

LOCAL LAW NO. "B" FOR 2013

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ESTABLISHING THE TELEPHONE DIRECTORY REDUCTION AND RECYCLING ACT OF 2013

Introduced: 3/11/13

By Mr. Higgins:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

Section 1. Legislative Intent

Despite their usefulness, telephone directories have become a significant portion of the waste stream, estimated at 650,000 tons yearly in the United States. The number of directories delivered to households and businesses has increased as publishers and distributors compete for attention.

Most households or businesses receive unsolicited multiple directories. These unwanted and unused publications are generating excessive and unnecessary waste.

A 2006 EPA study, Solid Waste Management and Greenhouse Gases, found that every ton of reduction of phone book generation eliminates GHG emissions of 1.72 metric tons of carbon equivalent (MTCE). Additionally, for every ton of recovered material used in place of virgin material for the manufacturing of new phone books, GHG emissions are reduced by 0.72 MTCE.

This legislation would require that, to the maximum extent possible, the directories be printed on paper that is recyclable and contains not less than 30% post-consumer recycled fiber, use inks that contain no heavy metals or other toxic material and be bound with materials that pose no unreasonable barriers to recycling such directories.

The highest priority in the solid waste hierarchy is prevention or avoidance of waste generation. This law should significantly reduce the number of telephone directories entering the waste stream by limiting delivery to only those who want them. The second highest priority in the solid waste hierarchy is waste recovery -- recovering phone books for reuse or recycling achieves that goal.

It is the desire of the Albany County Legislature to reduce and eliminate unwanted and unsolicited telephone directories by requiring distributors of these directories to notify recipients of the option and means to decline delivery of these publications. This legislation would also require that, to the maximum extent

practicable, the directories be printed on paper that is recyclable and contains not less than 30% post-consumer recycled fiber, use inks that contain no heavy metals or other toxic material and be bound with materials that pose no unreasonable barriers to recycling such directories.

Section 2. Definitions

As used in this Local Law:

1. "Distributor" shall mean any person or entity engaged in the distribution of telephone directories to the general public.
2. "Telephone directory" shall mean a printed publication listing:
 - a. the names, addresses and telephone numbers of businesses by type and containing advertisements promoting those businesses or the products they sell; and/or
 - b. the names, addresses and telephone numbers of individuals, businesses and government listings in alphabetical order.

Section 3. Distributor Responsibilities

1. Every distributor shall ensure that each telephone directory provided to the general public shall:
 - a. to the maximum extent practicable be printed on paper that is recyclable and contain not less than thirty percent post-consumer recycled fiber;
 - b. to the maximum extent practicable be printed with inks that contain no heavy metals or other toxic materials;
 - c. be bound with materials that pose no unreasonable barriers to recycling the telephone directory;
 - d. include a conspicuous notice which shall be consistent with any guidelines established by a local municipality within Albany County that provides information on the appropriate means of recycling discarded telephone directories; and
 - e. include a conspicuous notice, in accordance with the provisions of section three hundred thirty-six of the New York State General Business Law, that indicates how a consumer may decline to receive future directories.

2. Every telephone directory distributed within Albany County to members of the general public or in any municipality thereof, which lists the calling numbers of telephones of any telephone exchange located in this state shall contain a conspicuous notice providing information in clear, concise language that the consumer may “opt-out” by declining receipt of future print directories. Such notice shall also include the toll-free telephone number and internet web site address that an individual may use to decline receipt of future print directories. In addition, the distributor may include a prepaid postcard with the directory that may be used to decline receipt of future print directories.

(a) The provisions of this subdivision shall not apply to the distribution of residential white page directories by a telephone corporation providing local exchange service in this state that, pursuant to a waiver from the public service commission of its rules regarding distribution of such directories, is authorized to discontinue distribution of printed directories to customers who have not “opted-in” by indicating a preference to receive such printed directories, provided that the waiver includes such conditions as the commission deems appropriate to ensure the provision of notification that reaches all customers of their option to receive delivery of such directories.

3. Upon notification that delivery of a print telephone directory has been declined as provided in Subdivision 2 of this local law, the distributor shall discontinue directory delivery to the declining consumer. A distributor may comply with this subdivision by reducing the number of directories delivered to a multiple dwelling by the number of occupants declining such delivery.

4. Notwithstanding the provisions of subdivision one of this section, a distributor may resume directory delivery to an individual who has previously declined delivery, provided that such individual requests resumption of delivery by use of the distributor's toll-free telephone number or internet web site address or by other written request.

Section 4. Penalties

Failure to comply with Section 3 above shall constitute a violation, punishable by a fine which shall not exceed five hundred dollars (\$500), or imprisonment not exceeding fifteen (15) days or a combination of such fine and imprisonment as shall be fixed by the court.

Whenever the court shall determine that a violation of this local law has occurred, the court may impose a civil penalty of not more than five hundred dollars (\$500) for a single violation and not more than two thousand five hundred dollars (\$2,500) for multiple violations resulting from a single act or incident. No person, firm, partnership, association or corporation shall be deemed to have violated the

provisions of this section if such person, firm, partnership, association or corporation shows, by a preponderance of the evidence, that the violation was not intentional and resulted from a bona fide error made notwithstanding the maintenance of procedures reasonably adopted to avoid such error.

Section 5. Preemption

If any part or provision of this section is inconsistent with any Federal or State statute, law, rule or regulation, then such statute, law, rule or regulation shall prevail.

If any part or provision of this Section or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances.

Section 6. Reverse Preemption

This law shall be null and void on the day that Statewide or Federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent State or Federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The Albany County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 7. Effect on other Laws

The provision of Section 3 of this Law, shall not in any way affect the application of any other Law, where appropriate, including, but not limited to, New York State General Business Law §336.

Section 8. Effective Date

This act shall take effect six months after it shall have become a law.

Referred to Public Works and Audit and Finance Committees. 3/11/13