

7789

I N   S E N A T E

June 9, 2014

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Introduced by Sen. MAZIARZ -- 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 and the general business law, in relation to the labeling of foods produced with certain types of fertilizer

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 214-0. THE LABELING OF FOODS PRODUCED WITH CERTAIN TYPES OF FERTI-  
4     LIZERS. 1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS  
5     SHALL HAVE THE FOLLOWING MEANINGS:  
6     (A) "ANAEROBIC DIGESTION" MEANS ANY NATURAL BIOLOGICAL PROCESSES  
7     INVOLVING MICROORGANISMS IN THE ABSENCE OF OXYGEN FOR THE PURPOSES OF  
8     BREAKING DOWN BIODEGRADABLE MATERIAL AND THE CREATION OF METHANE.  
9     (B) "COMMERCIAL FERTILIZER" SHALL MEAN ANY SUBSTANCES CONTAINING ONE  
10    OR MORE RECOGNIZED PLANT NUTRIENTS WHICH IS USED FOR ITS PLANT NUTRIENT  
11    CONTENT, AND WHICH IS DESIGNED FOR USE OR CLAIMED TO HAVE VALUE IN  
12    PROMOTING PLANT GROWTH, EXCEPT UNMANIPULATED ANIMAL AND VEGETABLE  
13    MANURES, AGRICULTURAL LIMING MATERIAL, WOOD ASHES, GYPSUM AND OTHER  
14    PRODUCTS EXEMPTED BY REGULATION OF THE COMMISSIONER.  
15    (C) "DIGESTATE" MEANS ANY LIQUID OR SOLID THAT IS PRODUCED AS THE  
16    RESULT OF THE PROCESS OF ANAEROBIC DIGESTION.  
17    (D) "EFFLUENT" MEANS ANY GARBAGE, REFUSE, RAW SEWAGE, SEPTAGE OR  
18    SLUDGE PRODUCED FROM A SEWAGE TREATMENT PLANT, WASTE TREATMENT PLANT OR  
19    WATER SUPPLY TREATMENT PLANT THAT IS KNOWN TO CONTAIN EXCREMENTITOUS  
20    WASTE PRODUCTS OR OTHER WASTES OR WASHINGS FROM THE BODIES OF HUMAN  
21    BEINGS.  
22    2. (A) ANY FOOD FOR HUMAN CONSUMPTION OFFERED FOR RETAIL SALE IN NEW  
23    YORK IS MISBRANDED IF IT IS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED  
24    OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE  
25    THROUGH AN ANAEROBIC DIGESTION PROCESS AND THAT FACT IS NOT DISCLOSED AS  
26    FOLLOWS:

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

LBD15330-03-4

(I) IN THE CASE OF RAW AGRICULTURAL COMMODITY THAT IS NOT SEPARATELY PACKAGED OR LABELED, THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS SHALL BE PLACED ON THE CONTAINER USED FOR PACKAGING, HOLDING, AND/OR TRANSPORT IN A CLEAR AND CONSPICUOUS MANNER BY THE MANUFACTURER, AND MAINTAINED BY THE DISTRIBUTOR, AND DISPLAYED IN A CLEAR AND CONSPICUOUS MANNER ON THE RETAIL STORE SHELF OR BIN IN WHICH SUCH COMMODITY IS FOR SALE BY THE RETAILER;

(II) IN THE CASE OF PROCESSED FOOD CONTAINING SOME PRODUCTS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS, THE MANUFACTURER MUST LABEL THE FOOD, IN A CLEAR AND CONSPICUOUS MANNER ON THE PACKAGE OF SUCH FOOD, WITH THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS; AND

(III) IN THE CASE OF ANY SEED OR SEED STOCK, THE MANUFACTURER OR OTHER ENTITY RESPONSIBLE FOR PRODUCING THE SEED MUST LABEL THE SEED OR SEED STOCK CONTAINER, THE SALES RECEIPT, AND ANY OTHER REFERENCE TO IDENTIFICATION, OWNERSHIP, OR POSSESSION, IN A CLEAR AND CONSPICUOUS MANNER WITH THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS.

(B) THIS SUBDIVISION SHALL NOT BE CONSTRUED TO REQUIRE EITHER THE LISTING OR IDENTIFICATION OF ANY INGREDIENTS THAT WERE PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS, NOR THAT THE PHRASE "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS BE PLACED IMMEDIATELY PRECEDING ANY COMMON NAME OR PRIMARY PRODUCT DESCRIPTOR OF A FOOD.

(C) ANY PROCESSED FOOD OR RAW AGRICULTURAL COMMODITY THAT WOULD BE SUBJECT TO THIS SECTION SOLELY BECAUSE IT INCLUDES ONE OR MORE MATERIALS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS IS NOT MISBRANDED PROVIDED THAT THESE MATERIALS IN THE AGGREGATE DO NOT ACCOUNT FOR MORE THAN NINE-TENTHS OF ONE PERCENT OF THE TOTAL WEIGHT OF THE PROCESSED FOOD OR RAW AGRICULTURAL COMMODITY.

