

9394

I N A S S E M B L Y

February 24, 2012

Introduced by M. of A. N. RIVERA, CRESPO, LINARES, CASTRO, RODRIGUEZ, ARROYO, J. RIVERA, MOYA, P. RIVERA -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to combatting the incidence of adult and child obesity, establishing a community gardens task force and encouraging direct marketing of fresh fruits and vegetables in areas with a high incidence of adult and child obesity (Part A); to amend the education law, in relation to screening for childhood obesity and promotion of the availability of certain foods and beverages in schools (Part B); to amend the public health law, in relation to regulating the use of artificial trans fats and requiring food service facilities to post or provide nutritional information on the food products served, and the inclusion of weight control in the health care and wellness education and outreach program (Part C); to amend the education law, in relation to restricting the sale, lease, transfer or authorization of open-air schoolhouse playgrounds for certain uses (Part D); to amend the education law, in relation to instruction in good health and reducing the incidence of obesity (Part E); to amend the public health law, in relation to in-utero exposure to tobacco smoke prevention (Part F); to amend the public health law, in relation to including certain respiratory diseases and obesity within disease management demonstration programs (Part G); to amend the public health law, in relation to the reduction of emphysema, chronic bronchitis and other chronic respiratory diseases in children (Part H); to amend the public health law, in relation to the collection and reporting of obesity data (Part I); to amend the public health law, in relation to directing the health research science board to study respiratory diseases and obesity, and childhood obesity prevention and screening (Part J); to amend the public health law, in relation to breastfeeding of infants and the adolescent pregnancy nutrition counseling program (Part K); to amend the education law, in relation to the use of inhalers and nebulizers (Part L); to amend the real property law, in relation to residential rental property smoking policies (Part M); to amend the state finance law, in relation to establishing the obesity and respiratory disease research and education fund (Part N); to amend the insurance law, in relation to wellness programs (Part O); to amend the social services

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

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law, in relation to health and nutritional education and services and child day care facilities; and to amend the county law, in relation to the Cornell cooperative extension system relating to adult and childhood obesity, asthma, and respiratory illness prevention (Part P)

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

Section 1. Short title. This act shall be known and may be cited as the "omnibus obesity and respiratory illness reduction act".

S 2. This act enacts into law major components of legislation which combat the incidence of adult and child obesity and respiratory diseases, and encourage the production and consumption of fresh fruits and vegetables. Each component is wholly contained within a Part identified as Parts A through P. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Section 3 of the agriculture and markets law, as amended by chapter 651 of the laws of 1946, is amended to read as follows:

S 3. Declaration of policy and purposes. The agricultural industry is basic to the life of our state. It vitally concerns and affects the welfare, health, economic well-being and productive and industrial capabilities of all our people. It is the policy and duty of the state to promote, foster, and encourage the agricultural industry, with proper standards of living for those engaged therein; to design and establish long-range programs for its stabilization and profitable operation; to increase through education, research, regulation, and scientific means, the quantity, quality, and efficiency of its production; to improve its marketing system; to encourage adequate and skilled assistance for agricultural enterprises; to maintain at fair prices uncontrolled by speculation the instrumentalities and products of agriculture; to remove unnecessary or unfair costs and obstacles in the [transportation] TRANSPORTATION, storage, processing, distribution, marketing, and sale of agricultural products; to prevent frauds in the traffic therein; to promote an expanded demand for the state's agricultural products and the intelligent uses thereof by consumers as pure and wholesome food; to protect the public health and to eliminate the evils of under-nourishment; to encourage the selection and consumption of food according to sound dietary and nutritional principles; TO IMPROVE OUR CITIZENS' OVERALL HEALTH AND TO COMBAT THE INCREASING INCIDENCE OF ADULT AND CHILDHOOD OBESITY; and to make our people conscious of the bond of mutual self-interest between our urban and our rural populations.

Accordingly, all laws enacted concerning the agricultural industry and its allied subjects, whether included in this chapter or not, are to be deemed an exercise of the police power of the state and a discharge of its obligations for the promotion of the general welfare through statewide laws and regulations, local initiative and government, cooperative

1 action between groups and localities, home-rule measures, individual
2 enterprise, civic consciousness, and appropriate coordination with the
3 federal government and as between educational research institutions
4 within the state.

5 Such laws and all governmental measures adopted pursuant thereto
6 should receive a liberal interpretation and application in furtherance
7 of the aforesaid policy and purposes.

8 S 2. Subdivision 5-b of section 16 of the agriculture and markets law,
9 as added by chapter 2 of the laws of 2001, is amended to read as
10 follows:

11 5-b. (A) Establish, in cooperation with the commissioner of education,
12 a farm-to-school program to facilitate and promote the purchase of New
13 York farm products by schools, universities and other educational insti-
14 tutions under the jurisdiction of the education department. The depart-
15 ment shall solicit information from the education department regarding
16 school districts and other educational institutions interested in
17 purchasing New York farm products, including but not limited to, the
18 type and amount of such products schools wish to purchase and the name
19 of the appropriate contact person from the interested school district.
20 The department shall make this information readily available to inter-
21 ested New York farmers, farm organizations and businesses that market
22 New York farm products. The department shall provide information to the
23 education department and interested school districts and other educa-
24 tional institutions about the availability of New York farm products,
25 including but not limited to, the types and amount of products, and the
26 names and contact information of farmers, farm organizations and busi-
27 nesses marketing such products. The commissioner shall report to the
28 legislature on the need for changes in law to facilitate the purchases
29 of such products by schools and educational institutions.

30 The department shall also coordinate with the education department,
31 and school food service, education, health and nutrition, farm, and
32 other interested organizations in establishing a promotional event, to
33 be known as New York Harvest For New York Kids Week, in early October
34 each year, that will promote New York agriculture and foods to children
35 through school meal programs and the classroom, at farms and farmers'
36 markets and other locations in the community.

37 (B) COOPERATE WITH THE DEPARTMENT OF HEALTH IN IMPLEMENTING THE CHILD-
38 HOOD OBESITY PREVENTION PROGRAM PURSUANT TO TITLE EIGHT OF ARTICLE TWEN-
39 TY-FIVE OF THE PUBLIC HEALTH LAW AND WITH THE COMMISSIONER OF EDUCATION
40 TO ENCOURAGE THE PRODUCTION AND CONSUMPTION OF FRESH LOCALLY PRODUCED
41 FRUITS AND VEGETABLES BY ELEMENTARY AND SECONDARY SCHOOL AGED CHILDREN
42 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION TO HELP COMBAT THE
43 INCREASING INCIDENCE OF CHILDHOOD OBESITY.

44 (C) COOPERATE WITH FEDERAL, OTHER STATE AND MUNICIPAL AGENCIES TO
45 ENCOURAGE THE EXPANSION OF COMMUNITY GARDENS PURSUANT TO ARTICLE TWO-C
46 OF THIS CHAPTER TO HELP ENCOURAGE THE PRODUCTION AND CONSUMPTION OF
47 FRESH LOCALLY PRODUCED FRUITS AND VEGETABLES TO HELP COMBAT THE INCREAS-
48 ING INCIDENCE OF ADULT AND CHILD OBESITY.

49 S 3. Article 2-C of the agriculture and markets law is amended by
50 adding a new section 31-f to read as follows:

51 S 31-F. LEGISLATIVE FINDINGS. THE LEGISLATURE HEREBY FINDS AND
52 DECLARES THAT COMMUNITY GARDENS PROVIDE SIGNIFICANT HEALTH, EDUCATIONAL
53 AND SOCIAL BENEFITS TO THE GENERAL PUBLIC, ESPECIALLY FOR THOSE WHO
54 RESIDE IN URBAN AND SUBURBAN AREAS OF THIS STATE. FURTHERMORE, IT IS THE
55 ARTICULATED PUBLIC POLICY OF THIS STATE TO PROMOTE AND FOSTER GROWTH IN
56 THE NUMBER OF COMMUNITY GARDENS AND THE ACREAGE OF SUCH GARDENS. THE

1 COMMUNITY GARDEN MOVEMENT CONTINUES TO PROVIDE LOW COST FOOD THAT IS
2 FRESH AND NUTRITIOUS FOR THOSE WHO MAY BE UNABLE TO READILY AFFORD FRESH
3 FRUITS AND VEGETABLES FOR THEMSELVES OR THEIR FAMILIES, PROMOTES PUBLIC
4 HEALTH AND HEALTHIER INDIVIDUAL LIFESTYLES BY ENCOURAGING BETTER EATING
5 HABITS AND INCREASED PHYSICAL ACTIVITY BY GROWING THEIR OWN FOOD,
6 FOSTERS THE RETENTION AND EXPANSION OF OPEN SPACES, PARTICULARLY IN
7 URBAN ENVIRONMENTS, ENHANCES URBAN AND SUBURBAN ENVIRONMENTAL QUALITY
8 AND COMMUNITY BEAUTIFICATION, PROVIDES INEXPENSIVE COMMUNITY BUILDING
9 ACTIVITIES, RECREATION AND PHYSICAL EXERCISE FOR ALL AGE GROUPS, ESTAB-
10 LISHES A SAFE PLACE FOR COMMUNITY INVOLVEMENT AND HELPS TO REDUCE THE
11 INCIDENCE OF CRIME, ENGENDERS A CLOSER RELATIONSHIP BETWEEN URBAN RESI-
12 DENTS, NATURE AND THEIR LOCAL ENVIRONMENT, AND FOSTERS GREEN JOB TRAIN-
13 ING AND ECOLOGICAL EDUCATION AT ALL LEVELS. FURTHER, THE PROMOTION OF
14 COMMUNITY GARDENS CAN HELP THE COMMUNITY TO CONDUCT ACTIVITIES FOR
15 ITSELF TO COMBAT CHILDHOOD AND ADULT OBESITY TO ADVANCE THE OVERALL
16 HEALTH OF COMMUNITY MEMBERS. IT IS THEREFORE THE INTENT OF THE LEGIS-
17 LATURE AND THE PURPOSE OF THIS ARTICLE TO FOSTER GROWTH IN THE NUMBER,
18 SIZE AND SCOPE OF COMMUNITY GARDENS IN THIS STATE BY ENCOURAGING STATE
19 AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES IN THEIR EFFORTS TO PROMOTE
20 COMMUNITY GARDENS.

21 S 4. Subdivisions 2 and 3 of section 31-g of the agriculture and
22 markets law, as added by chapter 862 of the laws of 1986, are amended
23 and a new subdivision 4-a is added to read as follows:

24 2. "Garden" shall mean a piece OR PARCEL of land appropriate for THE
25 cultivation of herbs, fruits, flowers, NUTS, HONEY, POULTRY FOR EGG
26 PRODUCTION, MAPLE SYRUP, ORNAMENTAL OR VEGETABLE PLANTS, NURSERY
27 PRODUCTS, or vegetables.

28 3. "Municipality" shall mean any county, town, village, city, school
29 district [or], BOARD OF COOPERATIVE EDUCATIONAL SERVICES, other special
30 district, OR ANY OFFICE OR AGENCY THEREOF.

31 4-A. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, BUREAU, COMMISSION,
32 BOARD, PUBLIC AUTHORITY OR OTHER AGENCY OF THE STATE, INCLUDING ANY
33 PUBLIC BENEFIT CORPORATION OF WHICH ANY MEMBER OF WHOSE BOARD IS
34 APPOINTED BY THE GOVERNOR.

35 S 5. Section 31-h of the agriculture and markets law, as added by
36 chapter 862 of the laws of 1986, is amended to read as follows:

37 S 31-h. Office of community gardens; powers; duties. 1. The commis-
38 sioner shall establish within the department an office of community
39 gardens which shall have the authority and responsibility for carrying
40 out the provisions of this article in cooperation with the [state]
41 department of environmental conservation, the [state] education depart-
42 ment, THE DEPARTMENT OF HEALTH, the department of state, cooperative
43 extensions and other state agencies and municipalities.

