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I N S E N A T E

March 12, 2010

Introduced by Sen. AUBERTINE -- (at request of the Department of Agriculture and Markets) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to protection for timber operations from unreasonably restrictive ordinances and correction of errors in agricultural district review filings

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

1 Section 1. Subdivision 11 of section 301 of the agriculture and
2 markets law, as separately amended by chapters 511 and 536 of the laws
3 of 2008, is amended to read as follows:

4 11. "Farm operation" means the land and on-farm buildings, equipment,
5 manure processing and handling facilities, and practices which contrib-
6 ute to the production, preparation and marketing of crops, livestock and
7 livestock products as a commercial enterprise, including a "commercial
8 horse boarding operation" as defined in subdivision thirteen of this
9 section, A "timber [processing] OPERATION" as defined in subdivision
10 fourteen of this section and "compost, mulch or other biomass crops" as
11 defined in subdivision sixteen of this section. [For purposes of this
12 section, such farm operation shall also include the production, manage-
13 ment and harvesting of "farm woodland", as defined in subdivision three
14 of this section.] Such farm operation may consist of one or more parcels
15 of owned or rented land, which parcels may be contiguous or noncontig-
16 uous to each other.

17 S 2. Subdivision 14 of section 301 of the agriculture and markets law,
18 as added by chapter 573 of the laws of 2005, is amended to read as
19 follows:

20 14. "Timber [processing] OPERATION" means the on-farm PRODUCTION,
21 MANAGEMENT, HARVESTING, processing AND MARKETING of timber grown on [a]
22 THE farm operation into woodland products, including but not limited to
23 logs, lumber, posts and firewood, [through the use of a readily move-
24 able, nonpermanent saw mill,] provided that such farm operation consists
25 of at least seven acres and produces for sale crops, livestock or live-

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

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1 stock products of an annual gross sales value of ten thousand dollars or
2 more and that the annual gross sales value of such processed woodland
3 products does not exceed the annual gross sales value of such crops,
4 livestock or livestock products.

5 S 3. Subdivision 5 of section 303-a of the agriculture and markets
6 law, as amended by chapter 290 of the laws of 1999, is amended to read
7 as follows:

8 5. Plan review, certification, CORRECTION OF ANY ERRORS and filing
9 shall be conducted in the same manner prescribed for district creation
10 in subdivisions five, six and seven of section three hundred three of
11 this article.

12 S 4. Paragraph b of subdivision 1 of section 308 of the agriculture
13 and markets law, as amended by chapter 511 of the laws of 2008, is
14 amended to read as follows:

15 b. Sound agricultural practices refer to those practices necessary for
16 the on-farm production, preparation and marketing of agricultural
17 commodities. Examples of activities which entail practices the commis-
18 sioner may consider include, but are not limited to, operation of farm
19 equipment; proper use of agricultural chemicals and other crop
20 protection methods; direct sale to consumers of agricultural commodities
21 or foods containing agricultural commodities produced on-farm; agricul-
22 tural tourism; [production, management and harvesting of "farm wood-
23 land",] "TIMBER OPERATION," as defined in subdivision [three] FOURTEEN
24 of section three hundred one of this article and construction and use of
25 farm structures. The commissioner shall consult appropriate state agen-
26 cies and any guidelines recommended by the advisory council on agricul-
27 ture. The commissioner may consult as appropriate, the New York state
28 college of agriculture and life sciences and the U.S.D.A. natural
29 resources conservation service. The commissioner shall also consider
30 whether the agricultural practices are conducted by a farm owner or
31 operator as part of his or her participation in the AEM program as set
32 forth in article eleven-A of this chapter. Such practices shall be eval-
33 uated on a case-by-case basis.

34 S 5. This act shall take effect immediately.