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

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I N A S S E M B L Y

(PREFILED)

January 4, 2012

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

AN ACT to amend the public health law, in relation to authorizing approval fees for environmental laboratories

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

Section 1. Subdivisions 5, 6, 7, 8 and 9 of section 502 of the public health law, as amended by chapter 699 of the laws of 1992 and subdivisions 7, 8 and 9 as renumbered by section 24 of part A of chapter 58 of the laws of 2010, are amended to read as follows:

5. Subject to the approval of the director of the budget, the commissioner shall charge [adequate and reasonable fees for the periodic inspection of out-of-state] laboratories APPROVAL FEES TO RECOVER THE COST TO THE DEPARTMENT OF OPERATING THIS PROGRAM. THE COMMISSIONER MAY WAIVE ALL OR ANY PART OF SUCH FEE CHARGES FOR LABORATORIES OPERATED BY THE STATE.

(A) THE APPROVAL FEE ASSESSED TO EACH ENVIRONMENTAL LABORATORY SHALL BE THE SUM OF A BASE ADMINISTRATIVE FEE, ALL APPLICABLE CATEGORY OF SERVICE FEES, AND ANY APPLICABLE INSPECTION FEES.

BASE ADMINISTRATIVE FEES, CATEGORY OF SERVICE FEES, AND INSPECTION FEES SHALL BE CALCULATED PURSUANT TO REGULATION. THE COMMISSIONER SHALL ANNUALLY PUBLISH A DETAILED FEE SCHEDULE ON THE DEPARTMENT WEBSITE NO LATER THAN THIRTY DAYS PRIOR TO THE BEGINNING OF EACH APPROVAL YEAR.

(1) BASE ADMINISTRATIVE FEES SHALL INCLUDE ANNUAL FEES FOR THE INITIAL APPLICATION FOR CERTIFICATES OF APPROVAL, RENEWAL OF CERTIFICATES OF APPROVAL, AND MODIFICATION OF CERTIFICATES OF APPROVAL.

(2) CATEGORY OF SERVICE FEES SHALL INCLUDE FLAT FEES FOR EACH CATEGORY, PROCEDURE OR SPECIALTY FOR WHICH A CERTIFICATE OF APPROVAL IS SOUGHT. SUCH FEES SHALL BE PRORATED WHEN A CERTIFICATE OF APPROVAL IS SOUGHT FOR A PORTION OF AN APPROVAL YEAR.

(3) INSPECTION FEES SHALL INCLUDE RATES FOR ALL APPLICABLE TRAVEL COSTS THAT MAY BE INCURRED BY THE DEPARTMENT IN SENDING INSPECTORS TO

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

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OUT-OF-STATE LABORATORIES POSSESSING OR SEEKING A CERTIFICATE OF APPROVAL.

(B) APPROVAL FEES COLLECTED SHALL NOT EXCEED THE COST TO THE DEPARTMENT OF OPERATING THIS PROGRAM. SHOULD TOTAL APPROVAL FEES COLLECTED DURING AN APPROVAL YEAR EXCEED THE COST TO THE DEPARTMENT FOR SUCH PERIOD, BASE ADMINISTRATIVE FEES FOR THE NEXT APPROVAL YEAR SHALL BE PROPORTIONALLY REDUCED TO REFLECT THE EXCESS AMOUNT COLLECTED.

6. [Subject to the approval of the director of the budget, the commissioner shall charge laboratories fees to recover the cost to the department of operating this program. The commissioner may waive all or any part of such fee charges for laboratories operated by the state. Fees shall include the following:

(a) a basic amount of five hundred dollars to be charged to each laboratory;

(b) the balance of the program cost from:

(1) an additional amount to be charged to each laboratory proportional to total adjusted volume of analytes performed by the laboratory in the preceding year as defined in regulations of the department, the total amount collected from which shall equal fifty percent of the balance of the program costs;

(2) an additional amount to be charged to each laboratory proportional to the number of analytes for which such laboratory maintains its certification.

Subparagraph one of paragraph (b) of this subdivision shall not apply to government laboratories.

7.] For those categories, procedures or specialities as specified in subdivision three OF THIS SECTION for which the commissioner has issued certificates of approval, the commissioner shall within thirty days of receipt of an application for a certificate from a laboratory existing on or before April first, nineteen hundred ninety-three, which is initially required to obtain certification, review such application and issue an interim certificate of approval in the particular category, procedure or speciality to all laboratories which provide adequate documentation in their application that they are capable of performing quality work in the category, procedure or speciality under review. An interim certificate of approval in specified categories will remain valid until such time as the commissioner shall reach a determination on the application.

[8.] 7. The commissioner may adopt and amend rules and regulations to effectuate the provisions and purposes of this title.

[9.] 8. A person who intentionally violates or refuses or omits to comply with subdivision two of this section, or any regulation adopted pursuant thereto, is guilty of a misdemeanor, punishable upon conviction, by imprisonment for not more than one year or by a fine of not more than one thousand dollars or by both such fine and imprisonment. A second or subsequent conviction shall be punishable by imprisonment for not more than one year or a fine of not more than two thousand five hundred dollars or by both such fine and imprisonment.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.