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

458

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- 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 the enforcement of kosher food laws

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

Section 1. Section 202-c of the agriculture and markets law, as amended by chapter 671 of the laws of 1966, is amended to read as follows:

S 202-c. Proceedings to review, violations and remedies. The commissioner may refuse to approve any new food additive or color additive or combination thereof or new use of a pre-existing food additive or color additive on the ground that he OR SHE is not satisfied as to its safety. The burden of satisfying the commissioner as to the safety of a food additive or color additive shall be upon the manufacturer or processor selling or offering or exposing the food additive or color additive or food product in which a food additive or color additive was used or is an ingredient. Whenever the commissioner is not satisfied as to the safety of a food additive or color additive or whenever he OR SHE makes any decision (a) prohibiting the use of a food additive or color additive as unsafe; (b) prescribing the conditions under which it may be used or establishing a safe, permissible maximum for such food additive or color additive, his OR HER decision with respect thereto may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules and his OR HER determination shall be final unless within thirty days from the date of service thereof personally or by registered or certified mail upon the party affected thereby a court proceeding is instituted to review such action. Such application shall be made to the supreme court in the third judicial district.

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

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The commissioner may institute such action at law or in equity as may appear necessary to enforce compliance with sections one hundred ninety-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A, TWO HUNDRED ONE-B AND TWO HUNDRED ONE-C of this article, and any rule or order respecting a food additive or color additive promulgated pursuant to sections one hundred ninety-nine-b and two hundred fourteen-b of this article and, in addition to any other remedy under this chapter or otherwise, may apply for relief by injunction to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. In an action instituted by the commissioner to enforce compliance with said sections one hundred ninety-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A, TWO HUNDRED ONE-B AND TWO HUNDRED ONE-C the commissioner shall not be required to prove that the food, food additive or color additive mentioned in the complaint is unsafe and the claim or defense of the defendant as to its safety shall be immaterial, provided, however, that the recognition by the federal food and drug administration of a food additive or color additive as safe may be alleged as a proper defense.

S 2. This act shall take effect immediately.