. In 2016 & 2017, over 2,000 pounds of food waste per week.
 - 2. In 2018 & 2019, over 1,000 pounds of food waste per week.
 - 3. In 2020 and thereafter, over 500 pounds of food waste per week.
 - iii. The bill also allows food service establishments to apply to the DEC for up to a 2-year waiver from the food waste reduction requirements, upon a demonstration that its food waste reduction efforts cost more than 15% above its landfill or incineration disposal costs.

NYS Legislative Update As of September 27, 2016

- b. Two similar food waste reduction bills have been introduced in the Senate (S.6278 [Parker] and S.7323 [Hoylman]. Both of these Senate bills are in the EnCon Com and neither bill has a Same As in the Assembly.

5. Bills to Require 50% Recycling of Waste Generated at C&D Sites

- a. Statewide requirement (A.4756 [Colton]/S.5393 [Avella] in EnCon Coms). Introduced in Assembly since 2009 but never passed.
- b. In NY City (A.4758 [Colton] in Ways & Means Com/S.3271 [Sanders] in Cities Com). Introduced in Assembly since 2009 but never passed.
- c. For State Agency projects or contracts (A.4672 [Colton] in GovOps Com/S.5392 [Avella] in Finance Com). Introduced in Assembly since 2009 but never passed.

6. Proposed Bans on Disposal, Sale and/or Use

- a. Bans commingling and disposal of source separated recyclables; includes statewide list of recyclables (A.4624 [Colton] on 3rd Reading [Cal.766]/S.5404 [Avella] in EnCon Com). This bill has passed the Assembly 14 times, but not this year nor last year.
- b. Bans disposal of yard waste (A.471 [Englebright] in EnCon Com/No Same As in Senate). 1st introduced in 1997 but has never passed.
- c. Immediately bans disposal of hardcover books and requires municipalities to establish recycling/reuse programs for hardcover books within 2 years of effective date (A.5275 [Englebright]/S.926 [Avella] in EnCon Coms). 4th time introduced in Assembly but has never passed.
- d. Bans ocean disposal of dredged spoils containing toxics within 3 miles of NYC and Long Island shorelines (A.4734 [Colton] in EnCon Com/**S.5248 [Lanza] passed Senate on 6-8-2016**). 1st introduced in Assembly in 2001 but has never passed the Assembly.
- e. Bills proposing bans on the sale of various specific products containing mercury:
 - i. Rotational balancing products (**A.172 [Rosenthal]/S.5322 [Marcellino] signed in to law by the Governor on 9-9-2016 as Chapter 312 of the Session Laws of 2016**). This new law will ban – after April 1, 2018 -- the sale and use of wheel weights containing mercury.
 - ii. Prohibits use, purchase and storage of mercury and mercury products in schools (A.2347 [Englebright] in Education Com/No Same As in Senate). Introduced in Assembly since 2003 but has never passed.
- f. Bans use of polystyrene containers by restaurants and food vendors (A.5232 [Abinati] in Consumer Affairs Com/No Same As in Senate.
- g. Bans use of Styrofoam “packing peanuts” (A.708 [Englebright] in EnCon Com/No Same As in Senate). Identified as a new bill in 2015 although a similar bill has been introduced in the Assembly since 1995 but has never passed.
- h. Bans use of disposable Styrofoam food service ware by agencies, municipalities and their contractors unless there is no affordable compostable or recyclable product available (S.2493 [Krueger]/A.5743 [Kavanagh] in EnCon Coms). 9th time introduced; passed Assembly 6 times but never in Senate. Similar bill also bans restaurants and food vendors from using disposable Styrofoam food service ware unless there is no affordable compostable or recyclable product

NYS Legislative Update As of September 27, 2016

available (S.2782 [Krueger]/A.5762 [Kavanagh] in EnCon Coms. Introduced 10 times in Assembly but never passed.

