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I N   S E N A T E

April 17, 2012

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Introduced by Sens. CARLUCCI, KENNEDY, KLEIN, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to establishing the Shop: Pride of New York program for wholesale and retail sellers of food and food products produced in New York state

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

1     Section 1. The agriculture and markets law is amended by adding a new  
2     section 156-j to read as follows:  
3     S 156-J.     SHOP: PRIDE OF NEW YORK.     1. DEFINITIONS. AS USED IN THIS  
4     SECTION, THE FOLLOWING TERMS SHALL MEAN:  
5     (A) "NEW YORK PRODUCT" MEANS (I) NEW YORK STATE GROWN FARM PRODUCT  
6     PACKED WITHIN THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTAB-  
7     LISHED AS PROVIDED BY THIS ARTICLE, ARTICLE THIRTEEN, ARTICLE THIR-  
8     TEEN-A, ARTICLE THIRTEEN-B, ARTICLE THIRTEEN-C AND ARTICLE THIRTEEN-D OF  
9     THIS CHAPTER OR ANY NEW YORK STATE PRODUCED OR LANDED AQUATIC PRODUCT,  
10    SUBJECT TO AND IN ACCORDANCE WITH RULES AND REGULATIONS TO BE PROMULGAT-  
11    ED BY THE COMMISSIONER; OR  
12    (II) ANY NEW YORK STATE PROCESSED FOOD PRODUCT, MANUFACTURED WITHIN  
13    THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTABLISHED BY THE  
14    COMMISSIONER PURSUANT TO REGULATION, WHICH IS ESSENTIALLY COMPOSED OF  
15    NEW YORK STATE GROWN FARM PRODUCTS, PROVIDED, HOWEVER, THAT WHENEVER THE  
16    COMMISSIONER DETERMINES, AFTER PUBLIC HEARING, THAT THE USE OF INGREDI-  
17    ENTS NOT GROWN OR PRODUCED IN THIS STATE IS NECESSARY OR BENEFICIAL IN  
18    MANUFACTURING A PARTICULAR PRODUCT BECAUSE SUCH INGREDIENTS ARE EITHER  
19    NOT GROWN IN NEW YORK OR UNAVAILABLE IN SUFFICIENT QUANTITY OR AT A  
20    REASONABLE PRICE TO ALLOW THE PRODUCT TO BE COMPOSED OF ONLY NEW YORK  
21    STATE GROWN FARM PRODUCTS, THE STANDARD FOR SUCH PRODUCT MAY AUTHORIZE  
22    THE INCLUSION OF INGREDIENTS NOT PRODUCED IN THIS STATE, EXCEPT THAT IN  
23    NO EVENT SHALL AN OFFICIAL BRAND OR MARK BE APPROVED FOR USE ON A FOOD

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

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1 PRODUCT UNLESS AT LEAST FIFTY-ONE PERCENT OF ITS CONTENT IS DERIVED FROM  
2 NEW YORK STATE GROWN FARM PRODUCTS.

3 (B) "FOOD SELLER" MEANS ANY PERSON OR ENTITY REGULARLY ENGAGED IN THE  
4 SALE OF FOOD AND/OR FOOD PRODUCTS.

5 2. THE COMMISSIONER SHALL DESIGN, DETERMINE AND ADOPT AN OFFICIAL LOGO  
6 FOR SHOP: PRIDE OF NEW YORK FOOD SELLERS WHICH MAY BE DISPLAYED UPON THE  
7 PREMISES OF FOOD SELLERS DESIGNATED PURSUANT TO THIS SECTION. SUCH  
8 LOGO, WHEN ADOPTED BY THE COMMISSIONER, MAY BE REGISTERED AS A TRADEMARK  
9 IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO ARTICLE TWENTY-FOUR  
10 OF THE GENERAL BUSINESS LAW OR ANY OTHER PROVISION OF LAW RELATING TO  
11 THE REGISTRATION OF TRADEMARKS. SUCH TRADEMARK SHALL BE REGISTERED BY  
12 THE SECRETARY OF STATE WITHOUT EXTRACTION OF ANY FEE THEREFOR. THE  
13 COMMISSIONER MAY, IN HIS OR HER DISCRETION, REGISTER SUCH MARK WITH THE  
14 UNITED STATES GOVERNMENT AND ANY OTHER STATE OR FOREIGN COUNTRY.

