

2552

2009-2010 Regular Sessions

I N S E N A T E

February 23, 2009

Introduced by Sens. LAVALLE, DIAZ, HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a dietary supplements safety committee

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

1 Section 1. The public health law is amended by adding a new section 22
2 to read as follows:
3 S 22. DIETARY SUPPLEMENTS SAFETY COMMITTEE. 1. THERE IS HEREBY ESTAB-
4 LISHED IN THE DEPARTMENT THE DIETARY SUPPLEMENTS SAFETY COMMITTEE TO BE
5 COMPOSED OF EIGHTEEN MEMBERS WHO SHALL BE APPOINTED IN THE FOLLOWING
6 MANNER: THREE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE
7 SENATE; TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;
8 THREE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY; TWO SHALL BE
9 APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND EIGHT SHALL BE
10 APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL DESIGNATE THE CHAIRPERSON
11 OF THE COMMITTEE. THE MEMBERS OF THE COMMITTEE SHALL BE REPRESENTATIVE
12 OF THE PUBLIC HEALTH FIELD, HEALTH CARE SERVICES PROVIDERS, DIETICIANS
13 AND NUTRITIONISTS. SUCH APPOINTING OFFICIALS SHALL EITHER REPLACE OR
14 REAPPOINT THE MEMBERS OF SUCH COMMITTEE FOR THREE YEAR TERMS, ACCORDING
15 TO THE FOLLOWING SCHEDULE:
16 (A) EFFECTIVE JANUARY FIRST, TWO THOUSAND ELEVEN: ANY THREE ORIGINAL
17 APPOINTEES OF THE GOVERNOR, ONE ORIGINAL APPOINTEE OF THE TEMPORARY
18 PRESIDENT OF THE SENATE, ONE ORIGINAL APPOINTEE OF THE SPEAKER OF THE
19 ASSEMBLY AND ONE ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE
20 SENATE;
21 (B) EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE: ANY THREE OF THE
22 REMAINING ORIGINAL APPOINTEES OF THE GOVERNOR, ONE OF THE REMAINING
23 ORIGINAL APPOINTEES OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE OF THE
24 REMAINING ORIGINAL APPOINTEES OF THE SPEAKER OF THE ASSEMBLY AND ONE
25 ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE ASSEMBLY;

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

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1 (C) EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN: THE TWO REMAINING
2 ORIGINAL APPOINTEES OF THE GOVERNOR, THE REMAINING ORIGINAL APPOINTEE OF
3 THE TEMPORARY PRESIDENT OF THE SENATE, THE REMAINING ORIGINAL APPOINTEE
4 OF THE SPEAKER OF THE ASSEMBLY, THE REMAINING ORIGINAL APPOINTEE OF THE
5 MINORITY LEADER OF THE SENATE AND THE REMAINING ORIGINAL APPOINTEE OF
6 THE MINORITY LEADER OF THE ASSEMBLY;

7 (D) REPLACEMENTS OR REAPPOINTMENTS THEREAFTER SHALL BE MADE AT THE
8 EXPIRATION OF THE TERM OF EACH MEMBER, BY THE APPOINTING OFFICIAL WHO
9 ORIGINALLY APPOINTED SUCH MEMBER; AND

10 (E) VACANCIES SHALL BE FILLED BY APPOINTMENT IN LIKE MANNER FOR UNEX-
11 PIRE D TERMS.

12 2. THE COMMITTEE SHALL EVALUATE THE SAFETY AND EFFICACY OF DIETARY
13 SUPPLEMENTS AND ITS DUTIES SHALL INCLUDE, BUT NOT BE LIMITED TO, THE
14 FOLLOWING:

15 (A) ESTABLISH A SYSTEM OF REPORTING ADVERSE EVENTS ASSOCIATED WITH
16 DIETARY SUPPLEMENTS AND SUPPORT VOLUNTARY REPORTING BY CONSUMERS, HEALTH
17 PRACTITIONERS AND OTHERS;

18 (B) ASSESS AVAILABLE DATA AND MAKE SPECIFIC RECOMMENDATIONS TO THE
19 COMMISSIONER REGARDING BANNING THE SALE OF CERTAIN DIETARY SUPPLEMENTS
20 THE COMMITTEE DEEMS HARMFUL; AND

21 (C) ESTABLISH A PUBLIC HEALTH EDUCATION CAMPAIGN ON DIETARY SUPPLE-
22 MENTS, WITH VARIATIONS SPECIFICALLY DIRECTED TO TARGET DIFFERENT GROUPS.

23 3. THE ADVISORY COUNCIL SHALL MEET AT LEAST THREE TIMES A YEAR, AT THE
24 REQUEST OF THE CHAIRPERSON.

25 4. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR
26 SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
27 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

28 5. THE COMMISSIONER IS HEREBY AUTHORIZED TO BAN THE SALE OF ANY
29 DIETARY SUPPLEMENT SOLD OR OFFERED FOR SALE IN THIS STATE UPON RECOMMEN-
30 DATION BY THE COMMITTEE. ANY SUCH BAN MAY BE LIMITED IN ITS SCOPE TO BAN
31 THE SALE OF ANY SUCH SUPPLEMENT TO MINORS ONLY.

32 6. FOR PURPOSES OF THIS SECTION, THE TERM "DIETARY SUPPLEMENT" MEANS

33 (A) A PRODUCT (OTHER THAN TOBACCO) THAT IS INTENDED TO SUPPLEMENT THE
34 DIET AND THAT BEARS OR CONTAINS ONE OR MORE OF THE FOLLOWING DIETARY
35 INGREDIENTS: A VITAMIN, A MINERAL, AN HERB OR OTHER BOTANICAL, AN AMINO
36 ACID, A DIETARY SUBSTANCE FOR THE USE BY A PERSON TO SUPPLEMENT THE DIET
37 BY INCREASING THE TOTAL DAILY INTAKE, OR A CONCENTRATE, METABOLITE,
38 CONSTITUENT, EXTRACT, OR COMBINATIONS OF THESE INGREDIENTS; (B) INTENDED
39 FOR INGESTION IN PILL, CAPSULE, TABLET, OR LIQUID FORM; AND (C) LABELED
40 AS A "DIETARY SUPPLEMENT" PURSUANT TO THE FEDERAL DIETARY SUPPLEMENT
41 HEALTH AND EDUCATION ACT, 21 U.S.C. 321, AS AMENDED.

42 S 2. This act shall take effect January 1, 2010. The appointments
43 required to be made pursuant to subdivision 1 of section 22 of the
44 public health law, as added by section one of this act, shall be made on
45 or before such effective date.