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

S. 3553 A. 5669

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 25, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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

AN ACT to amend the public health law, in relation to establishing a dietary supplements safety committee

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 section 22 to read as follows:

S 22. DIETARY SUPPLEMENTS SAFETY COMMITTEE. 1. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT THE DIETARY SUPPLEMENTS SAFETY COMMITTEE TO BE COMPOSED OF EIGHTEEN MEMBERS WHO SHALL BE APPOINTED IN THE FOLLOWING MANNER: THREE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE; THREE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY; TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND EIGHT SHALL BE APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL DESIGNATE THE CHAIRPERSON OF THE COMMITTEE. THE MEMBERS OF THE COMMITTEE SHALL BE REPRESENTATIVE OF THE PUBLIC HEALTH FIELD, HEALTH CARE SERVICES PROVIDERS, DIETICIANS AND NUTRITIONISTS. SUCH APPOINTING OFFICIALS SHALL EITHER REPLACE OR REAPPOINT THE MEMBERS OF SUCH COMMITTEE FOR THREE YEAR TERMS, ACCORDING TO THE FOLLOWING SCHEDULE:

(A) EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN: ANY THREE ORIGINAL APPOINTEES OF THE GOVERNOR, ONE ORIGINAL APPOINTEE OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE ORIGINAL APPOINTEE OF THE SPEAKER OF THE ASSEMBLY AND ONE ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE SENATE;

(B) EFFECTIVE JANUARY FIRST, TWO THOUSAND FOURTEEN: ANY THREE OF THE REMAINING ORIGINAL APPOINTEES OF THE GOVERNOR, ONE OF THE REMAINING

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

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ORIGINAL APPOINTEES OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE OF THE REMAINING ORIGINAL APPOINTEES OF THE SPEAKER OF THE ASSEMBLY AND ONE ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE ASSEMBLY;

(C) EFFECTIVE JANUARY FIRST, TWO THOUSAND FIFTEEN: THE TWO REMAINING ORIGINAL APPOINTEES OF THE GOVERNOR, THE REMAINING ORIGINAL APPOINTEE OF THE TEMPORARY PRESIDENT OF THE SENATE, THE REMAINING ORIGINAL APPOINTEE OF THE SPEAKER OF THE ASSEMBLY, THE REMAINING ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE SENATE AND THE REMAINING ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE ASSEMBLY;

(D) REPLACEMENTS OR REAPPOINTMENTS THEREAFTER SHALL BE MADE AT THE EXPIRATION OF THE TERM OF EACH MEMBER, BY THE APPOINTING OFFICIAL WHO ORIGINALLY APPOINTED SUCH MEMBER; AND

(E) VACANCIES SHALL BE FILLED BY APPOINTMENT IN LIKE MANNER FOR UNEXPIRED TERMS.

2. THE COMMITTEE SHALL EVALUATE THE SAFETY AND EFFICACY OF DIETARY SUPPLEMENTS AND ITS DUTIES SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(A) ESTABLISH A SYSTEM OF REPORTING ADVERSE EVENTS ASSOCIATED WITH DIETARY SUPPLEMENTS AND SUPPORT VOLUNTARY REPORTING BY CONSUMERS, HEALTH PRACTITIONERS AND OTHERS;

(B) ASSESS AVAILABLE DATA AND MAKE SPECIFIC RECOMMENDATIONS TO THE COMMISSIONER REGARDING BANNING THE SALE OF CERTAIN DIETARY SUPPLEMENTS THE COMMITTEE DEEMS HARMFUL; AND

(C) ESTABLISH A PUBLIC HEALTH EDUCATION CAMPAIGN ON DIETARY SUPPLEMENTS, WITH VARIATIONS SPECIFICALLY DIRECTED TO TARGET DIFFERENT GROUPS.

3. THE ADVISORY COUNCIL SHALL MEET AT LEAST THREE TIMES A YEAR, AT THE REQUEST OF THE CHAIRPERSON.

4. THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

5. THE COMMISSIONER IS HEREBY AUTHORIZED TO BAN THE SALE OF ANY DIETARY SUPPLEMENT SOLD OR OFFERED FOR SALE IN THIS STATE UPON RECOMMENDATION BY THE COMMITTEE. ANY SUCH BAN MAY BE LIMITED IN ITS SCOPE TO BAN THE SALE OF ANY SUCH SUPPLEMENT TO MINORS ONLY.

6. FOR PURPOSES OF THIS SECTION, THE TERM "DIETARY SUPPLEMENT" MEANS (A) A PRODUCT (OTHER THAN TOBACCO) THAT IS INTENDED TO SUPPLEMENT THE DIET AND THAT BEARS OR CONTAINS ONE OR MORE OF THE FOLLOWING DIETARY INGREDIENTS: A VITAMIN, A MINERAL, AN HERB OR OTHER BOTANICAL, AN AMINO ACID, A DIETARY SUBSTANCE FOR THE USE BY A PERSON TO SUPPLEMENT THE DIET BY INCREASING THE TOTAL DAILY INTAKE, OR A CONCENTRATE, METABOLITE, CONSTITUENT, EXTRACT, OR COMBINATIONS OF THESE INGREDIENTS; (B) INTENDED FOR INGESTION IN PILL, CAPSULE, TABLET, OR LIQUID FORM; AND (C) LABELED AS A "DIETARY SUPPLEMENT" PURSUANT TO THE FEDERAL DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT, 21 U.S.C. 321, AS AMENDED.

S 2. This act shall take effect January 1, 2012. The appointments required to be made pursuant to subdivision 1 of section 22 of the public health law, as added by section one of this act, shall be made on or before such effective date.