

2774--A

2013-2014 Regular Sessions

I N   S E N A T E

January 23, 2013

---

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to establishing the Shop: Pride of New York program for wholesale and retail sellers of food and food products produced in New York state

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

1     Section 1. The agriculture and markets law is amended by adding a new  
2     section 156-j to read as follows:  
3     S 156-J.     SHOP: PRIDE OF NEW YORK. 1. DEFINITIONS. AS USED IN THIS  
4     SECTION, THE FOLLOWING TERMS SHALL MEAN:  
5     (A) "NEW YORK PRODUCT" MEANS (I) NEW YORK STATE GROWN FARM PRODUCT  
6     PACKED WITHIN THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTAB-  
7     LISHED AS PROVIDED BY THIS ARTICLE, ARTICLE THIRTEEN, ARTICLE THIR-  
8     TEEN-A, ARTICLE THIRTEEN-B, ARTICLE THIRTEEN-C AND ARTICLE THIRTEEN-D OF  
9     THIS CHAPTER OR ANY NEW YORK STATE PRODUCED OR LANDED AQUATIC PRODUCT,  
10    SUBJECT TO AND IN ACCORDANCE WITH RULES AND REGULATIONS TO BE PROMULGAT-  
11    ED BY THE COMMISSIONER; OR  
12    (II) ANY NEW YORK STATE PROCESSED FOOD PRODUCT, MANUFACTURED WITHIN  
13    THIS STATE IN ACCORDANCE WITH OFFICIAL STANDARDS ESTABLISHED BY THE  
14    COMMISSIONER PURSUANT TO REGULATION, WHICH IS ESSENTIALLY COMPOSED OF  
15    NEW YORK STATE GROWN FARM PRODUCTS, PROVIDED, HOWEVER, THAT WHENEVER THE  
16    COMMISSIONER DETERMINES, AFTER PUBLIC HEARING, THAT THE USE OF INGREDI-  
17    ENTS NOT GROWN OR PRODUCED IN THIS STATE IS NECESSARY OR BENEFICIAL IN  
18    MANUFACTURING A PARTICULAR PRODUCT BECAUSE SUCH INGREDIENTS ARE EITHER  
19    NOT GROWN IN NEW YORK OR UNAVAILABLE IN SUFFICIENT QUANTITY OR AT A  
20    REASONABLE PRICE TO ALLOW THE PRODUCT TO BE COMPOSED OF ONLY NEW YORK  
21    STATE GROWN FARM PRODUCTS, THE STANDARD FOR SUCH PRODUCT MAY AUTHORIZE  
22    THE INCLUSION OF INGREDIENTS NOT PRODUCED IN THIS STATE, EXCEPT THAT IN

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

LBD04925-03-3

1 NO EVENT SHALL AN OFFICIAL BRAND OR MARK BE APPROVED FOR USE ON A FOOD  
2 PRODUCT UNLESS AT LEAST FIFTY-ONE PERCENT OF ITS CONTENT IS DERIVED FROM  
3 NEW YORK STATE GROWN FARM PRODUCTS.

4 (B) "FOOD SELLER" MEANS ANY PERSON OR ENTITY REGULARLY ENGAGED IN THE  
5 SALE OF FOOD AND/OR FOOD PRODUCTS.

6 2. THE COMMISSIONER SHALL DESIGN, DETERMINE AND ADOPT AN OFFICIAL LOGO  
7 FOR SHOP: PRIDE OF NEW YORK FOOD SELLERS WHICH MAY BE DISPLAYED UPON THE  
8 PREMISES OF FOOD SELLERS DESIGNATED PURSUANT TO THIS SECTION. SUCH  
9 LOGO, WHEN ADOPTED BY THE COMMISSIONER, MAY BE REGISTERED AS A TRADEMARK  
10 IN THE OFFICE OF THE SECRETARY OF STATE PURSUANT TO ARTICLE TWENTY-FOUR  
11 OF THE GENERAL BUSINESS LAW OR ANY OTHER PROVISION OF LAW RELATING TO  
12 THE REGISTRATION OF TRADEMARKS. SUCH TRADEMARK SHALL BE REGISTERED BY  
13 THE SECRETARY OF STATE WITHOUT EXTRACTION OF ANY FEE THEREFOR. THE  
14 COMMISSIONER MAY, IN HIS OR HER DISCRETION, REGISTER SUCH MARK WITH THE  
15 UNITED STATES GOVERNMENT AND ANY OTHER STATE OR FOREIGN COUNTRY.