44 2. The duties of the office shall include:

45 a. Upon request, the office shall assist in the identification of
46 vacant public land within a given geographical location and provide
47 information regarding agency jurisdiction and the relative suitability
48 of such lands for community gardening purposes;

49 b. Serve as a coordinator on behalf of interested community groups and
50 the appropriate state or local agencies to facilitate the use of vacant
51 public lands for community garden use for not less than one growing
52 season by receiving and forwarding with recommendation completed appli-
53 cations to the appropriate STATE OR MUNICIPAL agency. PROVIDED, FURTHER,
54 THAT THE OFFICE MAY DEVELOP A SINGLE RECOMMENDED APPLICATION FORM TO BE
55 USED BY COMMUNITY GROUPS WHEN APPLYING TO STATE AGENCIES OR MUNICI-
56 PALITIES FOR USE OF VACANT PUBLIC LAND FOR COMMUNITY GARDEN PURPOSES;

1 c. Support and encourage contact between community garden programs
2 already in existence and those programs in the initial stages of devel-
3 opment; [and]

4 d. Seek and provide such assistance, to the extent funds or grants may
5 become available, for the purposes identified in this article[.];

6 E. ASSIST, SUPPORT AND ENCOURAGE CONTACT AND COOPERATION BETWEEN, AND
7 THE COOPERATIVE SHARING OF RESOURCES BETWEEN COMMUNITY GARDEN GROUPS,
8 SCHOOL GARDEN PROGRAMS AND LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS,
9 SUCH AS COMMUNITY FOOD PANTRIES, SOUP KITCHENS, OTHER COMMUNITY AND
10 NOT-FOR-PROFIT ORGANIZATIONS THAT PROVIDE OR DISTRIBUTE FOOD TO THE POOR
11 AND DISADVANTAGED, HOSPITALS, OTHER HEALTH CARE FACILITIES AND EDUCA-
12 TIONAL FACILITIES. SUCH SUPPORT CAN INCLUDE THE PROVISION OF SURPLUS
13 COMMUNITY GARDEN FOOD OR OTHER AGRICULTURAL PRODUCTS TO SUCH LOCAL
14 VOLUNTARY FOOD ASSISTANCE PROGRAMS;

15 F. ASSIST, SUPPORT AND ENCOURAGE COMMUNICATION, AND THE SHARING OF
16 RESOURCES BETWEEN COMMUNITY GARDEN ORGANIZATIONS AND THE NEW YORK
17 HARVEST FOR NEW YORK KIDS WEEK PROGRAM ESTABLISHED BY THE DEPARTMENT
18 PURSUANT TO SUBDIVISION FIVE-B OF SECTION SIXTEEN OF THIS CHAPTER, AND
19 INDIVIDUAL FARM-TO-SCHOOL AND SCHOOL GARDEN PROGRAMS;

20 G. SUPPORT EFFORTS BY THE DEPARTMENTS OF HEALTH AND EDUCATION TO
21 COMBAT ADULT AND CHILDHOOD OBESITY BY ENCOURAGING THE CONSUMPTION OF
22 COMMUNITY GARDEN PRODUCED FRUITS AND VEGETABLES; AND

23 H. ESTABLISH A COMMUNITY GARDENS TASK FORCE PURSUANT TO SECTION THIR-
24 TY-ONE-J OF THIS ARTICLE.

25 S 6. Section 31-i of the agriculture and markets law, as added by
26 chapter 862 of the laws of 1986, is amended to read as follows:

27 S 31-i. Use of state OR MUNICIPALLY owned land for community gardens.
28 1. Any state agency[, department, board, public benefit corporation,
29 public authority] or [commission] MUNICIPALITY with title to vacant
30 public land may permit community organizations to use such lands for
31 community gardening purposes. Such use of vacant public land may be
32 conditioned on the community organization possessing liability insurance
33 and accepting liability for injury or damage resulting from use of the
34 vacant public land for community gardening purposes.

35 2. State agencies AND MUNICIPALITIES which have received an applica-
36 tion for use of public lands for community garden purposes shall respond
37 to the applicant within thirty days and make a final determination with-
38 in one hundred eighty days.

39 S 7. The agriculture and markets law is amended by adding a new
40 section 31-j to read as follows:

41 S 31-J. COMMUNITY GARDENS TASK FORCE. 1. THE OFFICE MAY CONVENE A
42 COMMUNITY GARDENS TASK FORCE TO IDENTIFY AND DEVELOP WAYS TO ENCOURAGE
43 STATE AGENCIES, MUNICIPALITIES AND PRIVATE PARTIES TO ESTABLISH AND
44 EXPAND COMMUNITY GARDENS AND THE ACTIVITIES CONDUCTED BY SUCH GARDENS.

45 2. THE TASK FORCE SHALL BE CHAIRED BY THE COMMISSIONER, OR BY SUCH
46 OFFICER OR EMPLOYEE OF THE DEPARTMENT AS SHALL BE DESIGNATED BY THE
47 COMMISSIONER. THE MEMBERSHIP OF THE TASK FORCE MAY INCLUDE REPRESENTA-
48 TION FROM THE EDUCATION DEPARTMENT, DEPARTMENT OF ENVIRONMENTAL
49 CONSERVATION, DEPARTMENT OF HEALTH, DEPARTMENT OF STATE, OFFICE OF
50 PARKS, RECREATION AND HISTORIC PRESERVATION, AND OFFICE OF GENERAL
51 SERVICES. SUCH TASK FORCE SHALL INCLUDE MEMBERS THAT REPRESENT COUNTIES,
52 CITIES, TOWNS, VILLAGES, SCHOOL DISTRICTS, OTHER SPECIAL USE DISTRICTS,
53 PUBLIC AUTHORITIES AND COOPERATIVE EXTENSION SERVICES.

54 3. THE TASK FORCE SHALL HAVE NOT MORE THAN TWENTY-FIVE MEMBERS.

55 4. THE OFFICE, MAY REQUEST THE ASSISTANCE OF STATE AGENCIES INCLUDING,
56 BUT NOT LIMITED TO THE EDUCATION DEPARTMENT, DEPARTMENT OF ENVIRONMENTAL

1 CONSERVATION, DEPARTMENT OF HEALTH, DEPARTMENT OF STATE, DEPARTMENT OF
2 CORRECTIONS AND COMMUNITY SUPERVISION, OFFICE OF STATE PARKS, RECREATION
3 AND HISTORIC PRESERVATION, AND OFFICE OF GENERAL SERVICES TO CARRY OUT
4 THE WORK OF THE TASK FORCE.

5 5. THE TASK FORCE MAY ONLY ACT WHEN THREE-FIFTHS OF ITS MEMBERSHIP ARE
6 PRESENT. ALL ACTION OF THE TASK FORCE SHALL REQUIRE AN AFFIRMATIVE VOTE
7 OF ITS MEMBERSHIP. THE TASK FORCE SHALL CONVENE AT THE CALL OF THE
8 OFFICE.

9 6. THE MEMBERS OF THE TASK FORCE SHALL RECEIVE NO COMPENSATION FOR
10 THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
11 INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

12 7. (A) THE GOALS OF THE TASK FORCE MAY INCLUDE, BUT ARE NOT LIMITED
13 TO, THE STUDY, EVALUATION AND DEVELOPMENT OF RECOMMENDATIONS: (I) TO
14 ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF COMMUNITY GARDENS BY STATE
15 AGENCIES, MUNICIPAL GOVERNMENTS, EDUCATIONAL FACILITIES AND PRIVATE
16 PARTIES, SUCH AS HOSPITALS, OTHER HEALTH CARE FACILITIES AND OTHER
17 HEALTH CARE PROVIDERS, (II) TO ENCOURAGE COOPERATION BETWEEN THE ACTIV-
18 ITIES AND OPERATIONS OF COMMUNITY GARDENS AND PROVISION OF DONATED FOOD
19 TO LOCAL VOLUNTARY FOOD ASSISTANCE PROGRAMS FOR THE POOR AND DISADVAN-
20 TAGED, (III) TO ENCOURAGE THE PRODUCTION AND CONSUMPTION OF FRESH FRUITS
21 AND VEGETABLES TO HELP COMBAT THE INCREASING PREVALENCE OF ADULT AND
22 CHILDHOOD OBESITY, AND (IV) TO INCREASE THE BENEFITS THAT COMMUNITY
23 GARDENS MAY PROVIDE TO THE LOCAL COMMUNITY IN WHICH THEY ARE LOCATED.

24 (B) IN ACHIEVING THE GOALS OF THE TASK FORCE, THE TASK FORCE MAY
25 CONSIDER RECOMMENDATIONS THAT: (I) ENCOURAGE THE EXECUTION OF CONSERVA-
26 TION EASEMENTS BY STATE AGENCIES, MUNICIPALITIES, EDUCATIONAL FACILITIES
27 OR PRIVATE PARTIES TO ESTABLISH OR PROTECT COMMUNITY GARDENS, (II)
28 ENCOURAGE THE CREATION OF MECHANISMS TO TRANSFER DEVELOPMENT RIGHTS TO
29 PROTECT COMMUNITY GARDENS OR ENCOURAGE THE DONATION OR LEASE OF LANDS
30 FOR COMMUNITY GARDENS, (III) DEVELOPMENT OF MODEL ZONING CODES, LOCAL
31 LAND USE LAWS OR OTHER MUNICIPAL POLICIES THAT COULD ENCOURAGE THE
32 ESTABLISHMENT OR RETENTION OF COMMUNITY GARDENS, (IV) ENCOURAGE COOPER-
33 ATIVE INITIATIVES BETWEEN HEALTH CARE FACILITIES, OTHER HEALTH CARE
34 PROVIDERS AND COMMUNITY GROUPS TO ENCOURAGE THE PRODUCTION AND CONSUMP-
35 TION OF FRESH FRUITS AND VEGETABLES TO COMBAT THE HIGH INCIDENCE OF
36 ADULT AND CHILD OBESITY, AND (V) ANY OTHER ACTIVITY TO ACHIEVE THE GOALS
37 DEEMED APPROPRIATE BY THE TASK FORCE ACCORDING TO THE PROVISIONS OF THIS
38 ARTICLE.

39 S 8. The opening paragraph of section 281 of the agriculture and
40 markets law, as added by chapter 834 of the laws of 1981, is amended to
41 read as follows:

42 The legislature hereby finds that inflation has caused higher prices
43 in all phases of farm and food production and farm and food products
44 distribution; and that the demand, by consumers within the state, for
45 increasing supplies of wholesome, fresh and nutritious farm and food
46 products provides a significant opportunity for the development of
47 alternative marketing structures for food grown within the state by
48 which such products may be supplied directly to the consuming public. IN
49 ADDITION, INCREASING THE SUPPLY OF WHOLESOME, FRESH, LOCALLY PRODUCED
50 FRUITS AND VEGETABLES CAN HELP TO ENCOURAGE THE CONSUMPTION OF SUCH
51 PRODUCE IN A MANNER THAT HELPS TO COMBAT THE INCREASING INCIDENCE OF
52 ADULT AND CHILDHOOD OBESITY. REDUCING THE INCIDENCE OF OBESITY CAN HELP
53 TO IMPROVE THE OVERALL HEALTH OF THE GENERAL PUBLIC, HELP TO REDUCE THE
54 COST OF PROVIDING HEALTH CARE AND REDUCE THE STATE'S COSTS OF PROVIDING
55 SUCH CARE.

1 S 9. Subdivision 5 of section 283 of the agriculture and markets law,
2 as added by chapter 834 of the laws of 1981, is amended and a new subdi-
3 vision 8-a is added to read as follows:

4 5. Provide assistance to consumer or non-profit organizations, PUBLIC
5 OR PRIVATE AGENCIES, HOSPITALS AND OTHER HEALTH CARE FACILITIES seeking
6 to purchase or facilitate the purchase of farm products directly from
7 producers.

8 8-A. ENCOURAGE THE DEVELOPMENT OF DIRECT MARKETING PROGRAMS, WITHIN
9 AREAS OF THE STATE DESIGNATED BY THE DEPARTMENT OF HEALTH AS HAVING A
10 HIGH INCIDENCE OF CHILDHOOD OBESITY AND TO INCREASE THE CONSUMPTION OF
11 FRESH FRUITS AND VEGETABLES TO HELP CURB THE INCIDENCE OF CHILDHOOD
12 OBESITY.

13 S 10. Subdivision 1 of section 285-a of the agriculture and markets
14 law, as added by chapter 834 of the laws of 1981, is amended to read as
15 follows:

16 1. Regional direct marketing advisory councils may be established
17 which shall be composed of representatives from consumer and producer
18 organizations [and], county government interests, EDUCATIONAL FACILI-
19 TIES, HOSPITALS AND OTHER HEALTH CARE FACILITIES THAT ARE SUBJECT TO
20 REGULATION PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW,
21 the appropriate representative of the commissioner, and a county cooper-
22 ative extension service agent. These regional advisory councils shall be
23 no more than [five] SEVEN persons and shall meet at least three times
24 annually, and council members shall serve without pay but shall be reim-
25 bursed for allowable and necessary travel expenses.

