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

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I N S E N A T E

April 17, 2012

Introduced by Sens. CARLUCCI, KLEIN, SAVINO, VALESKY -- 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, 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:

Section 1. The agriculture and markets law is amended by adding a new section 156-j to read as follows:

S 156-J. SHOP: PRIDE OF NEW YORK. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL MEAN:

(A) "NEW YORK PRODUCT" MEANS (I) NEW YORK STATE GROWN FARM PRODUCT PACKED WITHIN THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTABLISHED AS PROVIDED BY THIS ARTICLE, ARTICLE THIRTEEN, ARTICLE THIRTEEN-A, ARTICLE THIRTEEN-B, ARTICLE THIRTEEN-C AND ARTICLE THIRTEEN-D OF THIS CHAPTER OR ANY NEW YORK STATE PRODUCED OR LANDED AQUATIC PRODUCT, SUBJECT TO AND IN ACCORDANCE WITH RULES AND REGULATIONS TO BE PROMULGATED BY THE COMMISSIONER; OR

(II) ANY NEW YORK STATE PROCESSED FOOD PRODUCT, MANUFACTURED WITHIN THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTABLISHED BY THE COMMISSIONER PURSUANT TO REGULATION, WHICH IS ESSENTIALLY COMPOSED OF NEW YORK STATE GROWN FARM PRODUCTS, PROVIDED, HOWEVER, THAT WHENEVER THE COMMISSIONER DETERMINES, AFTER PUBLIC HEARING, THAT THE USE OF INGREDIENTS NOT GROWN OR PRODUCED IN THIS STATE IS NECESSARY OR BENEFICIAL IN MANUFACTURING A PARTICULAR PRODUCT BECAUSE SUCH INGREDIENTS ARE EITHER NOT GROWN IN NEW YORK OR UNAVAILABLE IN SUFFICIENT QUANTITY OR AT A REASONABLE PRICE TO ALLOW THE PRODUCT TO BE COMPOSED OF ONLY NEW YORK STATE GROWN FARM PRODUCTS, THE STANDARD FOR SUCH PRODUCT MAY AUTHORIZE THE INCLUSION OF INGREDIENTS NOT PRODUCED IN THIS STATE, EXCEPT THAT IN NO EVENT SHALL AN OFFICIAL BRAND OR MARK BE APPROVED FOR USE ON A FOOD PRODUCT UNLESS AT LEAST FIFTY-ONE PERCENT OF ITS CONTENT IS DERIVED FROM NEW YORK STATE GROWN FARM PRODUCTS.

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

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

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

3. A RETAIL FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK FOOD SELLER, IF SUCH RETAIL FOOD SELLER SELLS OR OFFERS FOR SALE AT LEAST TWENTY DIFFERENT FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS. EVERY APPLICANT FOR DESIGNATION PURSUANT TO THIS SECTION SHALL INCLUDE IN HIS OR HER APPLICATION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE NEW YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A ONE SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED UPON THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS SOLD BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS THAT THE APPLICANT'S BUSINESS COMPLIES WITH THE STANDARDS ESTABLISHED IN THIS SUBDIVISION HE OR SHE SHALL DESIGNATE THE RETAIL FOOD SELLER AS A SHOP: PRIDE OF NEW YORK FOOD SELLER. APPLICANTS RECEIVING SUCH DESIGNATION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE PROVIDED WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMOTIONAL MATERIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL PROVIDE SUCH MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE GOALS AND PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

4. A WHOLESALE FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK WHOLESALER, IF SUCH WHOLESALE FOOD SELLER SELLS OR OFFERS FOR SALE SUCH QUANTITIES AND TYPES OF FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS, AS SHALL BE ESTABLISHED IN THE RULES OF THE DEPARTMENT. EVERY APPLICANT FOR DESIGNATION PURSUANT TO THE SUBDIVISION SHALL INCLUDE IN HIS OR HER APPLICATION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE NEW YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A ONE SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED UPON THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS SOLD BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS THAT THE APPLICANT COMPLIES WITH THE STANDARDS ESTABLISHED IN THIS SUBDIVISION, HE OR SHE SHALL DESIGNATE THE WHOLESALE FOOD SELLER AS A SHOP: PRIDE OF NEW YORK WHOLESALER. APPLICANTS RECEIVING SUCH DESIGNATION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE PROVIDED WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMOTIONAL MATERIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL PROVIDE SUCH MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE GOALS AND PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

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

DEPARTMENT, SHALL ENGAGE IN THE PROMOTION OF SHOP: PRIDE OF NEW YORK DESIGNATED FOOD SELLERS.

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

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