

2435

2009-2010 Regular Sessions

I N S E N A T E

February 20, 2009

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

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 separately amended by chapters 511 and 536 of the laws
3 of 2008, is amended and a new subdivision 17 is added to read as
4 follows:
5 11. "Farm operation" means the land and on-farm buildings, equipment,
6 manure processing and handling facilities, and practices which contrib-
7 ute to the production, preparation and marketing of crops, livestock and
8 livestock products as a commercial enterprise, including a "commercial
9 horse boarding operation" as defined in subdivision thirteen of this
10 section, "timber processing" as defined in subdivision fourteen of this
11 section [and], "compost, mulch or other ORGANIC biomass crops" as
12 defined in subdivision sixteen of this section AND A "RETAIL FARM OPERA-
13 TION" AS DEFINED IN SUBDIVISION SEVENTEEN OF THIS SECTION. For purposes
14 of this section, such farm operation shall also include the production,
15 management and harvesting of "farm woodland", as defined in subdivision
16 three of this section. Such farm operation may consist of one or more
17 parcels of owned or rented land, which parcels may be contiguous or
18 noncontiguous to each other.
19 17. "RETAIL FARM OPERATION" MEANS A SEASONAL OR ANNUAL ENTERPRISE WITH
20 EITHER PERMANENT OR NONPERMANENT STRUCTURES THAT ARE OPERATED FOR THE
21 PURPOSES OF SELLING PREDOMINANTLY FARM AND FOOD PRODUCTS IN CONJUNCTION
22 WITH OR IN SUPPORT OF LAND USED IN AGRICULTURAL PRODUCTION AS DEFINED IN
23 SUBDIVISION FOUR OF THIS SECTION. SUCH PORTION OF THE FARM AND FOOD
24 PRODUCTS SHALL EXCEED FIFTY PERCENT OF THE GROSS ANNUAL INCOME OF SUCH
25 RETAIL FARM OPERATION. FOR PURPOSES OF THIS SUBDIVISION, FARM AND FOOD

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

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1 PRODUCTS SHALL MEAN ANY AGRICULTURAL, HORTICULTURAL, FOREST OR OTHER
2 PRODUCT OF THE SOIL OR WATER, INCLUDING BUT NOT LIMITED TO FRESH OR
3 PROCESSED FRUITS, VEGETABLES, EGGS, DAIRY PRODUCTS, MEAT AND MEAT
4 PRODUCTS, POULTRY AND POULTRY PRODUCTS, FISH AND FISH PRODUCTS, APPLE
5 CIDER, FRUIT JUICE, WINE, ORNAMENTAL PLANTS, NURSERY PRODUCTS, FLOWERS
6 AND CHRISTMAS TREES.

7 S 2. Paragraph b of subdivision 1 of section 308 of the agriculture
8 and markets law, as amended by chapter 511 of the laws of 2008, is
9 amended to read as follows:

10 b. Sound agricultural practices refer to those practices necessary for
11 the on-farm production, preparation and marketing of agricultural
12 commodities. Examples of activities which entail practices the commis-
13 sioner may consider include, but are not limited to, operation of farm
14 equipment; proper use of agricultural chemicals and other crop
15 protection methods; [direct sale to consumers of agricultural commod-
16 ities or foods containing agricultural commodities produced on-farm]
17 OPERATION AND MAINTENANCE OF A RETAIL FARM OPERATION AS DEFINED IN
18 SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED ONE OF THIS ARTICLE;
19 agricultural tourism; production, management and harvesting of "farm
20 woodland", as defined in subdivision three of section three hundred one
21 of this article and construction and use of farm structures. The commis-
22 sioner shall consult appropriate state agencies and any guidelines
23 recommended by the advisory council on agriculture. The commissioner may
24 consult as appropriate, the New York state college of agriculture and
25 life sciences and the U.S.D.A. natural resources conservation service.
26 The commissioner shall also consider whether the agricultural practices
27 are conducted by a farm owner or operator as part of his or her partic-
28 ipation in the AEM program as set forth in article eleven-A of this
29 chapter. Such practices shall be evaluated on a case-by-case basis.

30 S 3. This act shall take effect immediately.