26 S 11. Subdivisions 1 and 2 of section 285-b of the agriculture and
27 markets law, subdivision 1 as amended by chapter 412 of the laws of 1993
28 and subdivision 2 as amended by chapter 571 of the laws of 2008, are
29 amended to read as follows:

30 1. The Hudson valley agricultural advisory council shall be appointed
31 by the commissioner, and composed of representatives from consumer and
32 producer organizations, county governments, conservation organizations,
33 EDUCATIONAL FACILITIES, LOCAL HEALTH CARE PROVIDERS and tourism organ-
34 izations of the Hudson valley region. For the purposes of this section,
35 the term "Hudson valley" shall mean the counties of Albany, Greene,
36 Ulster, Orange, Rockland, Rensselaer, Columbia, Dutchess, Putnam and
37 Westchester. The membership of the council shall consist of no more than
38 [eleven] THIRTEEN persons, who shall be residents of the Hudson valley,
39 and who shall meet at least three times annually. Council members shall
40 serve without pay but shall be reimbursed for allowable and necessary
41 travel expenses.

42 2. The advisory council, in consultation with the Hudson river valley
43 greenway communities council, the upstate New York tourism council, and
44 the downstate New York tourism council, may recommend programs and
45 promotional activities designed to preserve and enhance Hudson valley
46 region tourism and agricultural open space, address issues affecting the
47 viability of agriculture, including real property tax policies and
48 municipal land use issues, PROMOTE THE MARKETING AND CONSUMPTION OF
49 FRESH FRUITS AND VEGETABLES PRODUCED IN THE REGION AS A MEANS TO COMBAT
50 CHILDHOOD AND ADULT OBESITY IN THE STATE and promote greater agricul-
51 tural marketing and promotional opportunities for the region's agricul-
52 tural producers to the department.

53 S 12. This act shall take effect immediately.

1 Section 1. Section 901 of the education law, as amended by chapter 477
2 of the laws of 2004, subdivision 1 as amended by section 57 of part A-1
3 of chapter 58 of the laws of 2006, is amended to read as follows:

4 S 901. School health services to be provided. 1. School health
5 services, as defined in subdivision two of this section, shall be
6 provided by each school district for all students attending the public
7 schools in this state, except in the city school district of the city of
8 New York, as provided in this article. School health services shall
9 include the services of a registered professional nurse, if one is
10 employed, and shall also include such services as may be rendered as
11 provided in this article in examining students for the existence of
12 disease or disability, OR MAY INCLUDE SERVICES RELATED TO EXAMINING FOR
13 CHILDHOOD OBESITY BASED UPON THE CALCULATION OF EACH STUDENT'S BODY MASS
14 INDEX AND WEIGHT STATUS CATEGORY PURSUANT TO SECTION NINE HUNDRED FOUR
15 OF THIS ARTICLE, and in testing the eyes and ears of such students.

16 2. School health services for the purposes of this article shall mean
17 the several procedures, including, but not limited to, medical examina-
18 tions, dental inspection and/or screening, scoliosis screening, vision
19 screening [and], audiometer tests, AND CHILDHOOD OBESITY AS MEASURED BY
20 BODY MASS INDEX AND WEIGHT STATUS CATEGORY, designed to determine the
21 health status of the child; to inform parents or other persons in
22 parental relation to the child, pupils and teachers of the individual
23 child's health condition subject to federal and state confidentiality
24 laws; to guide parents, children and teachers in procedures for prevent-
25 ing and correcting defects [and], diseases AND CHILDHOOD OBESITY CONDI-
26 TIONS; to instruct the school personnel in procedures to take in case of
27 accident or illness; to survey and make necessary recommendations
28 concerning the health and safety aspects of school facilities and the
29 provision of health information.

30 S 2. Subdivisions 1, 3 and 4 of section 903 of the education law, as
31 amended by chapter 281 of the laws of 2007, subdivision 1 as separately
32 amended by section 11 of part B of chapter 58 of the laws of 2007 and
33 paragraph a of subdivision 3 as amended by section 28 of part A of chap-
34 ter 58 of the laws of 2008, are amended to read as follows:

35 1. A health certificate shall be furnished by each student in the
36 public schools upon his or her entrance in such schools and upon his or
37 her entry into the grades prescribed by the commissioner in regulations,
38 provided that such regulations shall require such certificates at least
39 twice during the elementary grades and twice in the secondary grades. An
40 examination and health history of any child may be required by the local
41 school authorities at any time in their discretion to promote the educa-
42 tional interests of such child. Each certificate shall be signed by a
43 duly licensed physician, physician assistant, or nurse practitioner, who
44 is authorized by law to practice in this state, and consistent with any
45 applicable written practice agreement, or by a duly licensed physician,
46 physician assistant, or nurse practitioner, who is authorized to prac-
47 tice in the jurisdiction in which the examination was given, provided
48 that the commissioner has determined that such jurisdiction has stand-
49 ards of licensure and practice comparable to those of New York. Each
50 such certificate shall describe the condition of the student when the
51 examination was made, which shall not be more than twelve months prior
52 to the commencement of the school year in which the examination is
53 required, and shall state whether such student is in a fit condition of
54 health to permit his or her attendance at the public schools. THE EXAM-
55 INATION MAY INCLUDE A DIABETES RISK ANALYSIS AND, IF NECESSARY, CHILDREN
56 WITH RISK FACTORS FOR TYPE 1 DIABETES, OR RISK FACTORS ASSOCIATED WITH

1 TYPE 2 DIABETES SUCH AS OBESITY, A FAMILY HISTORY OF TYPE 2 DIABETES, OR
2 ANY OTHER FACTORS CONSISTENT WITH INCREASED RISK SHALL BE TESTED FOR
3 DIABETES. Each such certificate shall also state the student's body mass
4 index (BMI) and weight status category. For purposes of this section,
5 BMI is computed as the weight in kilograms divided by the square of
6 height in meters or the weight in pounds divided by the square of height
7 in inches multiplied by a conversion factor of 703. Weight status cate-
8 gories for children and adolescents shall be as defined by the commis-
9 sioner of health. In all school districts such physician, physician
10 assistant or nurse practitioner shall determine whether a one-time test
11 for sickle cell anemia is necessary or desirable and he or she shall
12 conduct such a test and the certificate shall state the results.

13 3. a. Within thirty days after the student's entrance in such schools
14 or grades, the health certificate shall be submitted to the principal or
15 his or her designee and shall be filed in the student's cumulative
16 health record. If such student does not present a health certificate as
17 required in this section, unless he or she has been accommodated on
18 religious grounds, the principal or the principal's designee shall cause
19 a notice to be sent to the parents or person in parental relationship to
20 such student that if the required health certificate is not furnished
21 within thirty days from the date of such notice, an examination will be
22 made of such student, as provided in this article. Each school and
23 school district [chosen as part of an appropriate sampling methodology]
24 shall participate in surveys directed by the commissioner of health
25 pursuant to the public health law in relation to students' BMI and
26 weight status categories as reported on the school health certificate
27 and which shall be subject to audit by the commissioner of health. Such
28 surveys shall contain the information required pursuant to subdivision
29 one of this section in relation to students' BMI and weight status cate-
30 gories in aggregate. Parents or other persons in parental relation to a
31 student may refuse to have the student's BMI and weight status category
32 included in such survey. Each school and school district shall provide
33 the commissioner of health with any information, records and reports he
34 or she may require for the purpose of such audit. The BMI and weight
35 status survey and audit as described in this subdivision shall be
36 conducted consistent with confidentiality requirements imposed by feder-
37 al law.

38 b. Within thirty days after the student's entrance in such schools or
39 grades, the dental health certificate, if obtained, shall be filed in
40 the student's cumulative health record.

41 4. Notwithstanding the provisions of subdivisions one, two and three
42 of this section, no examinations for a health certificate or health
43 history shall be required or dental certificate requested, and no
44 screening examinations for sickle cell anemia OR CHILDHOOD OBESITY shall
45 be required where a student or the parent or person in parental relation
46 to such student objects thereto on the grounds that such examinations or
47 health history conflict with their genuine and sincere religious
48 beliefs.

49 S 3. Subdivision 1 of section 904 of the education law, as amended by
50 section 12 of part B of chapter 58 of the laws of 2007, is amended to
51 read as follows:

52 1. Each principal of a public school, or his or her designee, shall
53 report to the director of school health services having jurisdiction
54 over such school, the names of all students who have not furnished
55 health certificates as provided in section nine hundred three of this
56 article, or who are children with disabilities, as defined by article

1 eighty-nine of this chapter, and the director of school health services
2 shall cause such students to be separately and carefully examined and
3 tested to ascertain whether any student has defective sight or hearing,
4 or any other physical disability which may tend to prevent him or her
5 from receiving the full benefit of school work, or from requiring a
6 modification of such work to prevent injury to the student or from
7 receiving the best educational results. Each examination shall also
8 include a calculation of the student's body mass index (BMI) and weight
9 status category. For purposes of this section, BMI is computed as the
10 weight in kilograms divided by the square of height in meters or the
11 weight in pounds divided by the square of height in inches multiplied by
12 a conversion factor of 703. Weight status categories for children and
13 adolescents shall be as defined by the commissioner of health. In all
14 school districts, such physician, physician assistant or nurse practi-
15 tioner shall determine whether a one-time test for sickle cell anemia is
16 necessary or desirable and he or she shall conduct such tests and the
17 certificate shall state the results. If it should be ascertained, upon
18 such test or examination, that any of such students have defective sight
19 or hearing[,] or other physical disability, including sickle cell
20 anemia, as above described, OR ARE OBESE, the principal or his or her
21 designee shall notify the parents of, or other persons in parental
22 relation to, the child as to the existence of such disability. If the
23 parents or other persons in parental relation are unable or unwilling to
24 provide the necessary relief and treatment for such students, such fact
25 shall be reported by the principal or his or her designee to the direc-
26 tor of school health services, whose duty it shall be to provide relief
27 for such students. Each school and school district [chosen as part of an
28 appropriate sampling methodology] shall participate in surveys directed
29 by the commissioner of health pursuant to the public health law in
30 relation to students' BMI and weight status categories as determined by
31 the examination conducted pursuant to this section and which shall be
32 subject to audit by the commissioner of health. Such surveys shall
33 contain the information required pursuant to this subdivision in
34 relation to students' BMI and weight status categories in aggregate.
35 [Parents or other persons in parental relation to a student may refuse
36 to have the student's BMI and weight status category included in such
37 survey.] Each school and school district shall provide the commissioner
38 of health with any information, records and reports he or she may
39 require for the purpose of such audit. The BMI and weight status survey
40 and audit as described in this section shall be conducted consistent
41 with confidentiality requirements imposed by federal law. [Data
42 collection for such surveys shall commence on a voluntary basis at the
43 beginning of the two thousand seven academic school year, and by all
44 schools chosen as part of the sampling methodology at the beginning of
45 the two thousand eight academic school year.] The department shall also
46 utilize the collected data to develop a report of child obesity and
47 obesity related diseases.

48 S 4. Section 912 of the education law, as amended by chapter 477 of
49 the laws of 2004, is amended to read as follows:

50 S 912. Health and welfare services to all children. The voters and/or
51 trustees or board of education of every school district shall, upon
52 request of the authorities of a school other than public, provide resi-
53 dent children who attend such school with any or all of the health and
54 welfare services and facilities which are made available by such voters
55 and/or trustees or board of education to or for children attending the
56 public schools of the district. Such services may include, but are not

1 limited to all services performed by a physician, physician assistant,
2 dentist, dental hygienist, registered professional nurse, nurse practi-
3 tioner, school psychologist, school social worker or school speech ther-
4 apist, and may also include dental prophylaxis, vision and hearing
5 screening examinations, CHILDHOOD OBESITY SCREENING, the taking of
6 medical histories and the administration of health screening tests, the
7 maintenance of cumulative health records and the administration of emer-
8 gency care programs for ill or injured students. Any such services or
9 facilities shall be so provided notwithstanding any provision of any
10 charter or other provision of law inconsistent herewith. Where children
11 residing in one school district attend a school other than public
12 located in another school district, the school authorities of the
13 district of residence shall contract with the school authorities of the
14 district where such nonpublic school is located, for the provision of
15 such health and welfare services and facilities to such children by the
16 school district where such nonpublic school is located, for a consider-
17 ation to be agreed upon between the school authorities of such
18 districts, subject to the approval of the qualified voters of the
19 district of residence when required under the provisions of this chap-
20 ter. Every such contract shall be in writing and in the form prescribed
21 by the commissioner, and before such contract is executed the same shall
22 be submitted for approval to the superintendent of schools having juris-
23 diction over such district of residence and such contract shall not
24 become effective until approved by such superintendent.

