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

6303--A

Cal. No. 104

2009-2010 Regular Sessions

I N S E N A T E

November 18, 2009

Introduced by Sens. AUBERTINE, ADAMS, ESPADA, HASSELL-THOMPSON, HUNTLEY, KLEIN, MONTGOMERY, MORAHAN, ONORATO, PARKER, SAVINO, STAVISKY, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Agriculture in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, committed to Codes, restored to third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the agriculture and markets law, in relation to food donation by public food service establishments

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 restaurant lending a helping hand act".

S 2. Subdivision 1 of section 71-y of the agriculture and markets law, as amended by chapter 182 of the laws of 1993, is amended and a new subdivision 7 is added to read as follows:

1. "Perishable foods" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. Perishable food includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables and foods that have been packaged, refrigerated or frozen, OR OTHERWISE REQUIRE REFRIGERATION TO REMAIN NONPERISHABLE. This definition shall not include game or wild game.

7. "PUBLIC FOOD SERVICE ESTABLISHMENT" MEANS ANY BUILDING, VEHICLE, PLACE OR STRUCTURE, OR ANY ROOM OR DIVISION IN A BUILDING, VEHICLE, PLACE OR STRUCTURE WHERE FOOD IS PREPARED, SERVED OR SOLD FOR IMMEDIATE CONSUMPTION ON OR IN THE VICINITY OF THE PREMISES; CALLED FOR OR TAKEN

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

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OUT BY CUSTOMERS; OR PREPARED PRIOR TO BEING DELIVERED TO ANOTHER LOCATION FOR CONSUMPTION.

S 3. Subdivision 1 of section 71-z of the agriculture and markets law, as amended by chapter 182 of the laws of 1993, is amended to read as follows:

1. Notwithstanding any other provision of law, a good-faith donor of any canned or perishable food, farm product, game or wild game, apparently fit for human consumption, to a bona fide charitable or nonprofit organization, for free distribution, shall not be subject to criminal penalty or civil damages arising from the condition of the food, if the said donor reasonably inspects the food at the time of donation and finds the food apparently fit for human consumption and unless the donor has actual or constructive knowledge that the food is adulterated, tainted, contaminated or harmful to the health or well-being of the person consuming said food. SUCH GOOD-FAITH DONOR SHALL INCLUDE, BUT NOT BE LIMITED TO, PUBLIC FOOD SERVICE ESTABLISHMENTS.

S 4. This act shall take effect immediately.