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

4518

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. BRODSKY, PHEFFER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the sale of certain substances in capsules

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

Section 1. The public health law is amended by adding a new section 1356 to read as follows:

S 1356. SALE OF CERTAIN SUBSTANCES IN CAPSULES. NO SUBSTANCES CONTAINED IN CAPSULES AND INTENDED FOR HUMAN INGESTION SHALL BE SOLD, DELIVERED, DISTRIBUTED, OR OTHERWISE FURNISHED TO ANY PERSON. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO DRUGS FOR WHICH A PRESCRIPTION IS REQUIRED BY THE PROVISIONS OF THE FEDERAL FOOD, DRUG AND COSMETIC ACT OR BY THE COMMISSIONER. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS ARE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION, INCLUDING PROCEDURES FOR THE MAKING OF EXCEPTIONS TO THIS SECTION WHERE (I) SUCH CAPSULES ARE CONTAINED IN A MANNER THAT IT WILL BE CLEARLY OBVIOUS TO EITHER THE CONSUMER AT THE TIME OF SELECTION OR TO STORE PERSONNEL AT THE TIME OF CHECK-OUT, BY MEANS OF THE RELEASE OF MICROENCAPSULATED DYES, THE APPEARANCE OF LATENT IMAGES, THE BREAKING OF MAGNETIC BANDS, OR EQUALLY EFFECTIVE MEANS, WHETHER OR NOT THE CONTAINER HAS BEEN OPENED, OR (II) SUCH EXCEPTION IS REASONABLY NECESSARY, CONSIDERING THE ECONOMIC AND OTHER CONSEQUENCES OF THE BAN, BUT CONSIDERING PUBLIC HEALTH AND SAFETY AS THE FIRST PRIORITY, AND WHERE THE SALE OR DISTRIBUTION OF SUCH CAPSULES MAY BE MADE ONLY UNDER CONDITIONS OF INCREASED SECURITY, INCLUDING THE STORAGE OF SUCH ITEMS IN SECURE AREAS, AS THE COMMISSIONER MAY ORDER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the rules and regulations necessary to the implementation of the provisions of this act shall be promulgated and that any other measures so necessary shall be taken on or before such effective date.

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

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