25 S 5. Section 915 of the education law, as added by chapter 674 of the
26 laws of 1987, is amended to read as follows:

27 S 915. [Prohibiting] PROMOTING the [sale] AVAILABILITY of certain
28 [sweetened] foods AND BEVERAGES. 1. From the beginning of the school
29 day until the end of the last scheduled meal period, no sweetened SODA
30 OR soda water, no chewing gum, no candy including hard candy, jellies,
31 gums, marshmallow candies, fondant, licorice, spun candy and candy coat-
32 ed popcorn, and no water ices except those which contain fruit or fruit
33 juices, shall be sold in any public school within the state.

34 2. EVERY SCHOOL DISTRICT SHALL FACILITATE THE AVAILABILITY IN EACH
35 SCHOOL OF:

36 (A) JUICES WITH AT LEAST FIFTY PERCENT FRUIT JUICES OR FRUIT, OR VEGE-
37 TABLE BASED DRINKS;

38 (B) BEVERAGES THAT CONTAIN ONLY WATER AND FRUIT OR VEGETABLE JUICES,
39 HAVING NO ADDED SUGARS;

40 (C) DRINKING WATER OR SELTZER WATER, WHICH MAY BE FLAVORED BUT DOES
41 NOT CONTAIN CAFFEINE;

42 (D) ONE PERCENT FAT MILK OR NONFAT MILK, THAT MAY BE FLAVORED BUT
43 CONTAIN NOT MORE THAN THIRTY-TWO GRAMS TOTAL SUGAR PER EIGHT OUNCE SERV-
44 ING, WHICH SHALL BE CALCIUM AND VITAMIN FORTIFIED;

45 (E) NONDAIRY MILK, SUCH AS SOY MILK, RICE MILK OR ALMOND MILK, THAT
46 MAY BE FLAVORED BUT CONTAIN NOT MORE THAN THIRTY-TWO GRAMS TOTAL SUGAR
47 PER EIGHT OUNCE SERVING, WHICH SHALL BE CALCIUM AND VITAMIN FORTIFIED;
48 OR

49 (F) ANY OTHER FOOD THAT MEETS ALL OF THE FOLLOWING CRITERIA:

50 (1) CONTAINS NOT MORE THAN THIRTY-FIVE PERCENT OF TOTAL CALORIES FROM
51 FAT, WITH THE EXCEPTION OF NUTS, NUT BUTTERS AND SEEDS,

52 (2) CONTAINS NOT MORE THAN FIFTEEN PERCENT OF CALORIES FROM SATURATED
53 FAT, AND

54 (3) CONTAINS NOT MORE THAN TWO HUNDRED THIRTY MILLIGRAMS OF SODIUM PER
55 SERVING, WITH THE EXCEPTION OF LOW-FAT AND FAT-FREE DAIRY PRODUCTS WHICH
56 MAY HAVE NO MORE THAN FOUR HUNDRED EIGHTY MILLIGRAMS OF SODIUM, AND

1 VEGETABLES WITH SAUCE AND SOUPS THAT HAVE NOT MORE THAN FOUR HUNDRED
2 EIGHTY MILLIGRAMS OF SODIUM.

3 S 6. Subdivisions 4 and 5 of section 918 of the education law, as
4 added by chapter 493 of the laws of 2004, are amended to read as
5 follows:

6 4. The committee is encouraged to study AND MAKE RECOMMENDATIONS ON
7 all facets of the current nutritional policies of the district includ-
8 ing, but not limited to, the goals of the district to promote health and
9 proper nutrition, REDUCE THE INCIDENCE OF CHILDHOOD OBESITY, vending
10 machine sales, menu criteria, educational curriculum teaching healthy
11 nutrition, AND educational information provided to parents or guardians
12 regarding healthy nutrition and the health risks associated with obesi-
13 ty, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIRATORY DISEASES.
14 PROVIDED, FURTHER, THE COMMITTEE MAY PROVIDE INFORMATION TO PERSONS IN
15 PARENTAL RELATION ON opportunities offered to parents or guardians to
16 encourage healthier eating habits to students, and the education
17 provided to teachers and other staff as to the importance of healthy
18 nutrition AND ABOUT THE DANGERS OF CHILDHOOD OBESITY. In addition the
19 committee shall consider recommendations and practices of other
20 districts and nutrition studies.

21 5. The committee is encouraged to report periodically to the district
22 regarding practices that will educate teachers, parents or guardians and
23 children about healthy nutrition and raise awareness of the dangers of
24 CHILDHOOD obesity, ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC RESPIR-
25 ATORY DISEASES. The committee is encouraged also to provide any parent
26 teacher associations in the district with such findings and recommenda-
27 tions.

28 S 7. This act shall take effect two years after it shall have become a
29 law.

30 PART C

31 Section 1. Subdivision 1 of section 206 of the public health law is
32 amended by adding two new paragraphs (s) and (t) to read as follows:

33 (S) (I) BY RULE OR REGULATION, MAY REQUIRE FOOD SERVICE ESTABLISHMENTS
34 INCLUDING, BUT NOT LIMITED TO RESTAURANTS, DINING ROOMS, DELIS, BAKER-
35 IES, ELEMENTARY AND SECONDARY SCHOOLS, HOSPITALS, MOBILE FOOD SERVICE
36 VEHICLES AND CARTS, AND CHILD CARE FACILITIES, THAT PREPARE, SELL OR
37 SERVE FOOD FOR IMMEDIATE CONSUMPTION BY THE GENERAL PUBLIC, TO RESTRICT
38 THE USE OF ARTIFICIAL TRANS FAT IN THE PREPARATION OF SUCH FOOD. FOR THE
39 PURPOSES OF THIS PARAGRAPH, THE TERM "ARTIFICIAL TRANS FAT" MEANS ANY
40 FOOD THAT IS LABELED, AND WHICH LISTS AS AN INGREDIENT OR CONTAINS VEGE-
41 TABLE SHORTENING, MARGARINE OR ANY KIND OF PARTIALLY HYDROGENATED VEGE-
42 TABLE OIL; PROVIDED, HOWEVER, THAT ANY FOOD WITH A NUTRITIONAL FACT
43 LABEL OR OTHER DOCUMENTATION FROM A MANUFACTURER LIST STATING A TRANS
44 FAT CONTENT OF LESS THAN .5 GRAMS PER SERVING SHALL NOT BE DEEMED TO
45 CONTAIN ARTIFICIAL TRANS FAT. SUCH RULES AND REGULATIONS SHALL NOT APPLY
46 TO ANY FOOD SERVED DIRECTLY TO THE GENERAL PUBLIC IN THE MANUFACTURER'S
47 ORIGINAL SEALED PACKAGE. FURTHERMORE, SUCH RULES AND REGULATIONS SHALL
48 NOT APPLY TO ANY FOOD SERVICE ESTABLISHMENT OR MOBILE FOOD COMMISSARY
49 THAT IS SUBJECT TO ANY LOCAL LAW, ORDINANCE, CODE OR RULE THAT REGULATES
50 THE USE OR DISCLOSURE OF ARTIFICIAL TRANS FATS BY FOOD SERVICE ESTAB-
51 LISHMENTS.

52 (II) THE COMMISSIONER MAY REQUIRE FOOD SERVICE ESTABLISHMENTS SERVING
53 FOODS WITH ARTIFICIAL TRANS FAT TO POST WARNING SIGNS TO INFORM THE
54 PUBLIC ABOUT THE HEALTH RISKS ASSOCIATED WITH THE OVER CONSUMPTION OF

FOODS PREPARED WITH ARTIFICIAL TRANS FATS. SUCH WARNING SIGNS SHALL BE CONSPICUOUSLY POSTED IN AREAS WHERE FOOD MAY BE ORDERED FROM THE FOOD SERVICE ESTABLISHMENT AND SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM: "WARNING - THIS ESTABLISHMENT USES ARTIFICIAL TRANS FAT IN THE PREPARATION OF SOME OR ALL OF THE FOODS THAT ARE SOLD OR SERVED HERE. WHEN OVERCONSUMED, ARTIFICIAL TRANS FATS CAN LEAD TO INCREASES IN THE RISK OF HEART ATTACK, STROKE AND DEVELOPMENT OF TYPE 2 DIABETES."

(III) THE COMMISSIONER MAY ESTABLISH A VOLUNTARY ARTIFICIAL TRANS FAT REDUCTION PROGRAM. SUCH PROGRAM MAY CONSIST OF, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING COMPONENTS: (A) A PUBLIC INFORMATION DISSEMINATION PROGRAM TO INFORM THE PUBLIC OF THE HEALTH RISKS ASSOCIATED WITH THE OVERCONSUMPTION OF ARTIFICIAL TRANS FATS, AND (B) SUGGESTED FOOD PREPARATION METHODS THAT CAN BE FOLLOWED BY FOOD SERVICE ESTABLISHMENTS AND THE GENERAL PUBLIC TO REDUCE OR ELIMINATE THE USE OF ARTIFICIAL TRANS FATS.

(T) (I) FOR PURPOSES OF THIS PARAGRAPH, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "FOOD SERVICE FACILITY" MEANS A FOOD SERVICE ESTABLISHMENT, AS DEFINED IN THE STATE SANITARY CODE, THAT OPERATES UNDER COMMON OWNERSHIP OR CONTROL WITH AT LEAST TWENTY-FIVE OTHER FOOD SERVICE ESTABLISHMENTS WITH THE SAME NAME IN THE STATE THAT OFFER FOR SALE SUBSTANTIALLY THE SAME MENU ITEMS, OR OPERATES AS A FRANCHISED OUTLET OF A PARENT COMPANY WITH AT LEAST TWENTY-FIVE OTHER FRANCHISED OUTLETS WITH THE SAME NAME IN THE STATE THAT OFFER FOR SALE SUBSTANTIALLY THE SAME MENU ITEMS.

(B) "NUTRITIONAL INFORMATION" INCLUDES ALL OF THE FOLLOWING, PER STANDARD MENU ITEM, AS THAT ITEM IS USUALLY PREPARED AND OFFERED FOR SALE:

(I) TOTAL NUMBER OF CALORIES.

(II) TOTAL NUMBER OF GRAMS OF CARBOHYDRATES.

(III) TOTAL NUMBER OF GRAMS OF SATURATED FAT.

(IV) TOTAL NUMBER OF MILLIGRAMS OF SODIUM.

(C) "POINT OF SALE" MEANS THE LOCATION WHERE A CUSTOMER PLACES AN ORDER.

(D) IN CALCULATING NUTRITIONAL INFORMATION, A FOOD SERVICE FACILITY MAY USE ANY REASONABLE MEANS RECOGNIZED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION TO DETERMINE NUTRITIONAL INFORMATION FOR A STANDARD MENU ITEM, AS USUALLY PREPARED AND OFFERED FOR SALE INCLUDING, BUT NOT LIMITED TO, NUTRIENT DATABASES AND LABORATORY ANALYSES.

(II)(A) BY RULE OR REGULATION, MAY REQUIRE EVERY FOOD SERVICE FACILITY TO DISCLOSE THE NUTRITIONAL INFORMATION REQUIRED BY CLAUSE (B) OF THIS SUBPARAGRAPH.

(B) A FOOD SERVICE FACILITY, BY RULE OR REGULATION, MAY BE REQUIRED TO DISCLOSE THE NUTRITIONAL INFORMATION IN A CLEAR AND CONSPICUOUS MANNER AT THE POINT OF SALE PRIOR TO OR DURING THE PLACEMENT OF AN ORDER.

S 2. The opening paragraph of subdivision 1, and subdivisions 3, 4 and 6 of section 207 of the public health law, as amended by section 16 of part A of chapter 109 of the laws of 2010, are amended to read as follows:

There is hereby created within the department the health care and wellness education and outreach program. The department may conduct education and outreach programs for consumers, patients, ELEMENTARY AND SECONDARY SCHOOL EDUCATORS, and health care providers relating to any health care matters the commissioner deems appropriate and:

3. The department may produce, make available to others for reproduction, or contract with others to develop such materials mentioned in this section as the commissioner deems appropriate. These materials shall be made available to the public AND TO ELEMENTARY AND SECONDARY

SCHOOL EDUCATORS free of charge as appropriate or for a fee under certain circumstances. The commissioner may require where appropriate any health care provider to make these materials available to patients.