- i. Prohibits grocery stores from providing plastic carryout bags and requires them to provide recyclable paper bags at no charge to customers (A.3636 [DenDekker] /S.4536 [Hoylman] in EnCon Coms).
- j. Bans landspreading of sludge in the Town of Wheatfield in Niagara County (A.6034 [Ceretto] in Local Gov't Com/No Same As in Senate).
- k. Bills proposing to ban various aspects of hydrofracking (*this is a partial list*):
 - i. Bans wastewater plants and solid waste management facilities from accepting disposal of waste from oil and gas extraction activities, including leachate from solid waste that is associated with natural gas extraction activities (A.130 [Buchwald]/S.340 [Hoylman] in EnCon Coms). 4th time introduced but never passed.
 - ii. Prohibits the sale, purchase or use of any liquid waste product from hydrofracking and requires DEC to establish regulations for disposal of such products (A.2478 [Mosley]/S.3863 [Krueger] in EnCon Coms).
 - iii. Establishes a moratorium on disposal of liquid or solid wastes resulting from out of state hydrofracking. The moratorium will be repealed on whichever occurs later: (a) 120 days after EPA issues a report on the effects of hydrofracking on water quality and public health, or (b) when DEC proves that it is capable of regulating and enforcing a hydrofracking regulatory program that includes the ability to identify all chemical components of drilling fluid (S.901 [Avella] in EnCon Com/No Same As in Assembly).
 - iv. Prohibits treatment of hydrofracking fluids at wastewater treatment plants located over sole source aquifers or primary aquifers (A.2611 [Englebright]/S.297 [Martins] in EnCon Coms).
 - v. Prohibits hydrofracking waste from being transported or disposed in New York State (A.4943 [O'Donnell]/S.47 [Hoylman] in EnCon Coms). 1st introduced in Assembly in 2013 but has never passed.
 - vi. Not a disposal ban, but waste from oil/gas drilling would be subject to all hazardous waste regulations with no exemptions (S.884 [Avella] in EnCon Com/A.6859 [Englebright] on 3rd Reading [Cal. 672]). 5th time introduced; passed Assembly twice but never in Senate.
 - vii. Also not a disposal ban, but this bill would require permits for solid waste management facilities to require radiation detection devices if permitted to accept waste from oil and gas drilling activities (**S.3060 [Young] passed Senate on 3-22-2016**/No Same As in Assembly). Also passed in Senate last year but died in the Assembly this year and last year. Senator Catherine Young's district includes the Counties of Chautauqua, Cattaraugus and Allegany.

7. Various Recycling Bills

- a. Authorizes sale of "NY Recycles License Plate" with \$25 annual service charge deposited in to EPF for recycling & reduction programs (A.1806 [Gunther]/S.4535 [Marchione] in Transportation Coms). Introduced since at least 2005. Passed both houses once, but was vetoed.

NYS Legislative Update As of September 27, 2016

- b. Authorizes State Health Dept. to establish regulations for recycling and solid waste disposal at mass gatherings (A.1577 [Cahill] in Health Com/ No Same As in Senate). 11th time introduced in Assembly but only passed Assembly once, in 2004.
- c. Requires NYC to collect recyclables from city parks and historic sites (S.1161 [Serrano] in Cities Com/A.6097 [Colton] in EnCon Com). 6th time introduced.
- d. Requires NYC's solid waste plan to include a plan for litter control and recycling receptacles (A.4679 [Colton]/S.1776 [Parker] in EnCon Coms). Passed 4 prior times in Assembly but not this year nor last year and never in Senate.
- e. Requires recycling of used oil filters (A.1949 [Pretlow] in EnCon Com/No Same As in Senate). 1st proposed in Assembly in 2002 but has never passed.
- f. Requires State Office of Parks to collect discarded recyclables at state parks, historic sites and recreational facilities. It also encourages municipalities to implement recycling programs at municipal parks and recreational facilities, and makes such municipal programs eligible for recycling project grants (A.819 [Englebright] in Tourism Com/No Same As in Senate). Introduced in Assembly 6 previous times; passed Assembly once, but not this year nor last year.
- g. Requires OGS to implement a recycling program for all state owned and leased property (A.484 [Englebright] in Government Ops Com/No Same As in Senate). Introduced 5 prior times in Assembly but never passed.
- h. Requires NYSDOT to use recycled aggregate concrete in certain projects and to study future uses of such recycled material (S.3532 [Panepinto] in Transportation Com/No Same As in Assembly).
- i. Requires DEC to develop and implement a program for the collection and recycling of cigarette butts, which includes a minimum deposit of 1 cent per cigarette to fund the program (A.4064 [DenDekker]/S.3425 [Stavisky] in EnCon Coms). First introduced in 2010.
- j. Requires task force to study feasibility of recycling cigarette butts (A.4107 [DenDekker] in EnCon Com/No Same As in Senate). 1st introduced in 2012.
- k. Allows NYC residents living in a building with less than 11 residences to make an appointment with the NYC Sanitation Dept. to pick up e-waste from their residence (A.7159 [Simanowitz] /S.5464 [Golden] in EnCon Coms). Passed Senate in 2015 but died in Assembly; did not get out of Senate EnCon Com this year.
- l. Requires commercial waste collection contracts to specify separate collection of recyclables identified in local recycling laws (A.5910 [Kavanagh] in Local Gov. Com/No Same As in Senate). 8th time introduced in Assembly; never passed.
- m. Requires more stores in NYC to provide recycling bins for plastic bags (A.5954 [Kavanagh]/S.3329 [Sanders] in EnCon Coms). 5th time introduced in Assembly; never passed.
- n. Requires all political campaign literature to be printed with the NYS approved recycling logo on it (A.6147 [Roberts] in Election Com/No Same As in Senate).
- o. Authorizes NYC agencies to enforce rechargeable battery recycling law (A.5851 [Kavanagh]/S.5600 [Golden] in EnCon Coms). 5th time introduced in Assembly but never passed.

