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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. YOUNG, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to retail farm operations

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

1 Section 1. Subdivision 11 of section 301 of the agriculture and
2 markets law, as amended by chapter 120 of the laws of 2010, is amended
3 and a new subdivision 17 is added to read as follows:
4 11. "Farm operation" means the land and on-farm buildings, equipment,
5 manure processing and handling facilities, and practices which contrib-
6 ute to the production, preparation and marketing of crops, livestock and
7 livestock products as a commercial enterprise, including a "commercial
8 horse boarding operation" as defined in subdivision thirteen of this
9 section, a "timber operation" as defined in subdivision fourteen of this
10 section [and], "compost, mulch or other ORGANIC biomass crops" as
11 defined in subdivision sixteen of this section AND A "RETAIL FARM OPERA-
12 TION" AS DEFINED IN SUBDIVISION SEVENTEEN OF THIS SECTION. Such farm
13 operation may consist of one or more parcels of owned or rented land,
14 which parcels may be contiguous or noncontiguous to each other.
15 17. "RETAIL FARM OPERATION" MEANS A SEASONAL OR ANNUAL ENTERPRISE WITH
16 EITHER PERMANENT OR NONPERMANENT STRUCTURES THAT ARE OPERATED FOR THE
17 PURPOSES OF SELLING PREDOMINANTLY FARM AND FOOD PRODUCTS IN CONJUNCTION
18 WITH OR IN SUPPORT OF LAND USED IN AGRICULTURAL PRODUCTION AS DEFINED IN
19 SUBDIVISION FOUR OF THIS SECTION. SUCH PORTION OF THE FARM AND FOOD
20 PRODUCTS SHALL EXCEED FIFTY PERCENT OF THE GROSS ANNUAL INCOME OF SUCH
21 RETAIL FARM OPERATION. FOR PURPOSES OF THIS SUBDIVISION, FARM AND FOOD
22 PRODUCTS SHALL MEAN ANY AGRICULTURAL, HORTICULTURAL, FOREST OR OTHER
23 PRODUCT OF THE SOIL OR WATER, INCLUDING BUT NOT LIMITED TO FRESH OR
24 PROCESSED FRUITS, VEGETABLES, EGGS, DAIRY PRODUCTS, MEAT AND MEAT

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

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1 PRODUCTS, POULTRY AND POULTRY PRODUCTS, FISH AND FISH PRODUCTS, APPLE
2 CIDER, FRUIT JUICE, WINE, ORNAMENTAL PLANTS, NURSERY PRODUCTS, FLOWERS
3 AND CHRISTMAS TREES.

4 S 2. Paragraph b of subdivision 1 of section 308 of the agriculture
5 and markets law, as amended by chapter 120 of the laws of 2010, is
6 amended to read as follows:

7 b. Sound agricultural practices refer to those practices necessary for
8 the on-farm production, preparation and marketing of agricultural
9 commodities. Examples of activities which entail practices the commis-
10 sioner may consider include, but are not limited to, operation of farm
11 equipment; proper use of agricultural chemicals and other crop
12 protection methods; [direct sale to consumers of agricultural commod-
13 ities or foods containing agricultural commodities produced on-farm]
14 OPERATION AND MAINTENANCE OF A RETAIL FARM OPERATION AS DEFINED IN
15 SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED ONE OF THIS ARTICLE;
16 agricultural tourism; "timber operation," as defined in subdivision
17 fourteen of section three hundred one of this article and construction
18 and use of farm structures. The commissioner shall consult appropriate
19 state agencies and any guidelines recommended by the advisory council on
20 agriculture. The commissioner may consult as appropriate, the New York
21 state college of agriculture and life sciences and the U.S.D.A. natural
22 resources conservation service. The commissioner shall also consider
23 whether the agricultural practices are conducted by a farm owner or
24 operator as part of his or her participation in the AEM program as set
25 forth in article eleven-A of this chapter. Such practices shall be eval-
26 uated on a case-by-case basis.

27 S 3. This act shall take effect immediately.