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

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I N A S S E M B L Y

April 17, 2009

Introduced by M. of A. ORTIZ, PHEFFER, ROBINSON, J. RIVERA -- Multi-Sponsored by -- M. of A. CYMBROWITZ, GALEF, GREENE, HOOPER, MAYER-SOHN, PERRY, P. RIVERA, TOWNS -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to dietary supplements

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

Section 1. The education law is amended by adding a new section 3036 to read as follows:

S 3036. SALE AND ENDORSEMENT OF DIETARY SUPPLEMENTS. NO SCHOOL DISTRICT EMPLOYEE SHALL SELL, MARKET, PROVIDE, DISTRIBUTE, ENDORSE OR RECOMMEND, EXCEPT WHEN PART OF HIS OR HER REQUIRED DUTIES, SUCH AS NURSING OR MEDICAL DUTIES REQUIRING THE PROVISION OF SUPPLEMENTS AS PRESCRIBED BY A STUDENT'S MEDICAL PROVIDER, CLASSROOM TEACHING DUTIES RELATED TO SUPPLEMENTS THAT MAY INCLUDE RECOMMENDATIONS OF CERTAIN SUPPLEMENTS, AND ANY OTHER REQUIRED DUTIES APPROVED BY THE DEPARTMENT, THE USE OF DIETARY SUPPLEMENTS, INCLUDING, BUT NOT LIMITED TO VITAMINS, MINERALS, HERBS OR OTHER BOTANICALS, AND AMINO ACIDS, OR CONCENTRATES, METABOLITES, CONSTITUENTS, EXTRACTS, OR COMBINATIONS OF THESE INGREDIENTS, INTENDED FOR INGESTION IN PILL, CAPSULE, TABLET, OR LIQUID FORM AND NOT REPRESENTED FOR USE AS A CONVENTIONAL FOOD OR AS THE SOLE ITEM OF A MEAL OR DIET AND LABELED AS A DIETARY SUPPLEMENT, AS DEFINED UNDER THE FEDERAL FOOD, DRUG AND COSMETIC ACT, TO ANY STUDENT. THE DEPARTMENT SHALL DEVELOP REGULATIONS TO INFORM SCHOOLS AND THEIR EMPLOYEES ABOUT THE RESTRICTIONS, AND EXCEPTIONS, ON SELLING, MARKETING, PROVIDING, DISTRIBUTING, ENDORSING OR RECOMMENDING DIETARY SUPPLEMENTS TO STUDENTS. THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE TO ALL SCHOOLS INFORMATION ABOUT THE POTENTIAL RISKS OF USING CERTAIN DIETARY SUPPLEMENTS FOR ENHANCED ATHLETIC PERFORMANCE, MUSCLE GROWTH, WEIGHT LOSS AND OTHER SIMILAR PURPOSES. SUCH INFORMATION SHALL BE USED BY COACHES, HEALTH AND PHYSICAL EDUCATION TEACHERS, NURSES AND OTHER SCHOOL DISTRICT EMPLOYEES

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

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TO INFORM STUDENTS, AND THEIR PARENTS, ABOUT THE POTENTIAL RISKS ASSOCIATED WITH SUCH DIETARY SUPPLEMENTS.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that effective immediately the commissioner of education is authorized and directed to promulgate any rule or regulation or to take any other necessary action to ensure the timely implementation of this act on its effective date.