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

4159--A

2009-2010 Regular Sessions

I N S E N A T E

April 15, 2009

Introduced by Sens. MONTGOMERY, HASSELL-THOMPSON, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law and the education law, in relation to establishing the New York calcium purchasing preference initiative

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

Section 1. This act shall be known and may be cited as the "New York calcium purchasing preference initiative".

S 2. Section 16 of the agriculture and markets law is amended by adding a new subdivision 5-c to read as follows:

5-C. ESTABLISH, IN COOPERATION WITH THE COMMISSIONER OF EDUCATION, THE NEW YORK CALCIUM PURCHASING PREFERENCE INITIATIVE. THE PURCHASING AGENT FOR ANY GOVERNMENTAL ENTITY WHICH PURCHASES FOOD OR BEVERAGES TO BE PROCESSED OR SERVED IN A BUILDING OR ROOM OWNED OR OPERATED BY SUCH GOVERNMENTAL ENTITY SHALL GIVE PREFERENCE TO FOODS AND BEVERAGES THAT:

(A) CONTAIN A HIGHER LEVEL OF CALCIUM THAN PRODUCTS OF THE SAME TYPE AND QUALITY; AND

(B) ARE EQUAL TO OR LOWER IN PRICE THAN PRODUCTS OF THE SAME TYPE AND QUALITY.

FOR THE PURPOSES OF THIS SUBDIVISION, "GOVERNMENTAL ENTITY" SHALL MEAN:

(A) THE STATE OF NEW YORK;

(B) A COUNTY, CITY, TOWN, VILLAGE OR ANY OTHER POLITICAL SUBDIVISION OR CIVIL SUBDIVISION OF THE STATE;

(C) A SCHOOL DISTRICT OR ANY GOVERNMENTAL ENTITY OPERATING A PUBLIC SCHOOL, COLLEGE OR UNIVERSITY;

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

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(D) A PUBLIC AUTHORITY, COMMISSION OR PUBLIC BENEFIT CORPORATION;

(E) AN AGENCY, BOARD, BUREAU, DIVISION, COMMITTEE, INSTITUTION, COUNCIL, OR OFFICE; OR

(F) ANY OTHER GOVERNMENTAL ENTITY OR INSTRUMENTALITY PERFORMING PROPRIETARY FUNCTION FOR THE STATE, EXCEPT THE LEGISLATURE AND JUDICIARY.

A PURCHASING AGENT SHALL NOT BE REQUIRED TO PURCHASE A HIGH CALCIUM FOOD OR BEVERAGE FOR ANY GOVERNMENTAL ENTITY IF SUCH PREFERRED FOOD OR BEVERAGE WILL INTERFERE WITH THE TREATMENT OR CARE OF ANY PERSON.

THE DEPARTMENT SHALL SOLICIT INFORMATION FROM THE EDUCATION DEPARTMENT REGARDING SCHOOL DISTRICTS AND OTHER EDUCATIONAL INSTITUTIONS PURCHASING PREFERRED FOODS AND BEVERAGES IN ACCORDANCE WITH THIS SUBDIVISION.

NOTWITHSTANDING ANY PROVISIONS OF THIS SUBDIVISION TO THE CONTRARY, A PURCHASING AGENT WHO HAS ENTERED INTO A CONTRACT WITH A SUPPLIER BEFORE JULY FIRST, TWO THOUSAND ELEVEN TO PURCHASE FOOD AND BEVERAGES SHALL NOT BE REQUIRED TO PURCHASE HIGH CALCIUM FOODS AND BEVERAGES IF PURCHASING SUCH PRODUCTS CHANGE OR ALTER THE TERMS OF THE CONTRACT.

THE COMMISSIONER SHALL REPORT TO THE LEGISLATURE ON THE NEED FOR CHANGES IN LAW TO FACILITATE THE PURCHASES OF SUCH FOODS AND BEVERAGES BY A GOVERNMENTAL ENTITY.

S 3. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER SHALL COOPERATE WITH THE COMMISSIONER OF AGRICULTURE AND MARKETS IN ESTABLISHING THE NEW YORK CALCIUM PURCHASING PREFERENCE INITIATIVE PURSUANT TO SUBDIVISION FIVE-C OF SECTION SIXTEEN OF THE AGRICULTURE AND MARKETS LAW. THE COMMISSIONER'S RESPONSIBILITIES SHALL INCLUDE, BUT NOT BE LIMITED TO, COMPILING INFORMATION FOR THE DEPARTMENT OF AGRICULTURE AND MARKETS FROM SCHOOL DISTRICTS AND OTHER EDUCATIONAL INSTITUTIONS UNDER THE DEPARTMENT'S JURISDICTION PURCHASING PREFERRED FOODS AND BEVERAGES. THE COMMISSIONER SHALL REPORT TO THE LEGISLATURE ABOUT THE NEED FOR CHANGES IN LAW TO FACILITATE THE PURCHASE OF SUCH FOOD AND BEVERAGES BY SCHOOLS AND OTHER EDUCATIONAL INSTITUTIONS.

S 4. This act shall take effect immediately; provided, however, that the commissioner of agriculture and markets and the commissioner of education are authorized to promulgate any and all rules and regulations necessary to implement the provisions of this act on or before such effective date.