

## Proposed Amendments to NYS S7408 / A8007 2025

These amendments are proposed to strengthen and expand the effectiveness of [Senate Bill S7408](#) / [Assembly Bill A8007](#), introduced April 15, 2025, by addressing gaps in applicability, implementation, and liability protection. See attached bibliography in the second tab of the Google document, or access it directly [here](#).

### Core asks

1. **Legislative intent section**
2. **Takeout right using “shall not refuse”**
3. **Hot bar / salad bar right using parallel language**
4. **Liability protection**
5. **State and local code conformity**
6. **Coordination with Agriculture & Markets**
7. **Anti-backsliding clause**
8. **Mandatory customer notice**
9. **Community container collection provision**

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**§ 2. Legislative intent.** *(This section is added to the public health law to provide legislative context and rationale for the provisions introduced in § 3 and the subdivisions that follow.)* The legislature finds and declares the following:

1. New Yorkers are increasingly exposed to microplastics, PFAS, and other hazardous chemicals through common single-use food and beverage containers, particularly those made of or lined with plastic and bioplastic. [A growing body of peer-reviewed scientific research](#) has found that these chemicals leach into food—especially hot, greasy, or acidic items—and accumulate in the human body, posing risks to cardiovascular, reproductive, and endocrine health.
  2. Most single-use containers used for takeout and retail food services—including those labeled as compostable or biodegradable—contribute to plastic pollution and chemical exposure, despite appearing environmentally friendly.
  3. The State has an interest in protecting public health and advancing environmental sustainability by reducing reliance on single-use packaging and empowering consumers to make safer choices.
  4. States such as [California](#), [Illinois](#) and [Oregon](#) have already expanded BYO (Bring Your Own container) policies to include restaurant takeout and grocery store deli counters. These examples demonstrate that safe and practical BYO systems are both achievable and effective.
  5. Allowing reusable container use for takeout and prepared foods reduces landfill-bound waste, mitigates lifecycle emissions from plastic production and disposal, and aligns with New York State’s climate and sustainability goals, including those set forth in the Climate Leadership and Community Protection Act (CLCPA).
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§ 3. The public health law is amended by adding a new section 1352-f to read as follows: *(Formerly § 2, renumbered due to insertion of new § 2 on legislative intent.)*

**Amendment 1: Expand BYO for Food Takeout**

Insert the following as a new paragraph (c) under subdivision 2 ("Requirements"):

c. A food service establishment that provides food for takeout **shall not refuse**, on the sole ground that the container is customer-provided, to serve food in a reusable food container provided by the customer in substitution for a disposable container, **provided that**:

(i) the reusable container appears clean and appropriate for the type of food served, based on a reasonable visual inspection of cleanliness, size, and material; and

(ii) the food is transferred in a manner that avoids direct contact between the customer's container and any food-contact surfaces of service equipment or utensils.

**Amendment 1-A: Community Container Collections for Dry Bulk Foods and Beverages**

Insert the following as a new paragraph (d) under subdivision 2 ("Requirements"):

d. A retail food store or food service establishment may permit customers to use reusable containers obtained from a community collection maintained on-site, including but not limited to jars for dry bulk foods and cups or mugs for beverages, provided that:

(i) all containers appear clean, food-grade, and free of visible residues or contamination, based on a reasonable visual inspection by store personnel;

(ii) containers from the community collection are clearly designated as community-donated, customer-selected containers, segregated from new unused containers, and not represented as supplied or sanitized by the establishment; and

(iii) signage is posted near the collection area stating that containers are donated by community members, must be washed by the person donating them before being placed in the bin, and must be visually inspected by customers before use.

**State and local code conformity.**

Notwithstanding any inconsistent provision of state or local law, including but not limited to 1 NYCRR § 271-2.26 and 1 NYCRR § 271-8.3(e) (New York State Department of Agriculture and Markets retail food store sanitation regulations), and 24 RCNY § 81.46 (New York City Health Code), the provisions of this paragraph shall govern the use of reusable food and beverage containers from community collections in retail food stores and food service establishments.

**Amendment 1-B: BYO Containers for Salad Bars and Hot Bars**

Insert the following as a new paragraph (e) under subdivision 2 ("Requirements"):

e. A retail food store or food service establishment that offers self-service salad bars, hot bars, or other temperature-controlled prepared foods **shall not refuse**, on the sole ground that the container is customer-provided, to permit a customer to use a reusable food container in substitution for a disposable container, provided that::

- (i) the container appears clean and appropriate for the type of food served, based on a reasonable visual inspection by store personnel;
- (ii) the container is used in a manner that avoids direct contact with food pans, utensils, or other food-contact surfaces, beyond those utensils provided for normal service; and
- (iii) clear signage is posted at the point of service stating that reusable containers are permitted only if they do not touch food pans or utensils.

#### **Amendment 2: Liability Protection for Food Service Establishments and Retail Food Stores**

Insert the following as a new subdivision 4 titled “Liability”:

##### **4. Liability.**

Nothing in this section shall be construed to impose liability on a food service establishment or retail food stores that, in good faith, accepts a reusable container provided by a customer, including claims related to foodborne illness, alleged contamination, or the condition, safety, or integrity of the container, provided the establishment complies with the applicable provisions of this section.

#### **Amendment 3: Autonomy for Food Establishments**

Insert the following as a new paragraph (5) under subdivision 2:

5. Nothing in this section shall require a food service establishment or retail food store to accept a reusable container if, upon reasonable visual inspection, the container appears unclean, damaged, or inappropriate for the food to be served, or if the requested manner of service would require direct contact between the container and food-contact surfaces of service equipment or utensils, or would otherwise create a specific food safety risk.

#### **Amendment 4: Update Signage Requirements in Subdivision 3**

*\*\*Modify subdivision 3 as follows: (Former paragraphs a .and b. are repealed and consolidated into a single provision to reflect Amendment 3.)*

##### **3. Notification.**

Every food service establishment in the state that serves food and beverages to customers in single-use containers shall make available clear notice to customers that they are permitted to request the service in their own reusable containers, both for takeout and leftovers from partially consumed meals in their own reusable food containers, consistent with the provisions of this section.

## **Amendment 5: Coordination with Department of Agriculture and Markets**

Insert the following as a new § 4. (renumber current § 3 as § 6):

§ 4. Within twelve months of the effective date of this section, the commissioner shall consult with the Department of Agriculture and Markets and shall transmit recommended regulatory amendments to remove state regulatory barriers to consumer-provided reusable containers in retail food settings, including repeal of [1 NYCRR § 271-8.3\(e\)](#) and any other provisions that prohibit or unreasonably restrict such containers. Any regulation or code provision adopted pursuant to this section shall not impose requirements on the use of reusable containers that are more restrictive than the provisions of this section.

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**§ 5. This act shall take effect one year after it shall have become a law.**

*(Renumbered current § 3 as § 5.)*