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

S. 1034 A. 2957

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 22, 2009

IN SENATE -- Introduced by Sens. LAVALLE, FLANAGAN, ONORATO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

IN ASSEMBLY -- Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the sale of dietary or nutritional supplements

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

Section 1. Section 214-m of the agriculture and markets law, as amended by chapter 159 of the laws of 1994, is amended to read as follows:

S 214-m. Labeling of certain food products. 1. If any person, firm, corporation, partnership, association or any other business association which processes, manufactures or imports food products has placed upon or accompanying the shipping container, shipping case, pallet or invoice of such food products, any information, whether in coded form or otherwise, which specifies the expiration, "use by" date or similar date; or the lot, batch, date of manufacture or processing or other information regarding the identity of the food product; it shall be unlawful to willfully alter, mutilate, destroy, obliterate or remove such information other than in connection with the destruction of the entire shipping container, shipping case, pallet or invoice. The provisions of this section and any regulations promulgated hereunder shall not be deemed to require any manufacturer, processor or importer of food products to so label any food product prior to distribution in the state or to prevent a manufacturer, processor or importer of food products from correcting or causing to be corrected any of the information accompanying the shipping container, shipping case, pallet or invoice. The provisions of this section shall not affect any provision of federal, state or local law,

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

LBD05362-01-9

ordinance, rule or regulation regarding the placing of an expiration or "use by" date on the retail container of any food product.

2. NO PERSON SHALL MANUFACTURE, SELL OR EXPOSE FOR SALE ANY PRODUCT WHICH SHALL BE TERMED AS A DIETARY SUPPLEMENT OR NUTRITIONAL SUPPLEMENT WITHOUT BRANDING OR LABELING SUCH PRODUCT WITH A STATEMENT WHICH IS CLEARLY DISCERNIBLE TO A CUSTOMER THAT THE PRODUCT HAS OR HAS NOT BEEN TESTED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION. THE TERMS DIETARY SUPPLEMENT AND NUTRITIONAL SUPPLEMENT SHALL BE DEFINED BY REGULATIONS TO BE PROMULGATED BY THE COMMISSIONER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law except that any rules or regulations necessary for the timely implementation of the provisions of this act are authorized and directed to be promulgated on or before such effective date.