S T A T E O F N E W Y O R K

9128

I N A S S E M B L Y

January 25, 2012

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the Committee on Agriculture

AN ACT to amend the administrative code of the city of New York, in relation to granting concurrent jurisdiction to the city of New York department of health and mental hygiene over grocery stores and farmers markets

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

section 1. The administrative code of the city of New York is amended by adding a new section 17-198 to read as follows:

S 17-198 JURISDICTION OVER GROCERY STORES AND FARMER'S MARKETS. THE DEPARTMENT IS AUTHORIZED TO EXERCISE ITS POWERS OVER GROCERY STORES AND FARMER'S MARKETS WITHIN THE GEOGRAPHICAL LIMIT OF ITS JURISDICTION. SUCH JURISDICTION SHALL BE EXERCISED CONCURRENTLY WITH THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS. IN ADDITION TO THE POWERS ENUMERATED IN THIS TITLE, THE DEPARTMENT, WITH RESPECT TO GROCERY STORES AND FARMER'S MARKETS, SHALL EXERCISE THE FOLLOWING POWERS CONCURRENTLY WITH THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND MARKETS:

A. EXECUTE AND CARRY INTO EFFECT THE LAWS OF THE STATE AND THE RULES OF THE DEPARTMENT, RELATIVE TO AGRICULTURE, HORTICULTURE, FARM, FRUIT, AND DAIRY PRODUCTS, AQUACULTURE, AND THE PRODUCTION, PROCESSING, TRANSPORTATION, STORAGE, MARKETING AND DISTRIBUTING OF FOOD; ENFORCE AND CARRY INTO EFFECT THE PROVISIONS OF THE LAWS OF THE STATE RELATIVE TO HEALTH AND SAFETY.

B. INVESTIGATE THE SOURCES OF FOOD SUPPLY FOR THE STATE, THE PRODUCTION, TRANSPORTATION, STORAGE, MARKETING AND DISTRIBUTION OF FOOD SOLD, OFFERED FOR SALE, STORED OR HELD WITHIN THE STATE, THE COST OF TRANSPORTATION TO THE LEADING CENTERS OF POPULATION AND OF DISTRIBUTION TO CONSUMERS.

C. COLLECT AND DISSEMINATE ACCURATE DATA AND STATISTICS AS TO THE FOOD PRODUCED, STORED OR HELD WITHIN THE STATE, THE QUANTITIES AVAILABLE FROM TIME TO TIME AND THE LOCATION THEREOF, AND SO FAR AS PRACTICABLE AND AVAILABLE COLLECT SUCH LIKE STATISTICS FROM WITHOUT THE STATE, AS ARE OF VALUE TO PRODUCERS AND CONSUMERS WITHIN THE STATE.

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

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D. INVESTIGATE DELAYS IN TRANSPORTATION, AND IN CASE FOOD IS LIKELY TO SPOIL FOR LACK OF READY MARKET, TAKE SUCH ACTION AS SEEMS ADVISABLE FOR FACILITATING THE SALE THEREOF.

E. ADVISE AND CO-OPERATE IN ESTABLISHING LOCAL MARKETS, AND WAREHOUSES FOR ASSEMBLING, GRADING, PACKING AND STORING FOOD OR FARM PRODUCTS, WHENEVER IN THE JUDGMENT OF THE COMMISSIONER THE PUBLIC INTERESTS REQUIRE SUCH ESTABLISHMENT.

F. CO-OPERATE WITH PRODUCERS IN THE CONDUCT OF EXPERIMENTS AND DISSEMINATE INFORMATION AS TO PRODUCING, ASSEMBLING, GRADING, PACKING, DISTRIBUTING AND SELLING FARM PRODUCTS, SO AS TO DEMONSTRATE ECONOMIC AND EFFICIENT METHODS, AND TO STANDARDIZE THE GRADES OF SUCH PRODUCTS AND DETERMINE THE COST OF SUCH PRODUCTION, ASSEMBLING, GRADING, PACKING, DISTRIBUTION AND SALE.

G. COLLECT AND PUBLISH DATA CONCERNING THE PURITY, WHOLESOMENESS, ECONOMIC VALUE AND THE NUTRITIOUS AND HYGIENIC PROPERTIES OF FOOD PRODUCED, SOLD OR AVAILABLE FOR SALE WITHIN THE STATE, AND FOR SUCH PURPOSE TO TAKE, EXAMINE AND ANALYZE SAMPLES OF SUCH FOOD.

H. INVESTIGATE DECEPTIONS IN THE QUALITY, QUANTITY OR CHARACTER OF FOODS PRODUCED, STORED, SOLD OR OFFERED FOR SALE WITHIN THE STATE, INCLUDING THE ADULTERATION AND MISBRANDING THEREOF.