4. In exercising any of his or her powers under this section, the commissioner may consult with appropriate health care professionals, providers, consumers, EDUCATORS and patients or organizations representing them.

6. The commissioner may appoint as appropriate advisory councils relating to various matters that are or are proposed to be the subjects of programs under this section. All such councils shall include representation of health care professionals, providers, EDUCATORS, consumers, patients and other appropriate interests. The members of the councils shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in performance of their duties.

S 3. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) ABOUT THE SHORT TERM AND LONG TERM ADVERSE HEALTH RISKS TO ADULTS AND CHILDREN WHO BECOME OVERWEIGHT, OBESE OR UNDERWEIGHT. THE INFORMATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO PROVIDING CITATIONS TO THE DEPARTMENT'S WEBSITE, AS WELL AS ANY OTHER WEBSITES PROVIDING INFORMATION ON THE SUBJECT.

S 4. This act shall take effect one year after it shall have become a law, provided that, effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.

PART D

Section 1. Subdivision 5 of section 2556 of the education law, such section as renumbered by chapter 762 of the laws of 1950, is amended to read as follows:

5. It shall be unlawful for a schoolhouse to be constructed in the city of New York without an open-air playground attached to or used in connection with the same. EXISTING PLAYGROUNDS SHALL NOT BE SOLD, LEASED OR TRANSFERRED, OR PERMANENTLY AUTHORIZED FOR OTHER USES SUCH AS SCHOOL BUILDING CONSTRUCTION, RENOVATION, PLACEMENT OR STORAGE OF BUILDING MATERIALS FOR SUCH WORK THAT WOULD ELIMINATE THE USE OF SUCH PLAYGROUND SPACE FOR OUTDOOR RECREATIONAL ACTIVITIES UNLESS A PLAN IS ESTABLISHED AND IMPLEMENTED TO PROVIDE SUITABLE AND ADEQUATE PHYSICAL ACTIVITIES OR SPACE TO ACCOMMODATE THE PHYSICAL AND RECREATIONAL NEEDS OF THE PUPILS OF SUCH BUILDING. THE PROVISIONS OF THIS SUBDIVISION SHALL NOT APPLY TO SCHOOL CONSTRUCTION OR RENOVATION ACTIVITIES THAT OCCUR ON OR REQUIRE THE USE OF SUCH PLAYGROUNDS FOR A DURATION OF NO MORE THAN ONE YEAR.

S 2. This act shall take effect July 1, 2012; provided however, that the commissioner of education is authorized and directed to promulgate any rules or regulations necessary for the timely implementation of this act on or before such date.

PART E

Section 1. Subdivisions 1 and 5 of section 803 of the education law, as amended by chapter 118 of the laws of 1957, are amended to read as follows:

1 1. All pupils above the age of eight years in all elementary and
2 secondary schools, shall receive as part of the prescribed courses of
3 instruction therein such physical education under the direction of the
4 commissioner of education as the regents may determine. Such courses
5 shall be designed to aid in the well-rounded education of pupils and in
6 the development of character, citizenship, OVERALL physical fitness,
7 GOOD health [and], the worthy use of leisure AND THE REDUCTION IN THE
8 INCIDENCE OF CHILDHOOD OBESITY. Pupils above such age attending the
9 public schools shall be required to attend upon such prescribed courses
10 of instruction.

11 5. (A) It shall be the duty of the regents to adopt rules determining
12 the subjects to be included in courses of physical education provided
13 for in this section, the period of instruction in each of such courses,
14 the qualifications of teachers, and the attendance upon such courses of
15 instruction.

16 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE REGENTS
17 MAY PROVIDE IN ITS RULES THAT THE PHYSICAL EDUCATION INSTRUCTION
18 REQUIREMENT FOR ALL STUDENTS ENROLLED IN ELEMENTARY AND SECONDARY SCHOOL
19 GRADES SHALL, WHERE FEASIBLE, INCLUDE DAILY PHYSICAL EXERCISE OR ACTIV-
20 ITY, INCLUDING STUDENTS WITH DISABLING CONDITIONS AND THOSE IN ALTERNA-
21 TIVE EDUCATION PROGRAMS. THE REGENTS MAY INCLUDE IN ITS RULES THAT
22 STUDENTS ENROLLED IN SUCH ELEMENTARY AND SECONDARY SCHOOLS SHALL PARTIC-
23 IPATE IN PHYSICAL EDUCATION, EXERCISE OR ACTIVITY FOR A MINIMUM OF ONE
24 HUNDRED TWENTY MINUTES DURING EACH SCHOOL WEEK. THE REGENTS MAY PROVIDE
25 FOR A TWO-YEAR PHASE-IN SCHEDULE FOR DAILY PHYSICAL EDUCATION IN ELEMEN-
26 TARY SCHOOLS IN ITS RULES.

27 S 2. The section heading and subdivision 1 of section 804 of the
28 education law, the section heading as amended by chapter 401 of the laws
29 of 1998 and subdivision 1 as added by chapter 982 of the laws of 1977,
30 are amended and a new subdivision 3-b is added to read as follows:

31 Health education regarding alcohol, drugs, tobacco abuse, THE
32 REDUCTION IN THE INCIDENCE OF OBESITY, and the prevention and detection
33 of certain cancers. 1. All schools shall include, as an integral part of
34 health, SCIENCE AND PHYSICAL education, instruction so as to discourage
35 the misuse and abuse of alcohol, tobacco[,] and other drugs, TO REDUCE
36 THE INCIDENCE OF OBESITY, and promote attitudes and behavior that
37 enhance health, well being, and human dignity.

38 3-B. INSTRUCTION REGARDING THE LONG TERM HEALTH RISKS ASSOCIATED WITH
39 OBESITY AND METHODS OF PREVENTING AND REDUCING THE INCIDENCE OF OBESITY,
40 INCLUDING GOOD NUTRITION AND REGULAR EXERCISE. SUCH INSTRUCTION MAY BE
41 AN INTEGRAL PART OF REQUIRED HEALTH, SCIENCE AND PHYSICAL EDUCATION
42 COURSES.

43 S 3. Subdivision 1 of section 804-a of the education law, as added by
44 chapter 730 of the laws of 1986, is amended to read as follows:

45 1. Within the amounts appropriated, the commissioner is hereby
46 authorized to establish a demonstration program and to distribute state
47 funds to local school districts, boards of cooperative educational
48 services and in certain instances community school districts, for the
49 development, implementation, evaluation, validation, demonstration and
50 replication of exemplary comprehensive health education programs to
51 assist the public schools in developing curricula, training staff, and
52 addressing local health education needs of students, parents, and staff.
53 SUCH PROGRAMS SHALL SERVE THE PURPOSE OF DEVELOPING AND ENHANCING
54 PUPILS' HEALTH KNOWLEDGE, SKILLS, ATTITUDES AND BEHAVIORS, WHICH IS
55 FUNDAMENTAL TO IMPROVING THEIR HEALTH STATUS AND ACADEMIC PERFORMANCE,
56 AS WELL AS REDUCING THE INCIDENCE OF ADOLESCENT PREGNANCY, ALCOHOL

1 ABUSE, TOBACCO ABUSE, TRUANCY, SUICIDE, SUBSTANCE ABUSE, OBESITY, ASTH-
2 MA, OTHER CHRONIC RESPIRATORY DISEASES, AND OTHER PROBLEMS OF CHILDHOOD
3 AND ADOLESCENCE.

4 S 4. Section 813 of the education law, as added by chapter 296 of the
5 laws of 1994, is amended to read as follows:

6 S 813. School lunch period; scheduling. Each school shall schedule a
7 reasonable time DURING EACH SCHOOL DAY for each full day pupil attending
8 pre-kindergarten through grade twelve WITH AMPLE TIME to consume lunch
9 AND TO ENGAGE IN PHYSICAL EXERCISE OR RECREATION.

10 S 5. This act shall take effect immediately.

11 PART F

12 Section 1. The public health law is amended by adding a new article
13 13-I to read as follows:

14 ARTICLE 13-I

15 IN-UTERO EXPOSURE TO TOBACCO SMOKE PREVENTION

16 SECTION 1399-XX. IN-UTERO EXPOSURE PREVENTION.

17 1399-YY. PROGRAMS.

18 S 1399-XX. IN-UTERO EXPOSURE PREVENTION. 1. EVERY HEALTHCARE PROVIDER,
19 HEALTHCARE INSURER AND PREGNANCY PROGRAM SHALL DISTRIBUTE INFORMATION ON
20 THE ADVERSE EFFECTS OF SMOKING DURING PREGNANCY FOR BOTH FIRSTHAND AND
21 SECONDHAND SMOKE. SUCH ADVERSE EFFECTS TO THE INFANT INCLUDE LOWER BIRTH
22 RATES, HIGHER INCIDENCE OF ASTHMA AND OBESITY, AND COGNITIVE AND DEVEL-
23 OPMENTAL DAMAGE.

24 2. EVERY HEALTHCARE PROVIDER SHALL MONITOR EXPECTANT MOTHERS' SMOKING
25 STATUSES AND OFFER CONTINUOUS TAILORED DISCUSSION OF QUITTING SMOKING
26 WITH EXPECTANT MOTHERS DURING THEIR PRENATAL CARE.

27 S 1399-YY. PROGRAMS. THE FOLLOWING PROGRAMS SHALL BE ADDED TO EXISTING
28 TOBACCO CONTROL PROGRAMS FOR PREGNANT WOMEN OR TO OTHER PREGNANCY
29 RELATED PROGRAMS:

30 1. CARBON MONOXIDE MONITORING;

31 2. DEPRESSION, SOCIAL SUPPORT AND DOMESTIC VIOLENCE SCREENING AND
32 REFERRALS;

33 3. REFERRALS FOR SMOKING CESSATION FOR HOUSEHOLD MEMBERS;

34 4. ONGOING SUPPORT BY COUNSELING AND EDUCATIONAL MATERIALS; AND

35 5. FINANCIAL INCENTIVES SUCH AS SHIPPING VOUCHER OR DIAPER COUPONS FOR
36 QUITTING FOR MORE THAN FOUR WEEKS.

37 S 2. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law. Provided, that effective immediately the
39 commissioner of health is authorized and directed to promulgate any and
40 all rules and regulations, and take any other measures necessary to
41 implement the provisions of this act on its effective date.

42 PART G

43 Section 1. Subdivisions 2 and 4 of section 2111 of the public health
44 law, as added by section 21 of part C of chapter 58 of the laws of 2004,
45 are amended to read as follows:

46 2. The department shall establish the criteria by which individuals
47 will be identified as eligible for enrollment in the demonstration
48 programs. Persons eligible for enrollment in the disease management
49 demonstration program shall be limited to individuals who: receive
50 medical assistance pursuant to title eleven of article five of the
51 social services law and may be eligible for benefits pursuant to title
52 18 of the social security act (Medicare); are not enrolled in a Medicaid

1 managed care plan, including individuals who are not required or not
2 eligible to participate in Medicaid managed care programs pursuant to
3 section three hundred sixty-four-j of the social services law; are diag-
4 nosed with chronic health problems as may be specified by the entity
5 undertaking the demonstration program, including, but not limited to one
6 or more of the following: congestive heart failure, chronic obstructive
7 pulmonary disease, asthma, CHRONIC BRONCHITIS, OTHER CHRONIC RESPIRATORY
8 DISEASES, diabetes, ADULT AND CHILDHOOD OBESITY, or other chronic health
9 conditions as may be specified by the department; or have experienced or
10 are likely to experience one or more hospitalizations or are otherwise
11 expected to incur excessive costs and high utilization of health care
12 services.

13 4. The demonstration program shall offer evidence-based services and
14 interventions designed to ensure that the enrollees receive high quali-
15 ty, preventative and cost-effective care, aimed at reducing the necessi-
16 ty for hospitalization or emergency room care or at reducing lengths of
17 stay when hospitalization is necessary. The demonstration program may
18 include screening of eligible enrollees, developing an individualized
19 care management plan for each enrollee and implementing that plan.
20 Disease management demonstration programs that utilize information tech-
21 nology systems that allow for continuous application of evidence-based
22 guidelines to medical assistance claims data and other available data to
23 identify specific instances in which clinical interventions are justi-
24 fied and communicate indicated interventions to physicians, health care
25 providers and/or patients, and monitor physician and health care provid-
26 er response to such interventions, shall have the enrollees, or groups
27 of enrollees, approved by the department for participation. The services
28 provided by the demonstration program as part of the care management
29 plan may include, but are not limited to, case management, social work,
30 individualized health counselors, multi-behavioral goals plans, claims
31 data management, health and self-care education, drug therapy management
32 and oversight, personal emergency response systems and other monitoring
33 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-
34 TORING, telehealth services and similar services designed to improve the
35 quality and cost-effectiveness of health care services.

