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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. BRADLEY, CARROZZA, McENENY -- Multi-Sponsored by -- M. of A. DINOWITZ, GLICK, MAYERSOHN, ORTIZ -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to implementation of the Healthful Food Information Act

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

Section 1. This act shall be known and may be cited as the "Healthful Food Information Act".

S 2. The environmental conservation law is amended by adding a new article 31 to read as follows:

ARTICLE 31

GENETICALLY MODIFIED ORGANISM SEEDS

TITLE 1. REGISTRATION

3. NOTIFICATION

TITLE 1

REGISTRATION

SECTION 31-0101. SCOPE OF REGISTRATION.

31-0103. APPLICATION FOR REGISTRATION.

31-0105. FEE FOR REGISTRATION.

31-0107. DURATION OF REGISTRATION.

31-0109. DISCLOSURE OF GMO SEED INFORMATION.

31-0111. PENALTIES FOR FAILING TO REGISTER.

S 31-0101. SCOPE OF REGISTRATION.

EVERY PERSON OR ENTITY WHO SELLS OR OFFERS FOR SALE WITHIN THE STATE ANY SEED OF GENETICALLY MODIFIED ORGANISMS, LIVING SPECIMEN OR PORTION OF LIVING SPECIMEN OF A GENETICALLY MODIFIED ORGANISM (GMO SEED) MUST REGISTER THAT GMO SEED WITH THE DEPARTMENT. THE REGISTRATION SHALL COMPLY WITH ALL THE PROVISIONS OF THIS ARTICLE. IF A PERSON OR ENTITY

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

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SELLS OR OFFERS FOR SALE MORE THAN ONE TYPE OF GMO SEED, EACH DIFFERENT TYPE OR SPECIES OF GMO SEED SHALL BE SUBJECT TO REGISTRATION UNDER THIS TITLE.

S 31-0103. APPLICATION FOR REGISTRATION.

1. AN APPLICANT FOR REGISTRATION SHALL FILE WITH THE DEPARTMENT A STATEMENT INCLUDING:

A. THE NAME AND ADDRESS OF THE PERSON OR ENTITY SEEKING TO REGISTER GMO SEED;

B. THE COMMERCIAL AND SCIENTIFIC NAME OF THE SEED;

C. A COMPLETE ACCOUNTING OF THE GENETIC MODIFICATIONS MADE TO SUCH GMO SEED AND THE SOURCE SPECIES OF ANY GENETIC ELEMENTS INTRODUCED INTO SUCH GMO SEED;

D. A FULL DESCRIPTION AND DISCLOSURE OF ALL TESTS AND STUDIES THAT HAVE BEEN PERFORMED ON THE GMO SEED AND THE RESULTS OF SUCH TESTS AND STUDIES INCLUDING THE EFFECTS OF SUCH GMO SEED ON HUMAN HEALTH AGRICULTURAL PRODUCTION, AND THE NATURAL ENVIRONMENT; AND

E. ANY MATERIAL INFORMATION RELATING TO THE EFFECTS OF SUCH GMO SEED ON HUMAN HEALTH, AGRICULTURAL PRODUCTION, AND THE NATURAL ENVIRONMENT.

2. A SEPARATE APPLICATION STATEMENT SHALL BE FILED FOR EACH DIFFERENT TYPE OF GMO SEED SOLD OR OFFERED FOR SALE BY THE APPLICANT.

S 31-0105. FEE FOR REGISTRATION.

AN APPLICANT FOR REGISTRATION SHALL PAY A FEE OF TWO HUNDRED FIFTY DOLLARS FOR EACH APPLICATION STATEMENT SUBMITTED PURSUANT TO SECTION 31-0103 OF THIS TITLE.

S 31-0107. DURATION OF REGISTRATION.

A REGISTRATION PURSUANT TO THIS ARTICLE SHALL EXPIRE TWO YEARS AFTER THE DATE THE REGISTRATION WAS GRANTED. EACH REGISTRANT SHALL FILE WITH THE DEPARTMENT SUCH AMENDMENTS TO EACH REGISTRATION STATEMENT FILED BY EACH REGISTRANT AS IS REQUIRED TO MAINTAIN THE TRUTH, ACCURACY AND COMPLETENESS OF EACH SUCH REGISTRATION STATEMENT.

S 31-0109. DISCLOSURE OF GMO SEED INFORMATION.

1. THE PERSON OR ENTITY WHO SELLS OR OFFERS FOR SALE ANY GMO SEED MUST, IN ACCORDANCE WITH PARAGRAPHS D AND E OF SUBDIVISION ONE OF SECTION 31-0103 OF THIS TITLE, DISCLOSE ALL TESTS AND STUDIES PERFORMED ON THE GMO SEED, THE RESULTS OF SUCH TESTS AND STUDIES AND ALL MATERIAL INFORMATION RELATING TO THE EFFECT OF SUCH GMO SEED ON HUMAN HEALTH, AGRICULTURAL PRODUCTION, AND THE NATURAL ENVIRONMENT.

