

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law and the education law,
in relation to establishing the New York calcium purchasing preference
initiative

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 calcium purchasing preference initiative".
3 S 2. Section 16 of the agriculture and markets law is amended by
4 adding a new subdivision 5-c to read as follows:
5 5-C. ESTABLISH, IN COOPERATION WITH THE COMMISSIONER OF EDUCATION,
6 THE NEW YORK CALCIUM PURCHASING PREFERENCE INITIATIVE. THE PURCHASING
7 AGENT FOR ANY GOVERNMENTAL ENTITY WHICH PURCHASES FOOD OR BEVERAGES TO
8 BE PROCESSED OR SERVED IN A BUILDING OR ROOM OWNED OR OPERATED BY SUCH
9 GOVERNMENTAL ENTITY SHALL GIVE PREFERENCE TO FOODS AND BEVERAGES THAT:
10 (A) CONTAIN A HIGHER LEVEL OF CALCIUM THAN PRODUCTS OF THE SAME TYPE
11 AND QUALITY; AND
12 (B) ARE EQUAL TO OR LOWER IN PRICE THAN PRODUCTS OF THE SAME TYPE AND
13 QUALITY.
14 FOR THE PURPOSES OF THIS SUBDIVISION, "GOVERNMENTAL ENTITY" SHALL
15 MEAN:
16 (A) THE STATE OF NEW YORK;
17 (B) A COUNTY, CITY, TOWN, VILLAGE OR ANY OTHER POLITICAL SUBDIVISION
18 OR CIVIL SUBDIVISION OF THE STATE;
19 (C) A SCHOOL DISTRICT OR ANY GOVERNMENTAL ENTITY OPERATING A PUBLIC
20 SCHOOL, COLLEGE OR UNIVERSITY;
21 (D) A PUBLIC AUTHORITY, COMMISSION OR PUBLIC BENEFIT CORPORATION;
22 (E) AN AGENCY, BOARD, BUREAU, DIVISION, COMMITTEE, INSTITUTION, COUN-
23 CIL, OR OFFICE; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD01417-01-1

1 (F) ANY OTHER GOVERNMENTAL ENTITY OR INSTRUMENTALITY PERFORMING
2 PROPRIETARY FUNCTION FOR THE STATE, EXCEPT THE LEGISLATURE AND JUDICI-
3 ARY.

4 A PURCHASING AGENT SHALL NOT BE REQUIRED TO PURCHASE A HIGH CALCIUM
5 FOOD OR BEVERAGE FOR ANY GOVERNMENTAL ENTITY IF SUCH PREFERRED FOOD OR
6 BEVERAGE WILL INTERFERE WITH THE TREATMENT OR CARE OF ANY PERSON.

7 THE DEPARTMENT SHALL SOLICIT INFORMATION FROM THE EDUCATION DEPARTMENT
8 REGARDING SCHOOL DISTRICTS AND OTHER EDUCATIONAL INSTITUTIONS PURCHASING
9 PREFERRED FOODS AND BEVERAGES IN ACCORDANCE WITH THIS SUBDIVISION.

10 NOTWITHSTANDING ANY PROVISIONS OF THIS SUBDIVISION TO THE CONTRARY, A
11 PURCHASING AGENT WHO HAS ENTERED INTO A CONTRACT WITH A SUPPLIER BEFORE
12 JULY FIRST, TWO THOUSAND ELEVEN TO PURCHASE FOOD AND BEVERAGES SHALL NOT
13 BE REQUIRED TO PURCHASE HIGH CALCIUM FOODS AND BEVERAGES IF PURCHASING
14 SUCH PRODUCTS CHANGE OR ALTER THE TERMS OF THE CONTRACT.

15 THE COMMISSIONER SHALL REPORT TO THE LEGISLATURE ON THE NEED FOR
16 CHANGES IN LAW TO FACILITATE THE PURCHASES OF SUCH FOODS AND BEVERAGES
17 BY A GOVERNMENTAL ENTITY.

18 S 3. Section 305 of the education law is amended by adding a new
19 subdivision 42 to read as follows:

20 42. THE COMMISSIONER SHALL COOPERATE WITH THE COMMISSIONER OF AGRICUL-
21 TURE AND MARKETS IN ESTABLISHING THE NEW YORK CALCIUM PURCHASING PREFER-
22 ENCE INITIATIVE PURSUANT TO SUBDIVISION FIVE-C OF SECTION SIXTEEN OF THE
23 AGRICULTURE AND MARKETS LAW. THE COMMISSIONER'S RESPONSIBILITIES SHALL
24 INCLUDE, BUT NOT BE LIMITED TO, COMPILING INFORMATION FOR THE DEPARTMENT
25 OF AGRICULTURE AND MARKETS FROM SCHOOL DISTRICTS AND OTHER EDUCATIONAL
26 INSTITUTIONS UNDER THE DEPARTMENT'S JURISDICTION PURCHASING PREFERRED
27 FOODS AND BEVERAGES. THE COMMISSIONER SHALL REPORT TO THE LEGISLATURE
28 ABOUT THE NEED FOR CHANGES IN LAW TO FACILITATE THE PURCHASE OF SUCH
29 FOOD AND BEVERAGES BY SCHOOLS AND OTHER EDUCATIONAL INSTITUTIONS.

30 S 4. This act shall take effect immediately; provided, however, that
31 the commissioner of agriculture and markets and the commissioner of
32 education are authorized to promulgate any and all rules and regulations
33 necessary to implement the provisions of this act on or before such
34 effective date.