S T A T E O F N E W Y O R K

4151

2013-2014 Regular Sessions

I N S E N A T E

March 12, 2013

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to regulating the sale of sports dietary supplements

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

Section 1. The public health law is amended by adding a new article 2-B to read as follows:

ARTICLE 2-B

SPORTS DIETARY SUPPLEMENTS

SECTION 290. DEFINITIONS.
291. DISCLOSURE; SPORTS DIETARY SUPPLEMENTS.
292. SALE OR DISTRIBUTION TO MINORS; PROHIBITION.
293. PENALTIES.

S 290. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

2. "SPORTS DIETARY SUPPLEMENT" MEANS A DIETARY SUPPLEMENT, HAVING MORE THAN ONE INGREDIENT, WHICH IS SOLD, MARKETED OR DISTRIBUTED TO ENHANCE A PERSON'S PHYSICAL PERFORMANCE OR TO INCREASE A PERSON'S METABOLISM; PROVIDED, HOWEVER, THAT SUCH TERM SHALL NOT INCLUDE ANY DIETARY SUPPLEMENT IN LIQUID FORM AND CONTAINING CAFFEINE.

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

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3. "SYNTHETIC BOTANICAL" MEANS AN INGREDIENT THAT IS A BOTANICAL INGREDIENT THAT IS SYNTHESIZED THROUGH HUMAN MANUFACTURING PRACTICES AND THAT IS NOT EXTRACTED FROM A PLANT OR HERB.

S 291. DISCLOSURE; SPORTS DIETARY SUPPLEMENTS. 1. EVERY PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY WHICH SELLS, OFFERS FOR SALE OR GIVES AWAY, AS EITHER A RETAIL OR WHOLESALE PROMOTION, ANY SPORTS DIETARY SUPPLEMENT, SHALL PROVIDE TO EACH INDIVIDUAL, TO WHOM A DIETARY SUPPLEMENT IS SOLD OR GIVEN AWAY, A PAMPHLET PRODUCED BY THE MANUFACTURER OR DISTRIBUTOR OF SUCH SUPPLEMENT, WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

(A) WHETHER THE SPORTS DIETARY SUPPLEMENT CONTAINS ANY SYNTHETIC BOTANICAL INGREDIENT, AND IDENTIFY EACH SUCH INGREDIENT;

(B) WHETHER ANY INGREDIENT IN THE SPORTS DIETARY SUPPLEMENT HAS BEEN BANNED FROM USE BY ANY OF THE FOLLOWING ORGANIZATIONS:

(I) THE UNITED STATES ANTI-DOPING AGENCY (USADA),

(II) THE WORLD ANTI-DOPING AGENCY (WADA),

(III) MAJOR LEAGUE BASEBALL (MLB),

(IV) THE NATIONAL FOOTBALL LEAGUE (NFL),

(V) THE NATIONAL HOCKEY LEAGUE (NHL),

(VI) THE NATIONAL BASKETBALL ASSOCIATION (NBA),

(VII) THE NATIONAL ASSOCIATION FOR STOCK CAR AUTO RACING (NASCAR), AND

(VIII) THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION (NCAA);

(C) ANY KNOWN NEGATIVE ADVERSE EFFECTS AND ANY KNOWN HERB-DRUG INTERACTIONS THAT COULD RESULT FROM THE USE OF SUCH SPORTS DIETARY SUPPLEMENT; AND

(D) SUCH ADDITIONAL INFORMATION AS THE COMMISSIONER SHALL DEEM NECESSARY.

2. THE COMMISSIONER SHALL PROMULGATE SUCH RULES AND REGULATIONS AS SHALL BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING THE FORM, CONTENT, SIZE AND CLARITY OF THE LANGUAGE OF THE PAMPHLETS REQUIRED BY SUBDIVISION ONE OF THIS SECTION.

S 292. SALE OR DISTRIBUTION TO MINORS; PROHIBITION. NO PERSON, FIRM, CORPORATION, PARTNERSHIP, ASSOCIATION, LIMITED LIABILITY COMPANY OR OTHER ENTITY SHALL SELL, OFFER FOR SALE OR GIVE AWAY, AS EITHER A RETAIL OR WHOLESALE PROMOTION, ANY SPORTS DIETARY SUPPLEMENT TO A CHILD UNDER EIGHTEEN YEARS OF AGE.

S 293. PENALTIES. A VIOLATION OF THIS ARTICLE SHALL CONSTITUTE A VIOLATION AS DEFINED IN THE PENAL LAW.

S 2. This act shall take effect on the one hundred eightieth day 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 to be completed on or before such date.