36 S 2. This act shall take effect immediately.

37

PART H

38 Section 1. Section 2599-b of the public health law, as amended by
39 section 88 of part B of chapter 58 of the laws of 2005, is amended to
40 read as follows:

41 S 2599-b. Program development. 1. The program shall be designed to
42 prevent and reduce the incidence and prevalence of obesity in children
43 and adolescents, especially among populations with high rates of obesity
44 and obesity-related health complications including, but not limited to,
45 diabetes, heart disease, cancer, osteoarthritis, asthma, CHRONIC BRON-
46 CHITIS, OTHER CHRONIC RESPIRATORY DISEASES and other conditions. The
47 program shall use recommendations and goals of the United States depart-
48 ments of agriculture and health and human services, the surgeon general
49 and centers for disease control AND PREVENTION in developing and imple-
50 menting guidelines for nutrition education and physical activity
51 projects as part of obesity prevention efforts. The content and imple-
52 mentation of the program shall stress the benefits of choosing a
53 balanced, healthful diet from the many options available to consumers,

1 without specifically targeting the elimination of any particular food
2 group, food product or food-related industry.

3 2. The childhood obesity prevention program shall include, but not be
4 limited to:

5 (a) developing media health promotion campaigns, IN COORDINATION WITH
6 THE PUBLIC INFORMATION PROVIDED PURSUANT TO SECTION TWENTY-FIVE
7 HUNDRED-K OF THIS ARTICLE, targeted to children and adolescents and
8 their parents and caregivers that emphasize increasing consumption of
9 low-calorie, high-nutrient foods, decreasing consumption of high-calorie,
10 low-nutrient foods and increasing physical activity designed to
11 prevent or reduce obesity;

12 (b) establishing school-based childhood obesity prevention nutrition
13 education and physical activity programs including programs described in
14 section twenty-five hundred ninety-nine-c of this article, as well as
15 other programs with linkages to physical and health education courses,
16 and which utilize the school health index of the National Center for
17 Chronic Disease Prevention and Health Promotion or other recognized
18 school health assessment PURSUANT TO ARTICLE NINETEEN OF THE EDUCATION
19 LAW;

20 (c) establishing community-based childhood obesity prevention nutri-
21 tion education and physical activity programs including programs which
22 involve parents and caregivers, and which encourage communities, fami-
23 lies, child care and other settings to provide safe and adequate space
24 and time for physical activity and encourage a healthy diet, AND CAN BE
25 IN COORDINATION WITH COUNTY COOPERATIVE EXTENSION PROGRAMS ESTABLISHED
26 PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR-B OF THE COUNTY LAW;

27 (d) coordinating with the state education department, department of
28 agriculture and markets, office of parks, recreation and historic pres-
29 ervation, office of temporary and disability assistance, office of chil-
30 dren and family services and other federal, state and local agencies to
31 incorporate strategies to prevent and reduce childhood obesity into
32 government food assistance, health, education and recreation programs;

33 (e) sponsoring periodic conferences or meetings to bring together
34 experts in nutrition, exercise, public health, mental health, education,
35 parenting, media, food marketing, food security, agriculture, community
36 planning and other disciplines to examine societal-based solutions to
37 the problem of childhood obesity and issue guidelines and recommenda-
38 tions for New York state policy and programs;

39 (f) developing training programs for medical and other health profes-
40 sionals to teach practical skills in nutrition and exercise education to
41 children and their parents and caregivers; [and]

42 (g) developing screening programs, IN ACCORDANCE WITH SECTION TWENTY-
43 FIVE HUNDRED-K OF THIS ARTICLE, in coordination with health care provid-
44 ers and institutions including but not limited to day care centers and
45 schools for overweight and obesity for children aged two through eigh-
46 teen years, using body mass index (BMI) appropriate for age and gender,
47 and notification, in a manner protecting the confidentiality of such
48 children and their families, of parents of BMI status, and explanation
49 of the consequences of such status, including recommended actions
50 parents may need to take and information about resources and referrals
51 available to families to enhance nutrition and physical activity to
52 reduce and prevent obesity[.]; AND

53 (H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY
54 AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND
55 OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO
56 CURTAIL THE INCIDENCE OF ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC

1 RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE
2 PHYSICAL ACTIVITY TO HELP CURB THE INCIDENCE OF OBESITY.

3 3. The department, IN COOPERATION WITH THE EDUCATION DEPARTMENT, shall
4 periodically collect and analyze information from schools, health and
5 nutrition programs and other sources to determine the prevalence of
6 childhood obesity in New York state, and to evaluate, to the extent
7 possible, the effectiveness of the childhood obesity prevention program.

8 S 2. The opening paragraph of section 2599-c of the public health law,
9 as amended by section 88 of part B of chapter 58 of the laws of 2005, is
10 amended to read as follows:

11 The commissioner, IN COOPERATION WITH THE COMMISSIONERS OF EDUCATION
12 AND AGRICULTURE AND MARKETS, AND COUNTY BOARDS OF COOPERATIVE EXTENSION,
13 shall encourage the establishment of school-based childhood obesity
14 prevention and physical activity programs that promote:

15 S 3. This act shall take effect immediately.

16 PART I

17 Section 1. Section 263 of the public health law, as added by chapter
18 538 of the laws of 2002, is amended to read as follows:

19 S 263. Department authorized to study obesity - report. 1. The depart-
20 ment is authorized to sample and collect data on individual cases where
21 obesity is being actively treated AND DATA COLLECTED PURSUANT TO SECTION
22 TWENTY-FIVE HUNDRED-K OF THIS CHAPTER, and to analyze such data in order
23 to evaluate the impact of treating obesity. Such data collection and
24 analysis shall include the following:

25 a. The effectiveness of existing methods for treating or preventing
26 obesity;

27 b. The effectiveness of alternate methods for treating or preventing
28 obesity;

29 c. The fiscal impact of treating or preventing obesity;

30 d. The compliance and cooperation of patients with various methods of
31 treating or preventing obesity; or

32 e. The reduction in serious medical problems associated with diabetes
33 that results from treating or preventing obesity.

34 2. The department is authorized to fund the research authorized in
35 subdivision one of this section AND SECTION TWENTY-FIVE HUNDRED-K OF
36 THIS CHAPTER from gifts, grants, and donations from individuals, private
37 organizations, foundations, or any governmental unit; except that no
38 gift, grant, or donation may be accepted by the department if it is
39 subject to conditions that are inconsistent with this title or any other
40 laws of this state. The department shall have the power to direct the
41 disposition of any such gift, grant, or donation for the purposes of
42 this title.

43 3. After completion of the research authorized in subdivision one of
44 this section, the department shall submit a report and supporting mate-
45 rials to the governor and the legislature by June first of the following
46 year AND UPDATE SUCH REPORT EVERY THREE YEARS.

47 S 2. This act shall take effect immediately.

48 PART J

49 Section 1. Paragraphs (a), (b) and (c) of subdivision 1 of section
50 2411 of the public health law, as amended by chapter 219 of the laws of
51 1997, are amended to read as follows:

(a) Survey state agencies, boards, programs and other state governmental entities to assess what, if any, relevant data has been or is being collected which may be of use to researchers engaged in breast, prostate or testicular cancer research, OR ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

(b) Consistent with the survey conducted pursuant to paragraph (a) of this subdivision, compile a list of data collected by state agencies which may be of assistance to researchers engaged in breast, prostate or testicular cancer research as established in section twenty-four hundred twelve of this title, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

(c) Consult with the Centers for Disease Control and Prevention, the National Institutes of Health, the Federal Agency For Health Care Policy and Research, the National Academy of Sciences and other organizations or entities which may be involved in cancer research to solicit both information regarding breast, prostate and testicular cancer research projects, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH PROJECTS that are currently being conducted and recommendations for future research projects;

S 2. Subdivision 1 of section 2500 of the public health law, as amended by chapter 822 of the laws of 1987, is amended to read as follows:

1. The commissioner shall act in an advisory and supervisory capacity, in matters pertaining to the safeguarding of motherhood, the prevention of maternal, perinatal, infant and child mortality, the prevention of diseases, low birth weight, CHILDHOOD OBESITY, and defects of childhood and the promotion of maternal, prenatal and child health, including care in hospitals, and shall administer such services bearing on the health of mothers and children for which funds are or shall hereafter be made available.

S 3. The public health law is amended by adding a new section 2500-k to read as follows:

S 2500-K. CHILDHOOD OBESITY PREVENTION AND SCREENING. 1. LEGISLATIVE DECLARATION. THE LEGISLATURE HEREBY FINDS, DETERMINES AND DECLARES THAT OBESITY, PARTICULARLY CHILDHOOD OBESITY, IS A SERIOUS MEDICAL PROBLEM AND THAT THE HIGH INCIDENCE OF SUCH CONDITION NEEDS TO BE CURTAILED TO IMPROVE THE OVERALL HEALTH OF THE GENERAL PUBLIC AND TO HELP REDUCE THE COST OF PROVIDING HEALTH CARE IN THIS STATE. PROVIDED FURTHER, THAT THE LEGISLATURE HEREBY REAFFIRMS THE LEGISLATIVE INTENT CONTAINED IN SECTION TWO HUNDRED SIXTY-ONE OF THIS CHAPTER CONCERNING OBESITY.

2. THE COMMISSIONER MAY ESTABLISH, FOR USE BY PEDIATRIC PRIMARY CARE PROVIDERS AND HOSPITALS, BEST PRACTICE PROTOCOLS FOR THE EARLY SCREENING, IDENTIFICATION AND TREATMENT OF CHILDREN WHO HAVE LOW BIRTH WEIGHTS OR MAY BECOME SUSCEPTIBLE TO CONTRACTING ASTHMA OR MANIFEST TO HAVE CHILDHOOD OBESITY CONDITIONS. SUCH PROTOCOLS SHALL INCORPORATE STANDARDS AND GUIDELINES ESTABLISHED BY THE AMERICAN ACADEMY OF PEDIATRICIANS, THE FEDERAL DEPARTMENT OF AGRICULTURE, THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE SURGEON GENERAL, AND THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

3. THE DEPARTMENT, IN ORDER TO SUPPORT QUALITY CARE IN ALL HOSPITALS WITH OBSTETRIC SERVICES AND FOR ALL PEDIATRIC PRIMARY CARE PROVIDERS, IS AUTHORIZED TO PROVIDE NON-PATIENT SPECIFIC INFORMATION FOR ALL BIRTHS AT EACH AFFILIATE HOSPITAL IN EACH REGIONAL PERINATAL CENTER'S NETWORK TO THE REGIONAL PERINATAL CENTER AND THE AFFILIATE, EXCEPT THAT SUCH INFOR-

1 MATION SHALL INCLUDE ZIP CODE AND A UNIQUE IDENTIFIER, SUCH AS MEDICAL
2 RECORD NUMBER.

3 4. THE INFORMATION WHEN RECEIVED BY THE DEPARTMENT SHALL BE USED SOLE-
4 LY FOR THE PURPOSE OF IMPROVING QUALITY OF CARE AND SHALL NOT BE SUBJECT
5 TO RELEASE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW, AND WHERE
6 APPLICABLE, SHALL BE SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF
7 SECTION TWENTY-EIGHT HUNDRED FIVE-M OF THIS CHAPTER, EXCEPT THAT THE
8 RELEASE OF BIRTH CERTIFICATE INFORMATION SHALL BE SUBJECT TO SECTION
9 FORTY-ONE HUNDRED SEVENTY-FOUR OF THIS CHAPTER.

