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

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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:

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

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, A "timber [processing] OPERATION" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section. [For purposes of this section, such farm operation shall also include the production, management and harvesting of "farm woodland", as defined in subdivision three of this section.] Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

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

14. "Timber [processing] OPERATION" means the on-farm PRODUCTION, MANAGEMENT, HARVESTING, processing AND MARKETING of timber grown on [a] THE farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, [through the use of a readily moveable, nonpermanent saw mill,] provided that such farm operation consists 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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stock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

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

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

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

b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; [production, management and harvesting of "farm woodland",] "TIMBER OPERATION," as defined in subdivision [three] FOURTEEN of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.

S 5. This act shall take effect immediately.