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

January 21, 2010

Introduced by M. of A. CASTRO -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the agriculture and markets law, in relation to requiring warning labels on energy beverages

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

Section 1. The agriculture and markets law is amended by adding a new section 214-o to read as follows:

S 214-O. WARNING LABELS ON ENERGY BEVERAGES. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY, IF ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION OR ANY OTHER BUSINESS ASSOCIATION SELLS OR DISPLAYS FOR RETAIL SALE ANY ENERGY BEVERAGE, THE PACKAGING OF SUCH BEVERAGE SHALL BEAR A WARNING LABEL AS PRESCRIBED IN THIS SECTION WHICH SHALL BE PRINTED THEREON OR ATTACHED THERETO. SUCH WARNING LABEL SHALL BE IN LETTERS NOT LESS THAN EIGHT POINT TYPE AND SHALL APPEAR IN A BLACK BOX ON THE BEVERAGE, AND SHALL CONTAIN THE FOLLOWING STATEMENT: "WARNING: EXCESSIVE CONSUMPTION OF ENERGY BEVERAGES COULD POSE A SERIOUS HEALTH HAZARD. PLEASE USE CAUTION."

2. ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR ASSOCIATION, OR ITS OFFICERS OR AGENTS WHO OR WHICH VIOLATE ANY OF THE PROVISIONS OF THIS SECTION OR ANY RULES OR REGULATIONS PROMULGATED UNDER THIS SECTION SHALL BE LIABLE FOR A CIVIL PENALTY OF ONE THOUSAND DOLLARS PER EACH ENERGY BEVERAGE WHICH VIOLATES THE PROVISIONS OF THIS SECTION.

3. THE COMMISSIONER SHALL HAVE THE AUTHORITY AND POWER TO PRESCRIBE BY REGULATIONS THE LABELING OF ENERGY BEVERAGES IN SUBDIVISION ONE OF THIS SECTION WHICH ARE NOT SOLD BY PACKAGE OR CONTAINER.

4. FOR PURPOSES OF THIS SECTION ENERGY BEVERAGE SHALL INCLUDE BUT NOT BE LIMITED TO A COMBINATION OF SOME OR ALL OF THE FOLLOWING INGREDIENTS: SUGAR, METHYLXANTHINES, CAFFEINE, VITAMIN B, HERBS, GUARANA, ACAI, TAURINE, GINSENG, MALTODEXTRIN, INOSITOL, CARNITINE, CREATINE, GLUCURONOLACTONE AND GINKGO BILOBA.

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

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S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Provided that the commissioner of agriculture and markets is authorized and directed to promulgate any rules or regulations necessary for the timely implementation of this act before such effective date.