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

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I N A S S E M B L Y

May 10, 2010

Introduced by M. of A. SCHIMMINGER, CLARK, MAYERSOHN, SKARTADOS -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, CHRISTENSEN, DelMONTE, GALEF, GORDON, HOOPER, JAFFEE, JOHN, MAGEE, MAGNARELLI, MAISEL, MARKEY, PARMENT, PERRY, RUSSELL, SWEENEY, TOWNS -- read once and referred to the Committee on Economic Development, Job Creation, Commerce and Industry

AN ACT to amend the general business law, in relation to itinerant vendors

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

Section 1. Section 38 of the general business law, as added by chapter 282 of the laws of 1995, is amended to read as follows:

S 38. Prohibited sales. No itinerant vendor, except for A MANUFACTURER, an authorized manufacturer's representative, or authorized distributor, shall offer for sale any of the following items:

1. [Food manufactured and packaged for sale for consumption by a child under the age of two years; or

2. Drugs as defined in section three thousand three hundred two of the public health law] BABY FOOD, WHICH SHALL INCLUDE ANY FOOD MANUFACTURED AND PACKAGED SPECIFICALLY FOR CONSUMPTION BY A CHILD UNDER TWO YEARS OF AGE. THE TERM SHALL INCLUDE INFANT FORMULA;

2. NONPRESCRIPTION DRUGS, WHICH SHALL INCLUDE ANY NON-NARCOTIC MEDICINE OR DRUG THAT MAY BE SOLD WITHOUT A PRESCRIPTION. THE TERM SHALL INCLUDE ANY DRUGS COMMONLY KNOWN AS "OVER-THE-COUNTER DRUGS," HERBAL PRODUCTS, DIETARY SUPPLEMENTS, BOTANICAL EXTRACTS, AND VITAMINS AND SUBSTANCES RECOGNIZED AS DRUGS IN THE OFFICIAL UNITED STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES, OR OFFICIAL NATIONAL FORMULARY, OR ANY SUPPLEMENT TO SUCH PUBLICATIONS;

3. COSMETICS, WHICH SHALL MEAN MERCHANDISE, OTHER THAN SOAP, BUT INCLUDING RAZOR BLADES, THAT IS INTENDED TO BE RUBBED, POURED, SPRINKLED, OR SPRAYED ONTO, INTRODUCED INTO, OR OTHERWISE APPLIED TO THE HUMAN BODY OR ANY PART THEREOF FOR CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING THE APPEARANCE OF THE HUMAN BODY OR ANY PART THEREOF; OR

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

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4. BATTERIES, WHICH SHALL MEAN A DEVICE CONSISTING OF ONE OR MORE CELLS, EACH CELL CONSISTING OF A POSITIVE ELECTRODE, A NEGATIVE ELECTRODE AND AN ELECTROLYTE, WHICH IS USED TO PROVIDE STORED ELECTRICAL POWER.

S 2. This act shall take effect immediately.