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

6216

I N S E N A T E

(PREFILED)

January 8, 2014

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the agriculture and markets law, in relation to the establishment of a letter grading system for supermarkets

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

Section 1. The agriculture and markets law is amended by adding a new section 501 to read as follows:

S 501. SUPERMARKET GRADING SYSTEM. 1. FOR PURPOSES OF THIS SECTION, "SUPERMARKET" SHALL MEAN ANY ESTABLISHMENT THAT PREDOMINATELY ENGAGES IN THE SALE OF GROCERIES.

2. THE COMMISSIONER SHALL ESTABLISH A SYSTEM FOR GRADING INSPECTION RESULTS FOR SUPERMARKETS. SUCH SYSTEM SHALL USE AND POST LETTERS A, B OR C TO IDENTIFY AND REPRESENT SUCH GRADING AND CLASSIFICATION WITH ALL OTHER LOWER GRADES BEING DEEMED TO BE FAILING GRADES. IN ESTABLISHING SUCH SYSTEM OF GRADING, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE PROVISIONS OF THE STATE SANITARY CODE TO ESTABLISH A GRADING SYSTEM THAT REFLECTS THE SAFETY AND SANITATION OF THE PREMISES AND FOOD HANDLING PRACTICES TO ENSURE COMPLIANCE WITH STATE AND LOCAL HEALTH LAW.

3. ANY SUPERMARKET SHALL CONSPICUOUSLY POST NEAR THE ENTRANCE TO SUCH ESTABLISHMENT THE LETTER GRADE IDENTIFYING AND REPRESENTING THE RESULT OF SUCH ESTABLISHMENT'S MOST RECENTLY GRADED INSPECTION BY THE LOCAL HEALTH OFFICER. SUCH POSTING SHALL BE DONE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER. FOR ANY SUPERMARKET RECEIVING A GRADE LOWER THAN "A", THE LOCAL HEALTH OFFICER SHALL ADVISE THE ESTABLISHMENT OF ITS GRADE AND THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE LOCAL HEALTH OFFICER SHALL CONDUCT A SUBSEQUENT INSPECTION OF SUCH SUPERMARKET NO SOONER THAN SEVEN DAYS, NOR LATER THAN TWENTY-ONE DAYS AFTER THE INSPECTION AT WHICH THE GRADE WAS GIVEN. IN THE INTERIM, THE PREVIOUS LETTER GRADE SHALL REMAIN POSTED. UPON THE CONCLUSION OF THE SUBSEQUENT INSPECTION, THE LOCAL HEALTH OFFICER SHALL DELIVER FOR POSTING A LETTER TO THE SUPERMARKET WHICH INDICATES THE GRADE FOR SUCH INSPECTION. IN ADDITION TO A LETTER GRADE, SUCH ESTABLISHMENT SHALL

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

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RECEIVE THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE SUPERMARKET MAY APPEAL SUCH SUBSEQUENT ASSIGNMENT OF A LETTER GRADE DESIGNATION TO THE COMMISSIONER FOR REVIEW WITHIN THIRTY DAYS OF SUCH ASSIGNMENT. WHILE ANY APPEAL IS PENDING, A SUPERMARKET SHALL POST THE LETTER GRADE THAT IS BEING APPEALED.

4. THE SUGGESTED INTERVAL BETWEEN REGULARLY SCHEDULED INSPECTIONS OF SUPERMARKETS MAY BE AS FOLLOWS:

(A) FOR ESTABLISHMENTS WITH A GRADE OF "A", AT LEAST ONCE EVERY YEAR;

(B) FOR ESTABLISHMENTS WITH A GRADE OF "B", AT LEAST ONCE EVERY NINE MONTHS; AND

(C) FOR ESTABLISHMENTS WITH A GRADE OF "C", AT LEAST ONCE EVERY SIX MONTHS.

5. AFTER AN INSPECTION IS CONDUCTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, A SUPERMARKET MAY REQUEST A REINSPECTION FROM THE LOCAL HEALTH OFFICER, AND SHALL PAY THE DEPARTMENT A FEE OF UP TO TWO HUNDRED FIFTY DOLLARS. PROVIDED HOWEVER THAT THE PROVISIONS OF THIS SUBDIVISION SHALL NOT NEGATE THE ABILITY OF ANY LOCAL HEALTH OFFICER TO INSPECT ANY RETAIL SERVICE ESTABLISHMENT ON THE BASIS OF A COMPLAINT FROM A MEMBER OF THE PUBLIC.

6. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ESTABLISHMENTS:

(A) OPERATED IN COLLEGE OR UNIVERSITY CAMPUSES OR CORRECTIONAL FACILITIES; OR

(B) SPONSORED BY A CHARITABLE ORGANIZATION.

S 2. This act shall take effect one year after it shall have become law; provided, however, that effective immediately, any rules and regulations necessary to implement the provisions of this act on its effective date are authorized to be made on or before such date.