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

793--A

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. YOUNG, BRESLIN, O'MARA, RANZENHOFER, RITCHIE, VALESKY -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- 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 retail farm operations

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

Section 1. Subdivision 11 of section 301 of the agriculture and markets law, as amended by chapter 384 of the laws of 2011, is amended and a new subdivision 18 is added to read as follows:

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section, "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section [and], "commercial equine operation" as defined in subdivision seventeen of this section AND A "RETAIL FARM OPERATION" AS DEFINED IN SUBDIVISION EIGHTEEN OF THIS SECTION. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

18. "RETAIL FARM OPERATION" MEANS A SEASONAL OR ANNUAL ENTERPRISE WITH EITHER PERMANENT OR NONPERMANENT STRUCTURES THAT ARE OPERATED FOR THE PURPOSES OF SELLING PREDOMINANTLY FARM AND FOOD PRODUCTS IN CONJUNCTION WITH OR IN SUPPORT OF LAND USED IN AGRICULTURAL PRODUCTION AS DEFINED IN

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

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SUBDIVISION FOUR OF THIS SECTION. SUCH PORTION OF THE FARM AND FOOD PRODUCTS SHALL EXCEED FIFTY PERCENT OF THE GROSS ANNUAL INCOME OF SUCH RETAIL FARM OPERATION. FOR PURPOSES OF THIS SUBDIVISION, FARM AND FOOD PRODUCTS SHALL MEAN ANY AGRICULTURAL, HORTICULTURAL, FOREST OR OTHER PRODUCT OF THE SOIL OR WATER, INCLUDING BUT NOT LIMITED TO FRESH OR PROCESSED FRUITS, VEGETABLES, EGGS, DAIRY PRODUCTS, MEAT AND MEAT PRODUCTS, POULTRY AND POULTRY PRODUCTS, FISH AND FISH PRODUCTS, APPLE CIDER, FRUIT JUICE, WINE, ORNAMENTAL PLANTS, NURSERY PRODUCTS, FLOWERS AND CHRISTMAS TREES.

S 2. Paragraph b of subdivision 1 of section 308 of the agriculture and markets law, as amended by chapter 497 of the laws of 2011, is amended to read as follows:

b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; [direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm] OPERATION AND MAINTENANCE OF A "RETAIL FARM OPERATION", AS DEFINED IN SUBDIVISION EIGHTEEN OF SECTION THREE HUNDRED ONE OF THIS ARTICLE; agricultural tourism; "timber operation," as defined in subdivision fourteen of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service, and provide such information, after the issuance of a formal opinion, to the municipality in which the agricultural practice being evaluated is located. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.

S 3. This act shall take effect immediately.