NYS Legislative Update

As of September 27, 2016

- p. Requires all political campaign mailing pieces to include a message about recycling the printed materials (A.8578 [Magnarelli] on 3rd Reading [Cal. 60]/S.7524 [Valesky] in Election Com). Introduced in Assembly since 2013 but never passed.
- q. Removes the cap on the return incentive payment (currently capped at \$5 per lead-acid battery) charged by retailers for lead-acid batteries (S.5581 [O'Mara] in EnCon Com/No Same As in Assembly). Passed Senate last year but died in Assembly. Did not pass the Senate this year.

8. Proposed Expansions of the Bottle Bill

- a. Add fruit juices, iced tea, milk, wine and liquor containers (A.495 [Englebright]/S.4320 [Hoylman] in EnCon Coms). 1st introduced in 1995 but has never passed.
- b. Add wine and liquor containers (A.485 [Englebright] in EnCon Com/No Same As in Senate). 1st introduced in Assembly in 2009.

9. Facility Siting

- a. Establishes a solid waste facility siting review board (A.4700 [Clark] in EnCon Com/No Same As in Senate). Introduced in Assembly since 1996 but has never passed.
- b. Prohibits locating a hazardous waste disposal facility or hazardous waste transfer station within 1,500 feet of school property (A.6095 [Mosley]/ S.2285 [Dilan] in EnCon Coms). 1st introduced in 2007. Passed in 2011/2012 session but was vetoed. Similar bill in Assembly (A.923 [Lentol] in EnCon Com/No Same As in Senate).
- c. Bans medical waste facilities in areas not zoned for such uses (A.6401 [Perry]/S.4044 [Sampson] in EnCon Coms). 6th time introduced, but has never passed.
- d. Prohibits marine waste transfer stations in NYC from locating or reactivating within 800 feet of public housing projects (A.5903 [Seawright]/S.2556 [Krueger] in EnCon Coms). Introduced 4 previous times but never passed.
- e. Establishes special public notice and hearing requirements for proposed sites for transfer stations, landfills, and treatment plants in New York City (S.6758 [Sanders]/A.9796 [Benedetto] in Cities Coms).

10. Restrictions on Waste Transfer Operations, Primarily in NYC and/or Long Island

- a. Prohibits marine waste transfer stations in NYC from locating or reactivating within 800 feet of public housing projects (S.2556 [Krueger]/A.5903 [Seawright] in EnCon Coms). Introduced 5 previous times but has never passed.
- b. Prohibits transloading of waste originating outside of Staten Island on Staten Island, unless the waste is fully containerized (A.2963 [Titone] in EnCon Com/No Same As in Senate). Introduced in Assembly since 2003 but has never passed. A similar bill, introduced in the Assembly since 2006 but never passed, only allows transloading of waste originating outside of Staten Island on Staten Island after an environmental impact statement is completed (A.6159 [Borelli] in Corporations Com/No Same As in Senate).
- c. Establishes various waste handling requirements that primarily relate to rail transfer operations in NYC and Long Island, including a daily handling limit of 550 tons (A.3635 [Hevesi] in EnCon Com/No Same As in Senate). This was a new bill last year, which apparently was a reaction to an

NYS Legislative Update

As of September 27, 2016

emergency transfer station permit authorized by DEC in July of 2014 for a temporary transfer operation on Long Island.