I. INSPECT AND DETERMINE THE GRADE OR CONDITION OF FARM PRODUCTS AT SHIPPING POINTS AND RECEIVING CENTERS, AND PROVIDE FOR THE ISSUANCE OF CERTIFICATES OF SUCH INSPECTIONS AND ENTER INTO CO-OPERATIVE ARRANGEMENTS WITH STATE AND FEDERAL MARKETING AGENCIES FOR JOINT INSPECTIONS. THE COMMISSIONER SHALL REQUIRE AND RECEIVE THE PAYMENT OF FEES FOR SUCH INSPECTION SERVICES IN AMOUNTS NOT EXCEEDING THE ESTIMATED COST OF THE SERVICES. THE COMMISSIONER SHALL REMIT TO THE STATE TREASURER SUCH FEES RECEIVED MONTHLY.

J. INSPECT AND DETERMINE THE GRADE OR CONDITION OF FARM PRODUCTS, ISSUE CERTIFICATES OF SUCH INSPECTIONS AND PROVIDE QUALITY CONTROL SERVICES FOR GROWERS, CANNERS, PROCESSORS, PACKERS, SHIPPERS, SELLERS, BUYERS, RETAILERS AND RECEIVERS UPON REQUEST THEREFOR; ENTER INTO COOPERATIVE ARRANGEMENTS WITH STATE AND FEDERAL AGENCIES, OR PERSONS OR ORGANIZATIONS AUTHORIZED BY A FEDERAL AGENCY TO CONDUCT FARM PRODUCTS INSPECTIONS, FOR JOINT INSPECTIONS; ENTER INTO CONTRACTS WITH APPLICANTS FOR SUCH INSPECTIONS AND SERVICES, WHICH CONTRACTS SHALL REQUIRE PAYMENT BY APPLICANTS OF THE FULL COSTS OF THE SERVICES PROVIDED. ALL MONEYS RECEIVED BY THE COMMISSIONER PURSUANT TO SUCH CONTRACTS SHALL BE DEPOSITED IN AN ACCOUNT WITHIN THE MISCELLANEOUS SPECIAL REVENUE FUND AND SHALL BE USED TO DEFRAY THE EXPENSES INCIDENTAL TO CARRYING OUT THE POWERS AND DUTIES AUTHORIZED BY THIS SUBDIVISION. THE STATE'S FINANCIAL CONTRIBUTION TO THE PEST CONTROL COMPACT ADOPTED PURSUANT TO SECTION ONE HUNDRED FORTY-NINE OF THE AGRICULTURE AND MARKETS LAW MAY BE PAID OUT OF THE PORTION OF SAID MONEYS RECEIVED BY THE COMMISSIONER FOR PHYTOSANITARY INSPECTIONS. ALL MONEYS SHALL BE PAID OUT OF SUCH FUND ON VOUCHERS APPROVED BY THE COMMISSIONER, AFTER AUDIT BY THE COMPTROLLER.

K. SEIZE, DESTROY OR DENATURE SO THAT IT CANNOT THEREAFTER BE USED FOR FOOD, ANY UNWHOLESOME FOOD OR FOOD PRODUCTS SOLD OR EXPOSED FOR SALE ON THE MARKETS OF THIS STATE, OR ANY FOOD OR FOOD PRODUCTS CONSISTING IN WHOLE OR IN PART OF ANY FILTHY, DECOMPOSED OR PUTRID ANIMAL OR VEGETABLE SUBSTANCE, OR ANY PORTION OF AN ANIMAL UNFIT FOR FOOD, WHETHER MANUFACTURED OR NOT, OR IF IT IS THE PRODUCT OF A DISEASED ANIMAL OR ONE THAT HAS DIED OTHERWISE THAN BY SLAUGHTER. PROVIDED, HOWEVER, THAT THE COMMISSIONER OF AGRICULTURE AND MARKETS AFTER SEIZURE AND BEFORE SUCH DESTRUCTION, SHALL GIVE THE OWNER, PROPRIETOR OR CUSTODIAN OF SUCH FOOD TEN DAYS NOTICE IN WRITING, TO BE SERVED EITHER PERSONALLY OR BY MAIL,

OF A HEARING FOR THE SAID OWNER, PROPRIETOR OR CUSTODIAN TO SHOW CAUSE WHY SUCH FOOD SHOULD NOT BE DESTROYED.

L. INVESTIGATE, INSPECT AND SUPERVISE THE SALE AND EXPOSURE FOR SALE OF MEAT AND MEAT PREPARATIONS AND ENFORCE THE PROVISIONS OF SECTIONS TWO HUNDRED ONE-A, TWO HUNDRED ONE-B AND TWO HUNDRED ONE-C OF THE AGRICULTURE AND MARKETS LAW RELATING THERETO, DESIGNATE AN EMPLOYEE OF THE DEPARTMENT AS "DIRECTOR OF KOSHER LAW ENFORCEMENT" AND TO MAKE SUCH RULES AND REGULATIONS IMPOSING SUCH ADDITIONAL REQUIREMENTS AND RESTRICTIONS UPON SUCH SALE AND EXPOSURE FOR SALE AS MAY BE DEEMED NECESSARY IN CONNECTION WITH OR IN AID OF THE PROPER ADMINISTRATION AND ENFORCEMENT OF SUCH PROVISIONS AND OF ANY OTHER APPLICABLE LAWS.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.