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 5, 2011

Introduced by M. of A. CAHILL, MAGEE, SCHROEDER, MOLINARO, BOYLAND -- Multi-Sponsored by -- M. of A. GIGLIO, P. LOPEZ, McENENY, RABBITT, TOWNS -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to authorizing requests to the commissioner of agriculture and markets to render an opinion to government officials on local land use regulations, ordinances or local laws pertaining to agricultural practices

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

Section 1. Paragraph b of subdivision 1 of section 305-a of the agriculture and markets law is relettered paragraph c and a new paragraph b is added to read as follows:

B. UPON THE REQUEST OF ANY MUNICIPALITY, FARM OWNER OR OPERATOR, THE COMMISSIONER SHALL RENDER AN OPINION TO THE APPROPRIATE LOCAL GOVERNMENT OFFICIALS, AS TO WHETHER FARM OPERATIONS WOULD BE UNREASONABLY RESTRICTED OR REGULATED BY PROPOSED CHANGES IN LOCAL LAND USE REGULATIONS, ORDINANCES OR LOCAL LAWS PERTAINING TO AGRICULTURAL PRACTICES AND TO THE APPROPRIATE LOCAL LAND USE ENFORCEMENT OFFICIALS ADMINISTERING LOCAL LAND USE REGULATIONS, ORDINANCES, OR LOCAL LAWS OR REVIEWING A PERMIT PERTAINING TO AGRICULTURAL PRACTICES.

S 2. Paragraph b of subdivision 1 of section 308 of the agriculture and markets law, as amended by chapter 120 of the laws of 2010, 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; agricul-

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

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tural tourism; "timber operation," as defined in subdivision 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, AND PROVIDE SUCH INFORMATION, AFTER THE ISSUANCE OF A FORMAL OPINION, TO THE MUNICIPALITY IN WHICH THE AGRICULTURAL PRACTICE BEING EVALUATED IS LOCATED. 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 3. This act shall take effect immediately.