10 5. THE COMMISSIONER MAY RELEASE INFORMATION COLLECTED THROUGH THE
11 STATEWIDE PERINATAL DATA SYSTEM, PURSUANT TO SECTION TWENTY-FIVE
12 HUNDRED-H OF THIS TITLE AND CORRESPONDING INFORMATION RELATED TO ASTHMA,
13 CHILDHOOD OBESITY OR UNDERWEIGHT BABIES TO HIS OR HER DESIGNEES, INCLUD-
14 ING PERSONS OR ENTITIES UNDER CONTRACT WITH THE DEPARTMENT TO REVIEW
15 QUALITY OF CARE ISSUES, AS RELATED TO THE PROVISIONS OF THIS SECTION,
16 AND TO CONDUCT QUALITY IMPROVEMENT INITIATIVES AS NEEDED TO MONITOR,
17 EVALUATE AND IMPROVE PATIENT CARE AND OUTCOMES. SUCH DESIGNEE OR PERSON
18 OR ENTITY UNDER CONTRACT WITH THE DEPARTMENT TO REVIEW QUALITY OF CARE
19 ISSUES SHALL MAINTAIN THE CONFIDENTIALITY OF ALL SUCH INFORMATION AND
20 SHALL USE IT ONLY TO IMPROVE QUALITY OF CARE, AS APPROVED BY THE DEPART-
21 MENT, AND TO IMPLEMENT THE PROVISIONS OF TITLE FIVE OF ARTICLE TWO OF
22 THIS CHAPTER, AS ADDED BY CHAPTER FIVE HUNDRED THIRTY-EIGHT OF THE LAWS
23 OF TWO THOUSAND TWO.

24 6. THE DEPARTMENT MAY PRODUCE AND DISTRIBUTE EDUCATIONAL MATERIALS ON
25 CHILDHOOD OBESITY AND ASTHMA RISKS AND PRECAUTIONS. SUCH MATERIALS MAY
26 BE MADE AVAILABLE TO CHILD CARE CENTERS, PEDIATRICIANS AND NURSERY,
27 ELEMENTARY AND SECONDARY SCHOOLS FOR DISTRIBUTION TO PERSONS IN PARENTAL
28 RELATION TO CHILDREN, AND TO HOSPITALS, BIRTHING CENTERS AND OTHER
29 APPROPRIATE HEALTH CARE PROVIDERS FOR DISTRIBUTION TO MATERNITY
30 PATIENTS. IN ADDITION, SUCH MATERIALS MAY BE PROVIDED TO HEALTH CARE
31 PROFESSIONALS ENGAGED IN THE CARE AND TREATMENT OF CHILDREN FOR DISTRIB-
32 UTION TO SUCH CHILDREN AND PERSONS IN PARENTAL RELATION. THE DEPARTMENT
33 MAY ALSO PROVIDE INFORMATION ON CHILDHOOD OBESITY AND ASTHMA RISKS AND
34 PRECAUTIONS ON THE DEPARTMENT'S INTERNET WEBSITE. NO PROVISION OF THIS
35 SUBDIVISION SHALL BE DEEMED TO PROHIBIT THE UTILIZATION AND DISTRIBUTION
36 OF EDUCATIONAL MATERIALS RELATING THERETO PRODUCED BY ANY PUBLIC,
37 PRIVATE OR GOVERNMENTAL ENTITY, IN LIEU OF THE DEPARTMENT'S PRODUCTION
38 OF SUCH MATERIALS.

39 7. THE DEPARTMENT SHALL PERIODICALLY REVIEW AVAILABLE DATA ON OBESITY
40 AND ASTHMA IN CHILDREN AND UPDATE THE INFORMATION ON CHILDHOOD OBESITY
41 AND ASTHMA RISKS AND PRECAUTIONARY MEASURES PROVIDED IN ITS EDUCATIONAL
42 MATERIALS AND ON ITS INTERNET WEBSITE, AS APPROPRIATE.

43 S 4. This act shall take effect immediately.

44 PART K

45 Section 1. Section 2505-a of the public health law, as added by chap-
46 ter 292 of the laws of 2009, is amended to read as follows:

47 S 2505-a. Rights of breastfeeding mothers. 1. The principles enunci-
48 ated in subdivision three of this section are declared to be the public
49 policy of the state and a copy of such statement of rights shall be
50 posted conspicuously in a public place in each maternal health care
51 facility AND CHILD DAY CARE FACILITY. For purposes of this section,
52 "maternal health care provider" means a physician, midwife, or other
53 authorized practitioner attending a pregnant woman; and "maternal health
54 care facility" includes hospitals and freestanding birthing centers

1 providing perinatal services in accordance with article twenty-eight of
2 this chapter and applicable regulations.

3 2. The commissioner shall make available to every maternal health care
4 provider [and], maternal health care facility AND CHILD DAY CARE FACILI-
5 TY, on the health department's website for the purpose of health care
6 facilities to include such rights in the maternity information leaflet
7 as described in section twenty-eight hundred three-j of this chapter, a
8 copy of the statement of rights provided in subdivision three of this
9 section in the top six languages other than English spoken in the state
10 according to the latest available data from the U.S. Bureau of Census,
11 and shall adopt any rules and regulations necessary to ensure that such
12 patients are treated in accordance with the provisions of such state-
13 ment.

14 3. The statement of rights shall consist of the following:

15 "Breastfeeding Mothers' Bill of Rights"

16 Choosing the way you will feed your new baby is one of the important
17 decisions you will make in preparing for your infant's arrival. Doctors
18 agree that for most women breastfeeding is the safest and most healthy
19 choice. It is your right to be informed about the benefits of breast-
20 feeding and have your health care provider [and], maternal health care
21 facility AND CHILD DAY CARE FACILITY encourage and support breastfeed-
22 ing. You have the right to make your own choice about breastfeeding.
23 Whether you choose to breastfeed or not you have the following basic
24 rights regardless of your race, creed, national origin, sexual orien-
25 tation, gender identity or expression, or source of payment for your
26 health care. Maternal health care facilities have a responsibility to
27 ensure that you understand these rights. They must provide this informa-
28 tion clearly for you and must provide an interpreter if necessary. These
29 rights may only be limited in cases where your health or the health of
30 your baby requires it. If any of the following things are not medically
31 right for you or your baby, you should be fully informed of the facts
32 and be consulted.

33 (1) Before You Deliver, if you attend prenatal childbirth education
34 classes provided by the maternal health care facility and all hospital
35 clinics and diagnostic and treatment centers providing prenatal services
36 in accordance with article 28 of the public health law you must receive
37 the breastfeeding mothers' bill of rights. Each maternal health care
38 facility shall provide the maternity information leaflet, including the
39 Breastfeeding Mothers' Bill of Rights, in accordance with section twen-
40 ty-eight hundred three-i of this chapter to each patient or to the
41 appointed personal representative at the time of prebooking or time of
42 admission to a maternal health care facility. Each maternal health care
43 provider shall give a copy of the Breastfeeding Mothers' Bill of Rights
44 to each patient at or prior to the medically appropriate time.

45 You have the right to complete information about the benefits of
46 breastfeeding for yourself and your baby. This will help you make an
47 informed choice on how to feed your baby.

48 You have the right to receive information that is free of commercial
49 interests and includes:

50 * How breastfeeding benefits you and your baby nutritionally,
51 medically and emotionally;

52 * How to prepare yourself for breastfeeding;

53 * How to understand some of the problems you may face and how to solve
54 them.

55 (2) In The Maternal Health Care Facility:

1 * You have the right to have your baby stay with you right after birth
2 whether you deliver vaginally or by cesarean section. You have the right
3 to begin breastfeeding within one hour after birth.

4 * You have the right to have someone trained to help you in breast-
5 feeding give you information and help you when you need it.

6 * You have the right to have your baby not receive any bottle feeding
7 or pacifiers.

8 * You have the right to know about and refuse any drugs that may dry
9 up your milk.

10 * You have the right to have your baby in your room with you 24 hours
11 a day.

12 * You have the right to breastfeed your baby at any time day or night.

13 * You have the right to know if your doctor or your baby's pediatri-
14 cian is advising against breastfeeding before any feeding decisions are
15 made.

16 * You have the right to have a sign on your baby's crib clearly stat-
17 ing that your baby is breastfeeding and that no bottle feeding of any
18 type is to be offered.

19 * You have the right to receive full information about how you are
20 doing with breastfeeding and get help on how to improve.

21 * You have the right to breastfeed your baby in the neonatal intensive
22 care unit. If nursing is not possible, every attempt will be made to
23 have your baby receive your pumped or expressed milk.

24 * If you, or your baby, are re-hospitalized in a maternal care facili-
25 ty after the initial delivery stay, the hospital will make every effort
26 to continue to support breastfeeding, to provide hospital grade electric
27 pumps and rooming in facilities.

28 * You have the right to have help from someone specially trained in
29 breastfeeding support and expressing breast milk if your baby has
30 special needs.

31 * You have the right to have a family member or friend receive breast-
32 feeding information from a staff member if you request it.

33 (3) When You Leave The Maternal Health Care Facility:

34 * You have the right to printed breastfeeding information free of
35 commercial material.

36 * You have the right, unless specifically requested by you, and avail-
37 able at the facility, to be discharged from the facility without
38 discharge packs containing infant formula, or formula coupons unless
39 ordered by your baby's health care provider.

40 * You have the right to get information about breastfeeding resources
41 in your community including information on availability of breastfeeding
42 consultants, support groups and breast pumps.

43 * You have the right to have the facility give you information to help
44 choose a medical provider for your baby and understand the importance of
45 a follow-up appointment.

46 * You have the right to receive information about safely collecting
47 and storing your breast milk.

48 * You have the right to breastfeed your baby in any location, public
49 or private, where you are otherwise authorized to be. Complaints can be
50 directed to the New York State Division of Human Rights.

51 * YOU HAVE A RIGHT TO BREASTFEED YOUR BABY AT YOUR PLACE OF EMPLOYMENT
52 OR CHILD DAY CARE CENTER IN AN ENVIRONMENT THAT DOES NOT DISCOURAGE
53 BREASTFEEDING OR THE PROVISION OF BREAST MILK.

54 All the above are your rights. If the maternal health care facility
55 does not honor these rights you can seek help by contacting the New York

1 state department of health or by contacting the hospital complaint
2 hotline or via email.

3 4. The commissioner shall make regulations reasonably necessary to
4 implement this section.

5 S 2. Section 2505 of the public health law, as added by chapter 479 of
6 the laws of 1980, is amended to read as follows:

7 S 2505. Human breast milk; collection, storage and distribution;
8 general powers of the commissioner. The commissioner is hereby
9 empowered to:

10 (a) adopt regulations and guidelines including, but not limited to
11 donor standards, methods of collection, and standards for storage, and
12 distribution of human breast milk;

13 (b) conduct educational activities to inform the public and health
14 care providers of the availability of human breast milk for infants
15 determined to require such milk and to inform potential donors of the
16 opportunities for proper donation;

17 (c) ADOPT REGULATIONS AND GUIDELINES TO ENCOURAGE AND FACILITATE
18 EMPLOYERS AND CHILD DAY CARE CENTERS TO ESTABLISH ENVIRONMENTS THAT DO
19 NOT DISCOURAGE BREASTFEEDING AND THE PROVISION OF BREAST MILK. SUCH
20 ENVIRONMENTS SHALL INCLUDE SANITARY LOCATIONS FOR BREASTFEEDING, REFRI-
21 GERATORS, AND TRAINED STAFF TO ASSIST IN BREASTFEEDING AND FEEDING
22 BABIES WITH EXPRESSED BREAST MILK;

23 (D) COLLECT AND COMPILE DATA ON THE PREVALENCE OF BREASTFEEDING IN THE
24 STATE AND THE HEALTH CONDITION OF CHILDREN FED BREAST MILK IN COMPARISON
25 TO THOSE WHO WERE NOT; AND

26 (E) establish rules and regulations to effectuate the provisions of
27 this section.

28 S 3. Subdivision 2 of section 2515 of the public health law, as added
29 by section 20 of part A of chapter 58 of the laws of 2008, is amended to
30 read as follows:

31 2. "Services for eligible adolescents" means those services, including
32 but not limited to: vocational and educational counseling, job skills
33 training, family life and parenting education, life skills development,
34 coordination, case management, primary preventive health care, PREGNANCY
35 AND CHILD NUTRITION COUNSELING FOR EXPECTANT MOTHERS TO CURB THE INCI-
36 DENCE OF CHILDHOOD OBESITY, family planning, social and recreational
37 programs, child care, outreach and advocacy, follow-up on service utili-
38 zation, crisis intervention, and efforts to stimulate community interest
39 and involvement.

