

793--A

2011-2012 Regular Sessions

I N   S E N A T E

(PREFILED)

January 5, 2011

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Introduced by Sens. YOUNG, BRESLIN, O'MARA, RANZENHOFER, RITCHIE, VALE-SKY -- (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:

1     Section 1. Subdivision 11 of section 301 of the agriculture and  
2 markets law, as amended by chapter 384 of the laws of 2011, is amended  
3 and a new subdivision 18 is added to read as follows:  
4     11. "Farm operation" means the land and on-farm buildings, equipment,  
5 manure processing and handling facilities, and practices which contrib-  
6 ute to the production, preparation and marketing of crops, livestock and  
7 livestock products as a commercial enterprise, including a "commercial  
8 horse boarding operation" as defined in subdivision thirteen of this  
9 section, a "timber operation" as defined in subdivision fourteen of this  
10 section, "compost, mulch or other biomass crops" as defined in subdivi-  
11 sion sixteen of this section [and], "commercial equine operation" as  
12 defined in subdivision seventeen of this section AND A "RETAIL FARM  
13 OPERATION" AS DEFINED IN SUBDIVISION EIGHTEEN OF THIS SECTION. Such farm  
14 operation may consist of one or more parcels of owned or rented land,  
15 which parcels may be contiguous or noncontiguous to each other.  
16     18. "RETAIL FARM OPERATION" MEANS A SEASONAL OR ANNUAL ENTERPRISE WITH  
17 EITHER PERMANENT OR NONPERMANENT STRUCTURES THAT ARE OPERATED FOR THE  
18 PURPOSES OF SELLING PREDOMINANTLY FARM AND FOOD PRODUCTS IN CONJUNCTION  
19 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.

LBD03427-02-1

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

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

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

35 S 3. This act shall take effect immediately.