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

2373

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. McENENY -- Multi-Sponsored by -- M. of A. BOYLAND, JOHN, MILLMAN -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to genetically modified organisms

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

Section 1. The general obligations law is amended by adding a new section 9-107 to read as follows:

S 9-107. GENETICALLY ENGINEERED OR GENETICALLY MODIFIED ORGANISMS; AFFIRMATIVE DEFENSE. ANY PARTY WHO IS SUED FOR DAMAGES FOR VIOLATION OF A PATENT, TRADEMARK, OR OTHER INTELLECTUAL PROPERTY RIGHTS ON THE GROUND THAT THE PARTY POSSESSED OR USED SEEDS OR PLANTS THAT CONTAINED GENETICALLY ENGINEERED OR GENETICALLY MODIFIED ORGANISMS WITHOUT ENTERING INTO AN AGREEMENT OR PAYING FEES TO THE MANUFACTURER OR LICENSED DISTRIBUTOR OF SUCH GENETICALLY ENGINEERED OR GENETICALLY MODIFIED ORGANISMS SHALL HAVE AN AFFIRMATIVE DEFENSE AGAINST ANY LIABILITY IF THE PARTY SHALL SHOW THAT HE OR SHE DID NOT KNOWINGLY AND INTENTIONALLY INTRODUCE THE GENETICALLY ENGINEERED OR GENETICALLY MODIFIED ORGANISMS INTO HIS OR HER PLANTS OR SEEDS OR ONTO HIS OR HER PROPERTY AND HE OR SHE DID NOT KNOWINGLY GAIN FROM THE DISTINCTIVE TRAITS DUE TO GENETIC MODIFICATION OR GENETIC ENGINEERING.

S 2. This act shall take effect immediately.

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

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