

Bring-Your-Own (BYO) Containers - Targeted Amendment Brief (3 pages)

Purpose

This amendment package clarifies and expands New York State law to explicitly allow customers to use their own food containers for takeout and specified retail food settings, with clear food safety safeguards and liability protection.

Why this is needed

- BYO reuse is widely practiced, but remains legally ambiguous or prohibited in key settings, especially takeout and certain retail food operations.
- Current statute + Food Code barriers push businesses toward single-use packaging even when customers request reuse.
- Clear statutory authorization reduces confusion for small businesses, prevents inconsistent enforcement, and protects public health through defined practices.

Proof of public readiness

[A BYO music short](#) on Instagram released February 4, 2026 by Hila the Earth has surpassed 81,000 views in under two weeks, with strong sharing and saves - clear evidence that reuse is culturally mainstream and ready for policy.

Core provisions (what the amendment does)

- **Establishes BYO as a clear statewide right/permission - not an optional program**
Confirms that customers may use their own containers for takeout (and specified retail settings) under defined food safety conditions, so BYO is the default legal norm rather than a voluntary “opt-in” choice.
- **Explicit authorization for BYO takeout**
Allows customers to provide their own containers for takeout food under defined handling conditions including:
 - reasonable visual inspection for cleanliness and suitability (including appropriate size/material); and
 - no-contact transfer to prevent the customer container from touching shared food-contact surfaces, reducing cross-contamination risk.
- **Inclusion of grocery deli and hot bar contexts**
Extends BYO authorization beyond restaurants to specific retail food settings where

customer containers are currently treated as prohibited, with safeguards. Targets the New York State Department of Agriculture and Markets retail food store sanitation regulations ([1 NYCRR § 271-8.3\(e\)](#)) so BYO is lawful statewide without being delayed or redefined through broad rulemaking.

- **Public health safeguards built into statute**
Requires practices that prevent customer containers from contacting shared food-contact surfaces, consistent with standard food safety norms. Ensures local health departments have clear statutory conditions to rely on rather than ad hoc policies.
- **Liability protection**
Provides a clear liability shield for food service establishments and applicable retail food settings acting in good faith compliance.
- **Operational autonomy for businesses**
Establishments retain discretion to refuse a container for legitimate, case-specific food safety or operational feasibility reasons.
- **Targeted code alignment (not open-ended regulation)**
Directs coordination with the Department of Agriculture and Markets to identify and remove specific conflicting provisions that currently block lawful BYO in defined settings. Does not create broad new rulemaking authority over the BYO policy itself; the core rules are self-executing in statute.

Implementation principle (non-negotiable)

BYO must be **self-executing in statute** as a clear statewide right/permission, not re-framed as an optional “may opt-in” program. “Opt-in” language creates a legal loophole by making refusals unchallengeable and inviting uneven local implementation.

We are seeing alternative draft approaches in circulation that frame takeout BYO as “may opt-in” and add sweeping “implementing regulations” language. That combination is not acceptable because it:

- converts takeout BYO into discretionary participation rather than a normalized right/permission under statewide law
- invites delay and dilution through an administrative process where core policy can be re-litigated
- undermines small business confidence and creates uneven local enforcement

What kind of Assembly sponsor is needed

We are seeking an Assembly member who:

- understands implementation, not just intent
- will carry BYO provisions as drafted in our proposed amendment package (including takeout and defined retail contexts), and keep the core BYO policy self-executing in statute
- has credibility with small businesses and community-scale reuse
- will hold the line during negotiations rather than outsourcing core policy to rulemaking potentially involving industry stakeholders