

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:

1 Section 1. Section 202-c of the agriculture and markets law, as
2 amended by chapter 671 of the laws of 1966, is amended to read as
3 follows:
4 S 202-c. Proceedings to review, violations and remedies. The commis-
5 sioner may refuse to approve any new food additive or color additive or
6 combination thereof or new use of a pre-existing food additive or color
7 additive on the ground that he OR SHE is not satisfied as to its safety.
8 The burden of satisfying the commissioner as to the safety of a food
9 additive or color additive shall be upon the manufacturer or processor
10 selling or offering or exposing the food additive or color additive or
11 food product in which a food additive or color additive was used or is
12 an ingredient. Whenever the commissioner is not satisfied as to the
13 safety of a food additive or color additive or whenever he OR SHE makes
14 any decision (a) prohibiting the use of a food additive or color addi-
15 tive as unsafe; (b) prescribing the conditions under which it may be
16 used or establishing a safe, permissible maximum for such food additive
17 or color additive, his OR HER decision with respect thereto may be
18 reviewed in the manner provided by article seventy-eight of the civil
19 practice law and rules and his OR HER determination shall be final
20 unless within thirty days from the date of service thereof personally or
21 by registered or certified mail upon the party affected thereby a court
22 proceeding is instituted to review such action. Such application shall
23 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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1 The commissioner may institute such action at law or in equity as may
2 appear necessary to enforce compliance with sections one hundred nine-
3 ty-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A, TWO
4 HUNDRED ONE-B AND TWO HUNDRED ONE-C of this article, and any rule or
5 order respecting a food additive or color additive promulgated pursuant
6 to sections one hundred ninety-nine-b and two hundred fourteen-b of this
7 article and, in addition to any other remedy under this chapter or
8 otherwise, may apply for relief by injunction to protect the public
9 interest without being compelled to allege or prove that an adequate
10 remedy at law does not exist. In an action instituted by the commis-
11 sioner to enforce compliance with said sections one hundred
12 ninety-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A,
13 TWO HUNDRED ONE-B AND TWO HUNDRED ONE-C the commissioner shall not be
14 required to prove that the food, food additive or color additive
15 mentioned in the complaint is unsafe and the claim or defense of the
16 defendant as to its safety shall be immaterial, provided, however, that
17 the recognition by the federal food and drug administration of a food
18 additive or color additive as safe may be alleged as a proper defense.

19 S 2. This act shall take effect immediately.