

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:

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

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

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

14 3. ANY SUPERMARKET SHALL CONSPICUOUSLY POST NEAR THE ENTRANCE TO SUCH
15 ESTABLISHMENT THE LETTER GRADE IDENTIFYING AND REPRESENTING THE RESULT
16 OF SUCH ESTABLISHMENT'S MOST RECENTLY GRADED INSPECTION BY THE LOCAL
17 HEALTH OFFICER. SUCH POSTING SHALL BE DONE IN ACCORDANCE WITH RULES AND
18 REGULATIONS PROMULGATED BY THE COMMISSIONER. FOR ANY SUPERMARKET RECEIV-
19 ING A GRADE LOWER THAN "A", THE LOCAL HEALTH OFFICER SHALL ADVISE THE
20 ESTABLISHMENT OF ITS GRADE AND THE FINDINGS UPON WHICH SUCH GRADE IS
21 BASED. THE LOCAL HEALTH OFFICER SHALL CONDUCT A SUBSEQUENT INSPECTION OF
22 SUCH SUPERMARKET NO SOONER THAN SEVEN DAYS, NOR LATER THAN TWENTY-ONE
23 DAYS AFTER THE INSPECTION AT WHICH THE GRADE WAS GIVEN. IN THE INTERIM,
24 THE PREVIOUS LETTER GRADE SHALL REMAIN POSTED. UPON THE CONCLUSION OF
25 THE SUBSEQUENT INSPECTION, THE LOCAL HEALTH OFFICER SHALL DELIVER FOR
26 POSTING A LETTER TO THE SUPERMARKET WHICH INDICATES THE GRADE FOR SUCH
27 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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1 RECEIVE THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE SUPERMARKET
2 MAY APPEAL SUCH SUBSEQUENT ASSIGNMENT OF A LETTER GRADE DESIGNATION TO
3 THE COMMISSIONER FOR REVIEW WITHIN THIRTY DAYS OF SUCH ASSIGNMENT. WHILE
4 ANY APPEAL IS PENDING, A SUPERMARKET SHALL POST THE LETTER GRADE THAT IS
5 BEING APPEALED.

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

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

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

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

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

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

21 (A) OPERATED IN COLLEGE OR UNIVERSITY CAMPUSES OR CORRECTIONAL FACILI-
22 TIES; OR

23 (B) SPONSORED BY A CHARITABLE ORGANIZATION.

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