2. THE DEPARTMENT SHALL, IN A MANNER PRESCRIBED BY THE COMMISSIONER, MAKE ALL SUCH INFORMATION AVAILABLE TO THE GENERAL PUBLIC. SUCH AVAILABILITY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE POSTING OF SUCH INFORMATION ON THE DEPARTMENT'S WEBSITE, IF SUCH A WEBSITE EXISTS.

3. THE COMMISSIONER SHALL MAKE REASONABLE EFFORTS TO INFORM THE GENERAL PUBLIC OF THE AVAILABILITY OF THE INFORMATION AND THE PROCEDURE ON HOW A PERSON MAY OBTAIN A COPY OF SUCH INFORMATION.

S 31-0111. PENALTIES FOR FAILING TO REGISTER.

ANY PERSON OR ENTITY WHO FAILS TO FILE AN APPLICATION FOR REGISTRATION PRIOR TO SELLING OR OFFERING TO SELL A GMO SEED WITHIN THIS STATE IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE SHALL PAY A FINE IN AN AMOUNT EQUAL TO TWO HUNDRED FIFTY DOLLARS PLUS FIFTY DOLLARS PER DAY. THE AMOUNT OF DAYS OF THE VIOLATION SHALL BE CALCULATED FROM AND INCLUDING THE DAY ON WHICH THE VIOLATION OCCURRED UNTIL AND INCLUDING THE DAY BEFORE WHICH AN APPLICATION STATEMENT IS FILED PURSUANT TO SECTION 31-0103 OF THIS TITLE. A SEPARATE FINE SHALL BE IMPOSED FOR EACH DIFFERENT TYPE OR SPECIES OF GMO SEED NOT REGISTERED UNDER THIS ARTICLE.

TITLE 3
NOTIFICATION

SECTION 31-0301. NOTICE TO THE GENERAL PUBLIC.
31-0303. NOTICE TO ADJACENT LAND OWNERS.
31-0305. FAILURE TO COMPLY WITH NOTICE.

S 31-0301. NOTICE TO THE GENERAL PUBLIC.

1. THE COMMISSIONER SHALL, IN ACCORDANCE WITH SECTION 31-0109 OF THIS ARTICLE, MAKE ANY INFORMATION THAT HAS BEEN DISCLOSED PURSUANT TO THIS ARTICLE AVAILABLE TO THE GENERAL PUBLIC.

2. THE COMMISSIONER SHALL ESTABLISH ANY PROCEDURES, INCLUDING THE PRODUCTION OF ANY REQUIRED FORMS OR DOCUMENTATION, NECESSARY FOR THE UNFETTERED DISSEMINATION OF THE INFORMATION.

3. THE COMMISSIONER SHALL MAKE REASONABLE EFFORTS TO ENSURE THAT THE GENERAL PUBLIC IS INFORMED OF THE AVAILABILITY OF THIS INFORMATION AND THE PROCESS BY WHICH A CITIZEN CAN OBTAIN A COPY OF THE INFORMATION.

S 31-0303. NOTICE TO ADJACENT LAND OWNERS.

1. ANY PERSON OR ENTITY WHO USES, GROWS, OR PRODUCES GMO SEED ON THEIR PROPERTY SHALL INFORM ANY LAND OWNER LOCATED WITHIN TWO MILES OF ANY PORTION OF THE PERSON'S OR ENTITY'S BOUNDARY LINE, OR SUCH DISTANCE AS THE POLLEN OF SUCH GMO SEED SPECIES IS DETERMINED BY THE COMMISSIONER TO TRAVEL, WHICHEVER IS GREATER.

2. SUCH NOTICE SHALL BE WRITTEN AND SHALL BE PERSONALLY DELIVERED TO SUCH ADJACENT LAND OWNER. IF, AFTER DUE DILIGENCE, AN ADJACENT LAND OWNER CANNOT BE LOCATED, THE NOTICE PROVISIONS OF THIS SECTION MAY BE SATISFIED BY LEAVING A COPY OF THE NOTICE AT THE PROPERTY OF THE ADJACENT LAND OWNER AND MAILING A COPY OF SUCH NOTICE TO THE LAST KNOWN MAILING ADDRESS OF THE OWNER OF RECORD OF THE ADJACENT PROPERTY.

3. SUCH NOTICE SHALL BE MADE PRIOR TO THE USE OF ANY GMO SEED.

S 31-0305. FAILURE TO COMPLY WITH NOTICE.

ANY PERSON WHO FAILS TO MEET THE NOTICE REQUIREMENTS UNDER SECTION 31-0303 OF THIS TITLE SHALL BE RESPONSIBLE FOR TREBLE DAMAGES FOR ANY DAMAGE CAUSED AS A RESULT OF THE USE OF THEIR GMO SEED.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the commissioner of environmental conservation is authorized to add, amend, and/or repeal any rule or regulation necessary for the timely implementation of this act on such effective date.