

6542

I N S E N A T E

February 4, 2014

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

AN ACT to amend the agriculture and markets law, in relation to the labeling of gluten-free foods and food products

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 214-o to read as follows:

3 S 214-O. LABELING OF GLUTEN-FREE FOODS AND FOOD PRODUCTS. 1. FOR THE
4 PURPOSES OF THIS SECTION:

5 A. "GLUTEN-CONTAINING GRAIN" SHALL MEAN ANY OF THE FOLLOWING GRAINS OR
6 THEIR CROSSBRED HYBRIDS:

7 (1) WHEAT, INCLUDING ANY SPECIES BELONGING TO THE GENUS TRITICUM;

8 (2) RYE, INCLUDING ANY SPECIES BELONGING TO THE GENUS SECALE; OR

9 (3) BARLEY, INCLUDING ANY SPECIES BELONGING TO THE GENUS HORDEUM.

10 B. "GLUTEN" SHALL MEAN THE PROTEINS THAT NATURALLY OCCUR IN A GLUTEN-
11 CONTAINING GRAIN AND THAT MY CAUSE ADVERSE HEALTH EFFECTS IN INDIVIDUALS
12 WITH CELIAC DISEASE.

13 C. "GLUTEN-FREE" SHALL MEAN:

14 (1) THAT A FOOD OR PRODUCT:

15 (A) DOES NOT CONTAIN ANY OF THE FOLLOWING:

16 (I) AN INGREDIENT THAT IS A GLUTEN-CONTAINING GRAIN,

17 (II) AN INGREDIENT THAT IS DERIVED FROM A GLUTEN-CONTAINING GRAIN AND
18 THAT HAS NOT BEEN PROCESSED TO REMOVE GLUTEN, OR

19 (III) AN INGREDIENT THAT IS DERIVED FROM A GLUTEN-CONTAINING GRAIN AND
20 THAT HAS BEEN PROCESSED TO REMOVE GLUTEN, IF THE USE OF SUCH INGREDIENT
21 RESULTS IN THE PRESENCE OF TWENTY PARTS PER MILLION OR MORE OF GLUTEN IN
22 THE FOOD OR FOOD PRODUCT; OR

23 (B) INHERENTLY DOES NOT CONTAIN GLUTEN; AND

24 (2) ANY UNAVOIDABLE PRESENCE OF GLUTEN IN THE FOOD OR FOOD PRODUCT IS
25 BELOW TWENTY PARTS PER MILLION.

26 2. A. ANY FOOD OR FOOD PRODUCT WHICH INCLUDES IN ITS LABELING THE TERM
27 "GLUTEN-FREE", "NO GLUTEN", "FREE OF GLUTEN" OR "WITHOUT GLUTEN" WHICH
28 IS NOT GLUTEN FREE SHALL BE DEEMED MISBRANDED.

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

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1 B. ANY FOOD OR FOOD PRODUCT THAT INCLUDES THE TERM "WHEAT" IN ITS
2 INGREDIENT LIST OR IS OTHERWISE LABELED WITH THE TERM "CONTAINS WHEAT",
3 AS REQUIRED BY 21 U.S.C. 343 (W)(1)(A), AND IS ALSO LABELLED AS
4 "GLUTEN-FREE", "NO GLUTEN", "FREE OF GLUTEN" OR "WITHOUT GLUTEN" SHALL
5 BE DEEMED TO BE MISBRANDED, UNLESS THE TERM "WHEAT" OR "CONTAINS WHEAT"
6 IS IMMEDIATELY FOLLOWED BY AN ASTERISK AND THE FOLLOWING STATEMENT:
7 "THE WHEAT HAS BEEN PROCESSED TO ALLOW THIS FOOD OR FOOD PRODUCT TO MEET
8 THE REQUIREMENTS OF THE NEW YORK STATE DEPARTMENT OF AGRICULTURE AND
9 MARKETS".

10 3. THE DEPARTMENT SHALL ESTABLISH AN IMPLEMENT A SCIENTIFICALLY VALID
11 METHOD, CONSISTENT WITH ANY SUCH METHOD ESTABLISHED BY THE FEDERAL FOOD
12 AND DRUG ADMINISTRATION, THAT WILL RELIABLY DETECT THE PRESENCE OF TWEN-
13 TY PARTS PER MILLION OR MORE OF GLUTEN IN ALL FOODS AND FOOD PRODUCTS.

14 4. THE PROVISIONS OF THIS SECTION SHALL BE INTERPRETED AND IMPLEMENTED
15 IN A MANNER WHICH IS CONSISTENT WITH ANY FEDERAL STATUTE, RULE OR REGU-
16 LATION RELATING TO THE LABELING OF FOOD AND FOOD PRODUCTS WITH THEIR
17 GLUTEN CONTENT.

18 5. ANY INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPO-
19 RATION, ASSOCIATION OR FIRM VIOLATING THE PROVISIONS OF THIS SECTION
20 SHALL BE GUILTY OF A MISDEMEANOR.

21 6. ANY INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, CORPO-
22 RATION, ASSOCIATION OR FIRM VIOLATING THE PROVISIONS OF THIS SECTION
23 SHALL BE SUBJECT TO THE CIVIL PENALTIES PROVIDED FOR IN SECTIONS THIR-
24 TY-NINE AND FORTY OF THIS CHAPTER.

25 7. THE COMMISSIONER SHALL PROMULGATE ANY AND ALL RULES AND REGU-
26 LATIONS, AND TAKE ANY FURTHER ACTIONS AS SHALL BE NECESSARY TO IMPLEMENT
27 THE PROVISIONS OF THIS SECTION. PROVIDED THAT ALL SUCH RULES, REGU-
28 LATIONS AND ACTIONS SHALL BE CONSISTENT WITH THE PROVISIONS OF ANY
29 FEDERAL LAW, RULE OR REGULATION RELATING TO THE LABELING OF FOOD OR FOOD
30 PRODUCTS AS "GLUTEN FREE".

31 S 2. The commissioner of agriculture and markets shall post on the
32 department of agriculture and markets internet website the provisions of
33 section 214-o of the agriculture and markets law, as added by section
34 one of this act, an explanation of such provisions and the effective
35 date of subdivisions 1 through 6 of such section of the agriculture and
36 markets law.

37 S 3. This act shall take effect immediately, except that subdivisions
38 1 through 6 of section 214-o of the agriculture and markets law, as
39 added by section one of this act, shall take effect one year after this
40 act shall have become a law.