

7063

2013-2014 Regular Sessions

I N A S S E M B L Y

May 1, 2013

Introduced by M. of A. MAGEE, THIELE, GUNTHER -- Multi-Sponsored by --
M. of A. ABBATE, CERETTO, CROUCH, LIFTON, P. LOPEZ, PALMESANO -- read
once and referred 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 11 of section 301 of the agriculture and
2 markets law, as amended by chapter 384 of the laws of 2011, is amended
3 and a new subdivision 18 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, "compost, mulch or other biomass crops" as defined in subdivi-
11 sion sixteen of this section [and], "commercial equine operation" as
12 defined in subdivision seventeen of this section AND A "RETAIL FARM
13 OPERATION" AS DEFINED IN SUBDIVISION EIGHTEEN OF THIS SECTION. Such farm
14 operation may consist of one or more parcels of owned or rented land,
15 which parcels may be contiguous or noncontiguous to each other.
16 18. "RETAIL FARM OPERATION" MEANS A SEASONAL OR ANNUAL ENTERPRISE WITH
17 EITHER PERMANENT OR NONPERMANENT STRUCTURES THAT ARE OPERATED FOR THE
18 PURPOSES OF SELLING PREDOMINANTLY FARM AND FOOD PRODUCTS IN CONJUNCTION
19 WITH OR IN SUPPORT OF LAND USED IN AGRICULTURAL PRODUCTION AS DEFINED IN
20 SUBDIVISION FOUR OF THIS SECTION. SUCH PORTION OF THE FARM AND FOOD
21 PRODUCTS SHALL EXCEED FIFTY PERCENT OF THE GROSS ANNUAL INCOME OF SUCH
22 RETAIL FARM OPERATION. FOR PURPOSES OF THIS SUBDIVISION, FARM AND FOOD
23 PRODUCTS SHALL MEAN ANY AGRICULTURAL, HORTICULTURAL, FOREST OR OTHER
24 PRODUCT OF THE SOIL OR WATER, INCLUDING BUT NOT LIMITED TO FRESH OR

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

LBD02521-01-3

1 PROCESSED FRUITS, VEGETABLES, EGGS, DAIRY PRODUCTS, MEAT AND MEAT
2 PRODUCTS, POULTRY AND POULTRY PRODUCTS, FISH AND FISH PRODUCTS, APPLE
3 CIDER, FRUIT JUICE, WINE, ORNAMENTAL PLANTS, NURSERY PRODUCTS, FLOWERS
4 AND CHRISTMAS TREES.

5 S 2. Paragraph b of subdivision 1 of section 308 of the agriculture
6 and markets law, as amended by chapter 497 of the laws of 2011, is
7 amended to read as follows:

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

30 S 3. This act shall take effect immediately.