15 3. A RETAIL FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS  
16 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK FOOD SELLER, IF SUCH  
17 RETAIL FOOD SELLER SELLS OR OFFERS FOR SALE AT LEAST TWENTY DIFFERENT  
18 FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS. AT THE TIME OF  
19 APPLICATION, A ONE-TIME APPLICATION FEE OF TWENTY-FIVE DOLLARS SHALL BE  
20 PAID TO THE DEPARTMENT. EVERY APPLICANT FOR DESIGNATION PURSUANT TO  
21 THIS SECTION SHALL INCLUDE IN HIS OR HER APPLICATION A LIST OF NEW YORK  
22 PRODUCTS SOLD ANNUALLY, THE NAMES OF THE NEW YORK PRODUCT PRODUCERS FROM  
23 WHOM SUCH PRODUCTS WERE PURCHASED, AND A ONE SENTENCE DESCRIPTION OF ITS  
24 BUSINESS. THE COMMISSIONER MAY, BASED UPON THE PRODUCERS NAMED IN EACH  
25 APPLICATION, VERIFY THAT THE PRODUCTS SOLD BY THE APPLICANT ARE NEW YORK  
26 PRODUCTS. IF THE COMMISSIONER FINDS THAT THE APPLICANT'S BUSINESS  
27 COMPLIES WITH THE STANDARDS ESTABLISHED IN THIS SUBDIVISION HE OR SHE  
28 SHALL DESIGNATE THE RETAIL FOOD SELLER AS A SHOP: PRIDE OF NEW YORK FOOD  
29 SELLER. APPLICANTS RECEIVING SUCH DESIGNATION WITHIN ONE YEAR OF THE  
30 EFFECTIVE DATE OF THIS SECTION SHALL BE PROVIDED WITH OFFICIAL SHOP:  
31 PRIDE OF NEW YORK ADVERTISING AND PROMOTIONAL MATERIALS FREE OF CHARGE.  
32 THEREAFTER, THE COMMISSIONER SHALL PROVIDE SUCH MATERIALS, AS HE OR SHE  
33 DEEMS NECESSARY, TO FULFILL THE GOALS AND PURPOSES OF THE SHOP: PRIDE OF  
34 NEW YORK PROGRAM.

35 4. A WHOLESALE FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS  
36 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK WHOLESALER, IF SUCH  
37 WHOLESALE FOOD SELLER SELLS OR OFFERS FOR SALE SUCH QUANTITIES AND TYPES  
38 OF FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS, AS SHALL BE  
39 ESTABLISHED IN THE RULES OF THE DEPARTMENT. AT THE TIME OF APPLICATION,  
40 A ONE-TIME APPLICATION FEE OF TWENTY-FIVE DOLLARS SHALL BE PAID TO THE  
41 DEPARTMENT. EVERY APPLICANT FOR DESIGNATION PURSUANT TO THE SUBDIVISION  
42 SHALL INCLUDE IN HIS OR HER APPLICATION A LIST OF NEW YORK PRODUCTS SOLD  
43 ANNUALLY, THE NAMES OF THE NEW YORK PRODUCT PRODUCERS FROM WHOM SUCH  
44 PRODUCTS WERE PURCHASED, AND A ONE SENTENCE DESCRIPTION OF ITS BUSINESS.  
45 THE COMMISSIONER MAY, BASED UPON THE PRODUCERS NAMED IN EACH APPLICA-  
46 TION, VERIFY THAT THE PRODUCTS SOLD BY THE APPLICANT ARE NEW YORK  
47 PRODUCTS. IF THE COMMISSIONER FINDS THAT THE APPLICANT COMPLIES WITH THE  
48 STANDARDS ESTABLISHED IN THIS SUBDIVISION, HE OR SHE SHALL DESIGNATE THE  
49 WHOLESALE FOOD SELLER AS A SHOP: PRIDE OF NEW YORK WHOLESALER. APPLI-  
50 CANTS RECEIVING SUCH DESIGNATION WITHIN ONE YEAR OF THE EFFECTIVE DATE  
51 OF THIS SECTION SHALL BE PROVIDED WITH OFFICIAL SHOP: PRIDE OF NEW YORK  
52 ADVERTISING AND PROMOTIONAL MATERIALS FREE OF CHARGE. THEREAFTER, THE  
53 COMMISSIONER SHALL PROVIDE SUCH MATERIALS, AS HE OR SHE DEEMS NECESSARY,  
54 TO FULFILL THE GOALS AND PURPOSES OF THE SHOP: PRIDE OF NEW YORK  
55 PROGRAM.

1       5.     THE DEPARTMENT SHALL ESTABLISH, ON ITS DEPARTMENTAL INTERNET  
2 WEBSITE, A LINK DEDICATED TO THE SHOP: PRIDE OF NEW YORK PROGRAM. SUCH  
3 LINK SHALL INCLUDE THE NAME, LOCATION AND HOURS OF OPERATION OF EACH  
4 SHOP: PRIDE OF NEW YORK DESIGNATED FOOD SELLER, AND THE SINGLE SENTENCE  
5 DESCRIPTION OF THE FOOD SELLER'S BUSINESS THAT WAS INCLUDED IN ITS  
6 APPLICATION. FURTHERMORE, THE DEPARTMENT, IN COOPERATION WITH THE  
7 DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE REGIONAL OFFICES OF SUCH  
8 DEPARTMENT, SHALL ENGAGE IN THE PROMOTION OF SHOP: PRIDE OF NEW YORK  
9 DESIGNATED FOOD SELLERS.

10       6.     THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS HE  
11 OR SHE DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

12       S 2. This act shall take effect on the first of January next succeed-  
13 ing the date on which it shall have become a law, provided, that, effec-  
14 tive immediately, any rules and regulations necessary to implement the  
15 provisions of this act on its effective date are authorized and directed  
16 to be promulgated on or before such date.