

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:

1 Section 1. The public health law is amended by adding a new section 22
2 to read as follows:
3 S 22. DIETARY SUPPLEMENTS SAFETY COMMITTEE. 1. THERE IS HEREBY ESTAB-
4 LISHED IN THE DEPARTMENT THE DIETARY SUPPLEMENTS SAFETY COMMITTEE TO BE
5 COMPOSED OF EIGHTEEN MEMBERS WHO SHALL BE APPOINTED IN THE FOLLOWING
6 MANNER: THREE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE
7 SENATE; TWO SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE;
8 THREE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY; TWO SHALL BE
9 APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND EIGHT SHALL BE
10 APPOINTED BY THE GOVERNOR. THE GOVERNOR SHALL DESIGNATE THE CHAIRPERSON
11 OF THE COMMITTEE. THE MEMBERS OF THE COMMITTEE SHALL BE REPRESENTATIVE
12 OF THE PUBLIC HEALTH FIELD, HEALTH CARE SERVICES PROVIDERS, DIETICIANS
13 AND NUTRITIONISTS. SUCH APPOINTING OFFICIALS SHALL EITHER REPLACE OR
14 REAPPOINT THE MEMBERS OF SUCH COMMITTEE FOR THREE YEAR TERMS, ACCORDING
15 TO THE FOLLOWING SCHEDULE:
16 (A) EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN: ANY THREE ORIGINAL
17 APPOINTEES OF THE GOVERNOR, ONE ORIGINAL APPOINTEE OF THE TEMPORARY
18 PRESIDENT OF THE SENATE, ONE ORIGINAL APPOINTEE OF THE SPEAKER OF THE
19 ASSEMBLY AND ONE ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE
20 SENATE;
21 (B) EFFECTIVE JANUARY FIRST, TWO THOUSAND FOURTEEN: ANY THREE OF THE
22 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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1 ORIGINAL APPOINTEES OF THE TEMPORARY PRESIDENT OF THE SENATE, ONE OF THE
2 REMAINING ORIGINAL APPOINTEES OF THE SPEAKER OF THE ASSEMBLY AND ONE
3 ORIGINAL APPOINTEE OF THE MINORITY LEADER OF THE ASSEMBLY;

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

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

13 (E) VACANCIES SHALL BE FILLED BY APPOINTMENT IN LIKE MANNER FOR UNEX-
14 PIRED TERMS.

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

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

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

24 (C) ESTABLISH A PUBLIC HEALTH EDUCATION CAMPAIGN ON DIETARY SUPPLE-
25 MENTS, WITH VARIATIONS SPECIFICALLY DIRECTED TO TARGET DIFFERENT GROUPS.

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

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

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

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

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