- d. For any rail transfer station in the state, requires waste in rail cars to be covered by a hard tarp (A.8627 [Markey] in EnCon Com/S.6098 [Addabbo] in Rules Com and A.2130 [Hevesi] in EnCon Com/No Same As in Senate). 1st introduced in 2010 but never passed.

11. Drugs

- a. Authorizes residential health care facilities to return and redistribute unused medication if still in original tamper evident packaging (A.5449 [Englebright] in Health Com/No Same As in Senate). 1st introduced in Assembly in 2007 but never passed.
- b. Requires pharmacies to accept and dispose of unused prescription drugs (A.1001 [Miller] in Health Com/No Same As in Senate). 4th time introduced in Assembly but has never passed.
- c. Establishes a drug repository program to accept and dispense donated prescription drugs (A.2622 [Morelle]/S.6488 [Carlucci] in Higher Education Coms). Introduced in Assembly since 2003 but has never passed.

12. Citizen Lawsuits; Toter Reflections; Take Title; Raptor Protections on LFG Flares; Dredgings as BUD; Farm Pesticides: High Impact Zones; Toxics in Children's Products; Microbead Ban; Bad Actor Ban

- a. Would authorize citizen lawsuits for violations of most environmental laws and regulations (S.1087 [Parker]/A.5802 [Kavanagh] in EnCon Coms). Former Brodsky bill. Tried 21 times before; passed Assembly 10 times (most recently in 2010); never passed in Senate.
- b. Requires reflective materials on curbside collection waste containers (A.2760 [Englebright] in Consumer Affairs Com/No Same As in Senate). 1st introduced in Assembly in 2001 but has never passed.
- c. Authorizes municipalities to take title to solid waste generated within their borders (A.2678 [Englebright] in Local Gov't Com/No Same As in Senate). Introduced in Assembly since 1999 but has never passed.
- d. Requires landfill gas flares to install safer and taller perches for raptors and to attach spikes to all landfill gas flares (A.3289 [Englebright] in EnCon Com/No Same As in Senate). Introduced in Assembly since 2009.
- e. Would classify materials dredged or excavated from waters of the State as beneficial use materials and not solid waste (A.4169 [Brook-Krasny] in EnCon Com/No Same As in Senate). 1st introduced in Assembly in 2011 but never passed.
- f. Establishes a farm pesticide collection program funded by a \$50 fee paid by pesticide businesses (A.5862 [Kavanagh] in EnCon Com/No Same As in Senate). 10th time introduced; passed Assembly twice (2005, 2006) but never passed in Senate.
- g. Requires DEC to publish a report that identifies high impact zones that are most adversely affected by existing environmental hazards (**A.3382 [Peoples-Stokes] passed the Assembly on 5-4-2016/S.959 [Serrano] in EnCon Com**). Introduced in 4 prior legislative sessions; passed in the Assembly this year and last year but died in the Senate both times.
- h. Requires manufacturers to disclose priority chemicals contained in children's products (**A.5612 [Englebright] passed the Assembly on 5-4-2016/S.7507 [Avella] in EnCon Com**). 5th time

NYS Legislative Update As of September 27, 2016

introduced; passed 4 times in Assembly, including this session and last year, but has died in the Senate each time.

- i. Prohibits the distribution and sale of cosmetic products which contain microbeads (A.5896 [Schimel]/S.3932 [O'Mara] in EnCon Coms. 1st introduced last year, when it passed in the Assembly but died in the Senate.
- j. Prohibits violators of solid waste pollution laws from bidding on public solid waste contracts for varying lengths of time based on the number of repeat violations (A.4713 [Colton]/S.5375 [Avella] in EnCon Coms). 14th time introduced in Assembly but never passed.

13. Money Bills

- a. Provides sales tax exemption for transportation of recycled goods (A.4709 [Colton] in Ways & Means Com/S.5376 [Avella] in Finance Com). 10th time introduced in Assembly but has never passed.
- b. Requires 5 cent charge for each plastic bag provided by retailers to their customers and a 5 cent charge for each piece of plastic film that enters the state (A.5607 [Kavanagh] in Ways & Means Com/S.3908 [Marchione] in Gov't Ops Com). Introduced since 2009 but has never passed.

Other Bills That Have Not Yet Been Introduced Include:

- One or more bills that would impose a broad mandate to recycle organics/food waste.
- A bill that would include amendments to the e-waste product stewardship law.

The last session day scheduled for this legislative session was June 16th.