16 3. A RETAIL FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS  
17 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK FOOD SELLER, IF SUCH  
18 RETAIL FOOD SELLER SELLS OR OFFERS FOR SALE AT LEAST TWENTY DIFFERENT  
19 FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS. EVERY APPLICANT  
20 FOR DESIGNATION PURSUANT TO THIS SECTION SHALL INCLUDE IN HIS OR HER  
21 APPLICATION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE  
22 NEW YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A  
23 ONE SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED  
24 UPON THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS  
25 SOLD BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS  
26 THAT THE APPLICANT'S BUSINESS COMPLIES WITH THE STANDARDS ESTABLISHED IN  
27 THIS SUBDIVISION HE OR SHE SHALL DESIGNATE THE RETAIL FOOD SELLER AS A  
28 SHOP: PRIDE OF NEW YORK FOOD SELLER. APPLICANTS RECEIVING SUCH DESIG-  
29 NATION WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE  
30 PROVIDED WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMO-  
31 TIONAL MATERIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL  
32 PROVIDE SUCH MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE  
33 GOALS AND PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

34 4. A WHOLESALE FOOD SELLER MAY APPLY TO THE COMMISSIONER TO HAVE ITS  
35 BUSINESS DESIGNATED AS A SHOP: PRIDE OF NEW YORK WHOLESALER, IF SUCH  
36 WHOLESALE FOOD SELLER SELLS OR OFFERS FOR SALE SUCH QUANTITIES AND TYPES  
37 OF FOODS AND/OR FOOD PRODUCTS THAT ARE NEW YORK PRODUCTS, AS SHALL BE  
38 ESTABLISHED IN THE RULES OF THE DEPARTMENT. EVERY APPLICANT FOR DESIG-  
39 NATION PURSUANT TO THE SUBDIVISION SHALL INCLUDE IN HIS OR HER APPLICA-  
40 TION A LIST OF NEW YORK PRODUCTS SOLD ANNUALLY, THE NAMES OF THE NEW  
41 YORK PRODUCT PRODUCERS FROM WHOM SUCH PRODUCTS WERE PURCHASED, AND A ONE  
42 SENTENCE DESCRIPTION OF ITS BUSINESS. THE COMMISSIONER MAY, BASED UPON  
43 THE PRODUCERS NAMED IN EACH APPLICATION, VERIFY THAT THE PRODUCTS SOLD  
44 BY THE APPLICANT ARE NEW YORK PRODUCTS. IF THE COMMISSIONER FINDS THAT  
45 THE APPLICANT COMPLIES WITH THE STANDARDS ESTABLISHED IN THIS SUBDIVI-  
46 SION, HE OR SHE SHALL DESIGNATE THE WHOLESALE FOOD SELLER AS A SHOP:  
47 PRIDE OF NEW YORK WHOLESALER. APPLICANTS RECEIVING SUCH DESIGNATION  
48 WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE PROVIDED  
49 WITH OFFICIAL SHOP: PRIDE OF NEW YORK ADVERTISING AND PROMOTIONAL MATE-  
50 RIALS FREE OF CHARGE. THEREAFTER, THE COMMISSIONER SHALL PROVIDE SUCH  
51 MATERIALS, AS HE OR SHE DEEMS NECESSARY, TO FULFILL THE GOALS AND  
52 PURPOSES OF THE SHOP: PRIDE OF NEW YORK PROGRAM.

53 5. THE DEPARTMENT SHALL ESTABLISH, ON ITS DEPARTMENTAL INTERNET  
54 WEBSITE, A LINK DEDICATED TO THE SHOP: PRIDE OF NEW YORK PROGRAM. SUCH  
55 LINK SHALL INCLUDE THE NAME, LOCATION AND HOURS OF OPERATION OF EACH  
56 SHOP: PRIDE OF NEW YORK DESIGNATED FOOD SELLER, AND THE SINGLE SENTENCE

1 DESCRIPTION OF THE FOOD SELLER'S BUSINESS THAT WAS INCLUDED IN ITS  
2 APPLICATION. FURTHERMORE, THE DEPARTMENT, IN COOPERATION WITH THE  
3 DEPARTMENT OF ECONOMIC DEVELOPMENT AND THE REGIONAL OFFICES OF SUCH  
4 DEPARTMENT, SHALL ENGAGE IN THE PROMOTION OF SHOP: PRIDE OF NEW YORK  
5 DESIGNATED FOOD SELLERS.

6 6. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS HE  
7 OR SHE DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

8 S 2. This act shall take effect on the first of January next succeed-  
9 ing the date on which it shall have become a law, provided, that, effec-  
10 tive immediately, any rules and regulations necessary to implement the  
11 provisions of this act on its effective date are authorized and directed  
12 to be promulgated on or before such date.