

2278

2011-2012 Regular Sessions

I N   S E N A T E

January 18, 2011

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Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the agriculture and markets law, in relation to the enforcement of kosher food laws

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

1     Section 1. Section 202-c of the agriculture and markets law, as  
2     amended by chapter 671 of the laws of 1966, is amended to read as  
3     follows:  
4     S 202-c. Proceedings to review, violations and remedies. The commis-  
5     sioner may refuse to approve any new food additive or color additive or  
6     combination thereof or new use of a pre-existing food additive or color  
7     additive on the ground that he OR SHE is not satisfied as to its safety.  
8     The burden of satisfying the commissioner as to the safety of a food  
9     additive or color additive shall be upon the manufacturer or processor  
10    selling or offering or exposing the food additive or color additive or  
11    food product in which a food additive or color additive was used or is  
12    an ingredient. Whenever the commissioner is not satisfied as to the  
13    safety of a food additive or color additive or whenever he OR SHE makes  
14    any decision (a) prohibiting the use of a food additive or color addi-  
15    tive as unsafe; (b) prescribing the conditions under which it may be  
16    used or establishing a safe, permissible maximum for such food additive  
17    or color additive, his OR HER decision with respect thereto may be  
18    reviewed in the manner provided by article seventy-eight of the civil  
19    practice law and rules and his OR HER determination shall be final  
20    unless within thirty days from the date of service thereof personally or  
21    by registered or certified mail upon the party affected thereby a court  
22    proceeding is instituted to review such action. Such application shall  
23    be made to the supreme court in the third judicial district.  
24    The commissioner may institute such action at law or in equity as may  
25    appear necessary to enforce compliance with sections one hundred nine-

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

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1 ty-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A, TWO  
2 HUNDRED ONE-B AND TWO HUNDRED ONE-C of this article, and any rule or  
3 order respecting a food additive or color additive promulgated pursuant  
4 to sections one hundred ninety-nine-b and two hundred fourteen-b of this  
5 article and, in addition to any other remedy under this chapter or  
6 otherwise, may apply for relief by injunction to protect the public  
7 interest without being compelled to allege or prove that an adequate  
8 remedy at law does not exist. In an action instituted by the commis-  
9 sioner to enforce compliance with said sections one hundred  
10 ninety-nine-a, two hundred [and], two hundred one, TWO HUNDRED ONE-A,  
11 TWO HUNDRED ONE-B AND TWO HUNDRED ONE-C the commissioner shall not be  
12 required to prove that the food, food additive or color additive  
13 mentioned in the complaint is unsafe and the claim or defense of the  
14 defendant as to its safety shall be immaterial, provided, however, that  
15 the recognition by the federal food and drug administration of a food  
16 additive or color additive as safe may be alleged as a proper defense.  
17 S 2. This act shall take effect immediately.