40 S 4. Paragraph (c) of subdivision 2 of section 2515-a of the public
41 health law, as added by section 20 of part A of chapter 58 of the laws
42 of 2008, is amended to read as follows:

43 (c) serve a geographic area where the incidence of infant mortality,
44 LOW BIRTH WEIGHT INFANTS, CHILDHOOD OBESITY and the prevalence of low-
45 income families are high and where the availability or accessibility of
46 services for eligible adolescents is low;

47 S 5. Subdivision (b) of section 2522 of the public health law, as
48 amended by chapter 484 of the laws of 2009, is amended and a new subdi-
49 vision (e-1) is added to read as follows:

50 (b) promotion of community awareness of the benefits TO THE MOTHER AND
51 CHILD of preconception health and early and continuous prenatal care;

52 (E-1) HEALTH AND NUTRITIONAL EDUCATION AND SERVICES FOR BOTH PARENTS,
53 REGARDING CHILDHOOD AND ADULT OBESITY AND ASTHMA, AND THE PREVENTION OR
54 MITIGATION THEREOF;

55 S 6. This act shall take effect immediately.

1

PART L

2 Section 1. Section 916 of the education law, as amended by chapter 524
3 of the laws of 2006, is amended to read as follows:

4 S 916. Pupils afflicted with asthma OR OTHER POTENTIALLY LIFE-THREAT-
5 ENING RESPIRATORY ILLNESSES. The board of education or trustees of each
6 school district and board of cooperative educational services shall
7 allow pupils who have been diagnosed by a physician or other duly
8 authorized health care provider with a severe OR MODERATELY SEVERE asth-
9 matic condition OR OTHER POTENTIALLY LIFE-THREATENING RESPIRATORY
10 ILLNESS to carry and use a prescribed inhaler during the school day,
11 with the written permission of a physician or other duly authorized
12 health care provider, and parental consent, based on such physician's or
13 provider's determination that such pupil is subject to sudden asthmatic
14 attacks [severe enough to] THAT CAN debilitate such pupil. A record of
15 such permission shall be maintained in the school office. In addition,
16 upon the written request of a parent or person in parental relation, the
17 board of education or trustees of a school district and board of cooper-
18 ative educational services shall allow such pupils to maintain an extra
19 such inhaler in the care and custody of a registered professional nurse
20 OR OTHER DESIGNATED RESPONSIBLE PERSON employed by such district or
21 board of cooperative educational services. Nothing in this section
22 shall require a school district or board of cooperative educational
23 services to retain a school nurse solely for the purpose of taking
24 custody of a spare inhaler, or require that a school nurse be available
25 at all times in a school building for such purpose.

26 S 2. The education law is amended by adding a new section 921 to read
27 as follows:

28 S 921. USE OF NEBULIZER. 1. EVERY SCHOOL DISTRICT AND BOARD OF COOPER-
29 ATIVE EDUCATIONAL SERVICES IN THIS STATE MAY MAINTAIN ONE OR MORE NEBU-
30 LIZERS IN THE OFFICE OF THE SCHOOL NURSE OR IN A SIMILAR ACCESSIBLE
31 LOCATION.

32 2. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
33 MAY PROMULGATE REGULATIONS FOR THE ADMINISTRATION OF ASTHMA MEDICATION
34 THROUGH THE USE OF A NEBULIZER BY THE SCHOOL NURSE OR PERSON AUTHORIZED
35 BY REGULATION. THE REGULATIONS MAY INCLUDE:

36 A. A REQUIREMENT THAT EACH CERTIFIED NURSE OR OTHER PERSON AUTHORIZED
37 TO ADMINISTER ASTHMA MEDICATION IN SCHOOLS RECEIVE TRAINING IN AIRWAY
38 MANAGEMENT AND IN THE USE OF NEBULIZERS AND INHALERS CONSISTENT WITH
39 NATIONALLY RECOGNIZED STANDARDS; AND

40 B. A REQUIREMENT THAT EACH PUPIL AUTHORIZED TO USE ASTHMA MEDICATION
41 PURSUANT TO SECTION NINE HUNDRED SIXTEEN OF THIS ARTICLE OR A NEBULIZER
42 HAVE AN ASTHMA TREATMENT PLAN PREPARED BY THE PHYSICIAN OF THE PUPIL,
43 WHICH IDENTIFY, AT A MINIMUM, ASTHMA TRIGGERS, THE TREATMENT PLAN, AND
44 SUCH OTHER ELEMENTS AS SHALL BE DETERMINED BY THE REGENTS.

45 S 3. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law; provided, however, that effective immediate-
47 ly the commissioner of education is authorized to promulgate rules and
48 regulations for the implementation of this act on such effective date.

49

PART M

50 Section 1. The real property law is amended by adding a new section
51 235-h to read as follows:

52 S 235-H. RESIDENTIAL RENTAL PROPERTY SMOKING POLICIES. EVERY RENTAL
53 AGREEMENT FOR A DWELLING UNIT, IN A MULTIPLE DWELLING BUILDING WITH FOUR

OR MORE UNITS, SHALL INCLUDE A DISCLOSURE OF THE SMOKING POLICY FOR THE PREMISES ON WHICH THE DWELLING UNIT IS LOCATED. THE DISCLOSURE MUST STATE WHETHER SMOKING IS PROHIBITED ON THE PREMISES, ALLOWED ON THE ENTIRE PREMISES OR ALLOWED IN LIMITED AREAS ON THE PREMISES. IF THE SMOKING POLICY ALLOWS SMOKING IN LIMITED AREAS ON THE PREMISES, THE DISCLOSURE MUST IDENTIFY THE AREAS ON THE PREMISES WHERE SMOKING IS ALLOWED.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

PART N

Section 1. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. OBESITY AND RESPIRATORY DISEASE RESEARCH AND EDUCATION FUND.
1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "OBESITY AND RESPIRATORY DISEASE RESEARCH AND EDUCATION FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUE RECEIVED PURSUANT TO AN APPROPRIATION THERETO, AND ALL OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING IN THIS SECTION SHALL BE DEEMED TO PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. MONIES OF THE FUND SHALL BE EXPENDED ONLY FOR ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH AND EDUCATIONAL PROJECTS CONDUCTED PURSUANT TO SECTIONS TWENTY-FOUR HUNDRED ELEVEN, TWENTY-FIVE HUNDRED AND TWENTY-FIVE HUNDRED-K OF THE PUBLIC HEALTH LAW.

4. MONIES SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED OR CERTIFIED BY THE COMMISSIONER OF HEALTH.

S 2. This act shall take effect immediately.

PART O

Section 1. Paragraphs 6 and 7 of subsection (b) of section 3239 of the insurance law, as added by chapter 592 of the laws of 2008, are amended and a new paragraph 8 is added to read as follows:

(6) a nutrition education program; [and]

(7) health or fitness incentive programs[.]; AND

(8) A COORDINATED WEIGHT MANAGEMENT, NUTRITION, STRESS MANAGEMENT AND PHYSICAL FITNESS PROGRAM TO COMBAT THE HIGH INCIDENCE OF ADULT AND CHILDHOOD OBESITY, ASTHMA AND OTHER CHRONIC RESPIRATORY CONDITIONS.

S 2. Subparagraphs (C) and (D) of paragraph 2 of subsection (c) of section 3239 of the insurance law, as added by chapter 592 of the laws of 2008, are amended and two new subparagraphs (E) and (F) are added to read as follows:

(C) the waiver or reduction of copayments, coinsurance and deductibles for preventive services covered under the group policy or subscriber contract; [and]

(D) monetary rewards in the form of gift cards or gift certificates, so long as the recipient of the reward is encouraged to use the reward for a product or a service that promotes good health, such as healthy cook books, over the counter vitamins or exercise equipment[.];

(E) FULL OR PARTIAL REIMBURSEMENT OF THE COST OF PARTICIPATING IN A STRESS MANAGEMENT PROGRAM OR ACTIVITY; AND

(F) FULL OR PARTIAL REIMBURSEMENT OF THE COST OF PARTICIPATING IN A HEALTH OR FITNESS PROGRAM.

S 3. This act shall take effect immediately.

PART P

Section 1. Subparagraph 4 of paragraph (o) of subdivision 4 of section 366 of the social services law is amended by adding a new clause (vi-a) to read as follows:

(VI-A) HEALTH AND NUTRITIONAL EDUCATION AND SERVICES FOR BOTH PARENTS, REGARDING CHILDHOOD AND ADULT OBESITY, ASTHMA AND THE MITIGATION THEREOF;

S 2. Paragraph (a) of subdivision 2-a of section 390 of the social services law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

(a) The office of children and family services shall promulgate regulations which establish minimum quality program requirements for licensed and registered child day care homes, programs and facilities. Such requirements shall include but not be limited to (i) the need for age appropriate activities, materials and equipment to promote cognitive, educational, social, cultural, physical, emotional, language and recreational development of children in care in a safe, healthy and caring environment (ii) principles of childhood development (iii) appropriate staff/child ratios for family day care homes, group family day care homes, school age day care programs and day care centers, provided however that such staff/child ratios shall not be less stringent than applicable staff/child ratios as set forth in part four hundred fourteen, four hundred sixteen, four hundred seventeen or four hundred eighteen of title eighteen of the New York code of rules and regulations as of January first, two thousand (iv) appropriate levels of supervision of children in care (v) APPROPRIATE PHYSICAL ACTIVITY, NUTRITIONAL OFFERINGS, AND LOW CALORIE AND LOW SUGAR BEVERAGES TO LOWER THE INCIDENCE OF CHILDHOOD OBESITY (VI) minimum standards for sanitation, health, infection control, nutrition, buildings and equipment, safety, security procedures, first aid, fire prevention, fire safety, evacuation plans and drills, prevention of child abuse and maltreatment, staff qualifications and training, record keeping, and child behavior management.

S 3. Section 390-a of the social services law is amended by adding a new subdivision 6 to read as follows:

6. NO FAMILY DAY CARE HOME, GROUP FAMILY DAY CARE HOME, SCHOOL AGE CHILD CARE PROGRAM OR CHILD DAY CARE CENTER SHALL DISCRIMINATE AGAINST ANY CHILD WHO IS BREAST FED OR WHO IS FED WITH EXPRESSED BREAST MILK.

S 4. Subdivision 1 of section 224-b of the county law, as added by chapter 575 of the laws of 1989, is amended to read as follows:

1. Agreements to employ and manage area program specialists. Notwithstanding the provisions of subdivision eight of section two hundred twenty-four of this article, two or more county cooperative extension associations may enter into a separate agreement with Cornell university to employ area program specialists. Examples of program areas which could be funded and delivered through the Cornell cooperative extension system could include but not be limited to water quality, solid waste management, commercial and alternative agricultural technologies integrated pest management, nutrition, diet and health, ADULT AND CHILDHOOD OBESITY, ASTHMA AND CHRONIC RESPIRATORY ILLNESS PREVENTION, community

1 and rural development, housing availability and affordability, family
2 and economic well being, and the complex problems of youth at risk. Such
3 annual agreements shall identify the titles of the positions to be
4 supported and the program areas for which they will provide leadership.
5 Standards for the employment of area program specialists, including
6 salaries, shall be established by Cornell university, through the direc-
7 tor of extension in consultation with county cooperative extension asso-
8 ciations, apart from standards for the employment of professional staff
9 under section two hundred twenty-four of this article. Area program
10 specialists shall, for administrative purposes, receive salary payments
11 through the Cornell university payroll and for such purposes shall be
12 deemed employees of Cornell university; provided, however, that their
13 program activities shall be directed and managed jointly by the partic-
14 ipating associations and Cornell university under the terms of the annu-
15 al memorandum of agreement. Area program specialists shall be eligible
16 to receive the same state or federal fringe benefits as professional
17 staff employed by the cooperative extension associations under the terms
18 of section two hundred twenty-four of this article.

19 S 5. This act shall take effect on the first of January next succeed-
20 ing the date on which it shall have become a law; provided that, effec-
21 tive immediately, any rules and regulations necessary to implement the
22 provisions of this act on its effective date are authorized and directed
23 to be completed on or before such date.

24 S 3. Severability clause. If any clause, sentence, paragraph, subdi-
25 vision, section or part of this act shall be adjudged by any court of
26 competent jurisdiction to be invalid, such judgment shall not affect,
27 impair, or invalidate the remainder thereof, but shall be confined in
28 its operation to the clause, sentence, paragraph, subdivision, section
29 or part thereof directly involved in the controversy in which such judg-
30 ment shall have been rendered. It is hereby declared to be the intent of
31 the legislature that this act would have been enacted even if such
32 invalid provisions had not been included herein.

33 S 4. This act shall take effect immediately provided, however, that
34 the applicable effective date of Parts A through P of this act shall be
35 as specifically set forth in the last section of such Parts.