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

10010

I N A S S E M B L Y

May 1, 2012

Introduced by M. of A. JEFFRIES -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the sale of sugar sweetened beverages

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

Section 1. The public health law is amended by adding a new article 13-I to read as follows:

ARTICLE 13-I REGULATION OF THE SALE OF SUGAR SWEETENED BEVERAGES

SECTION 1399-XX. DEFINITIONS.

1399-YY. SALE OF SUGAR SWEETENED BEVERAGES.

S 1399-XX. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

1. "STATE GOVERNMENT ENTITY" MEANS THE COURTS AND COURT-RELATED PROGRAMS INCLUDING THE OFFICE OF COURT ADMINISTRATION, OF THE STATE-FUNDED PORTION OF THE UNIFIED COURT SYSTEM, THE LEGISLATURE OF THE STATE OF NEW YORK AND ANY STATE DEPARTMENT, BOARD, BUREAU, DIVISION, COMMISSION, COMMITTEE, COUNCIL, OFFICE, PUBLIC AUTHORITY OR PUBLIC BENEFIT CORPORATION, THE STATE UNIVERSITY OF NEW YORK, THE CITY UNIVERSITY OF NEW YORK OR OTHER GOVERNMENTAL ENTITY PERFORMING GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE, EXCEPT THE FEDERAL GOVERNMENT.

2. "SUGAR SWEETENED BEVERAGE" MEANS ANY NONALCOHOLIC BEVERAGE, WHETHER NATURALLY OR ARTIFICIALLY FLAVORED, WHETHER CARBONATED OR NONCARBONATED, SOLD FOR HUMAN CONSUMPTION, CONTAINING MORE THAN TEN CALORIES PER EIGHT OUNCES, INCLUDING, BUT NOT LIMITED TO, (A) SODA, WATER, SPORTS DRINKS, "ENERGY" DRINKS, COLAS, FLAVORED DRINKS, (B) FRUIT OR VEGETABLE DRINKS CONTAINING LESS THAN SEVENTY PERCENT OF NATURAL FRUIT JUICE OR NATURAL VEGETABLE JUICE, OR A COMBINATION OF JUICES, ANY FROZEN, FREEZE-DRIED, OR OTHER CONCENTRATE TO WHICH WATER IS ADDED TO PRODUCE A BEVERAGE CONTAINING LESS THAN SEVENTY PERCENT OF NATURAL FRUIT JUICE OR NATURAL VEGETABLE JUICE, AND (C) COFFEE AND TEA BOTTLED AS A LIQUID FOR SALE.

3. "SALE" MEANS ANY TRANSFER OF TITLE OR POSSESSION OR BOTH, EXCHANGE OR BARTER, RENTAL, LEASE OR LICENSE TO USE OR CONSUME, CONDITIONAL OR OTHERWISE, IN ANY MANNER OR BY ANY MEANS WHATSOEVER FOR CONSIDERATION, OR ANY AGREEMENT TO THAT EFFECT.

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

4. "FOOD SERVICE ESTABLISHMENT" MEANS ANY AREA, INCLUDING OUTDOOR SEATING AREAS, IN WHICH THE BUSINESS IS THE SALE OF FOOD OR BEVERAGES FOR CONSUMPTION ON, OR NEAR, OR OFF ITS PREMISES.

5. "STATE CONTRACTOR OR A LESSEE" MEANS ANY PERSON OR ENTITY THAT HAS A CONTRACT WITH A STATE GOVERNMENT ENTITY FOR A FRANCHISE, CONCESSION OR LEASE OF PROPERTY, FOR FOOD SERVICES OR SUPPLIES TO BE PURCHASED AT THE EXPENSE OF A STATE GOVERNMENT AGENCY.

S 1399-YY. SALE OF SUGAR SWEETENED BEVERAGES. 1. THE SALE OF SUGAR SWEETENED BEVERAGES SHALL BE PROHIBITED AT FOOD SERVICE ESTABLISHMENTS AND VENDING MACHINES LOCATED ON THE PROPERTY OF OR UNDER THE CONTROL OF ANY STATE GOVERNMENT AGENCY.

2. THE COMMISSIONER SHALL PROMULGATE SUCH REGULATIONS AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE. THE REGULATIONS SHALL BE EFFECTIVE UPON SUCH DATE AS DETERMINED BY THE COMMISSIONER; PROVIDED, HOWEVER, THAT SUCH REGULATIONS SHALL BE EFFECTIVE NO EARLIER THAN SEPTEMBER THIRTIETH, TWO THOUSAND TWELVE AND SHALL APPLY ONLY TO FOOD OR BEVERAGE CONTRACTS BETWEEN A STATE GOVERNMENT ENTITY AND A STATE CONTRACTOR OR LESSEE THAT WERE ISSUED, RENEWED, MODIFIED, ALTERED OR AMENDED AFTER SUCH EFFECTIVE DATE OR DATES.

3. THE DEPARTMENT SHALL ISSUE A WRITTEN WARNING TO ANY PERSON OR STATE GOVERNMENT ENTITY IN VIOLATION OF THIS ARTICLE. IF AFTER ISSUING A WRITTEN WARNING OF VIOLATION THE DEPARTMENT FINDS THAT A PERSON CONTINUES TO VIOLATE SUBDIVISION ONE OF THIS SECTION, THE DEPARTMENT MAY IMPOSE THE VARIOUS SANCTIONS PROVIDED IN SUBDIVISIONS FOUR AND FIVE OF THIS SECTION.

4. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A VIOLATION. IF CHARGED AS A VIOLATION, UPON CONVICTION THEREOF, SUCH PERSON SHALL BE PUNISHED FOR THE FIRST OFFENSE BY A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS FOR A FIRST VIOLATION; NOT MORE THAN TWO HUNDRED DOLLARS FOR A SECOND VIOLATION IN THE SAME YEAR AND NOT MORE THAN TWO HUNDRED FIFTY DOLLARS FOR EACH SUBSEQUENT VIOLATION IN THE SAME YEAR.

5. THE DEPARTMENT MAY ISSUE AN ADMINISTRATIVE CIVIL LIABILITY CITATION TO SUCH PERSON IN AN AMOUNT NOT EXCEEDING ONE HUNDRED DOLLARS FOR THE FIRST VIOLATION, AN AMOUNT NOT EXCEEDING TWO HUNDRED DOLLARS FOR THE SECOND VIOLATION, AND NOT EXCEEDING TWO HUNDRED FIFTY DOLLARS FOR EACH SUBSEQUENT VIOLATION AGAINST THE SAME PERSON.

S 2. This act shall take effect immediately.