(D) THIS SUBDIVISION SHALL NOT APPLY TO ANY OF THE FOLLOWING:

(I) A RAW AGRICULTURAL COMMODITY OR FOOD THAT HAS BEEN GROWN, RAISED, PRODUCED, OR DERIVED WITHOUT THE KNOWING AND INTENTIONAL USE OF FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS. INCLUDED WITHIN THE EXCLUSION UNDER THIS PARAGRAPH, THE PERSON RESPONSIBLE FOR COMPLYING WITH PARAGRAPH (A) OF THIS SUBDIVISION WITH RESPECT TO A RAW AGRICULTURAL COMMODITY OR FOOD, SHALL OBTAIN FROM WHOMEVER SOLD THE RAW AGRICULTURAL COMMODITY OR FOOD TO THAT PERSON, A WRITTEN STATEMENT, WHICH SHALL BE INCLUDED ON AN INVOICE, THAT MAY BE IN AN ELECTRONIC FORM, THAT THE RAW AGRICULTURAL COMMODITY OR FOOD: (A) HAS NOT BEEN KNOWINGLY OR INTENTIONALLY PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS; AND (B) HAS BEEN SEGREGATED FROM, AND HAS NOT BEEN KNOWINGLY OR INTENTIONALLY COMMINGLED WITH FOODS THAT MAY HAVE BEEN PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS. IN PROVIDING SUCH STATEMENT, A PERSON MAY RELY ON A WRITTEN STATEMENT, WHICH MAY BE IN AN ELECTRONIC FORM, FROM HIS OR HER OWN SUPPLIER THAT CONTAINS SUCH AN AFFIRMATION;

(II) ANY PROCESSED FOOD THAT WOULD BE SUBJECT TO THIS SUBDIVISION SOLELY BECAUSE ONE OR MORE OF THE PROCESSING AIDS OR ENZYMES USED IN ITS PRODUCTION WERE PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS;

(III) ANY ALCOHOLIC BEVERAGE THAT IS SUBJECT TO REGULATION BY THE ALCOHOLIC BEVERAGE CONTROL LAW;

(IV) FOOD THAT HAS BEEN LAWFULLY CERTIFIED TO BE LABELED, MARKETING, AND OFFERED FOR SALE AS "ORGANIC" PURSUANT TO THE FEDERAL ORGANIC FOODS PRODUCTION ACT OF 1990, 7 U.S.C. 6501, ET SEQ., AND THE NATIONAL ORGANIC PROGRAM REGULATIONS PROMULGATED PURSUANT THERETO BY THE UNITED STATES DEPARTMENT OF AGRICULTURE;

(V) FOOD THAT IS NOT PACKAGED FOR RETAIL SALE AND THAT EITHER: (A) IS A PROCESSED FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION; OR (B) IS SERVED, SOLD, OR OTHERWISE PROVIDED IN ANY RESTAURANT OR OTHER FOOD FACILITY THAT IS ENGAGED IN THE SALE OF FOOD PREPARED AND INTENDED FOR IMMEDIATE CONSUMPTION; OR

(VI) MEDICAL FOOD.

(E) ANY PERSON, FIRM, CORPORATION, OR OTHER LEGAL ENTITY VIOLATING THIS SUBDIVISION SHALL BE SUBJECT TO THE PENALTIES FOR FALSE LABELS AND MISREPRESENTATIONS AS SET FORTH IN SECTION THREE HUNDRED NINETY-TWO-B OF THE GENERAL BUSINESS LAW, PROVIDED HOWEVER THAT A RETAILER SHALL NOT BE PENALIZED FOR THE FAILURE TO LABEL UNDER SECTION THREE HUNDRED NINETY-TWO-B OF THE GENERAL BUSINESS LAW UNLESS (I) THE RETAILER IS THE MANUFACTURER OF THE FOOD, SEED OR SEED STOCK PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS AND SELLS SUCH FOOD UNDER A BRAND IT OWNS OR (II) THE RETAILER'S FAILURE TO LABEL WAS KNOWING AND WILLFUL. IN AN ACTION IN WHICH IT IS ALLEGED THAT A RETAILER HAS VIOLATED THE PROVISIONS OF THIS SECTION, IT SHALL BE A DEFENSE THAT SUCH RETAILER RELIED ON (A) ANY DISCLOSURE CONCERNING FOODS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS RECEIVED PURSUANT TO THIS SECTION OR (B) THE LACK OF ANY DISCLOSURE.

S 2. The general business law is amended by adding a new section 391-t to read as follows:

S 391-T. THE LABELING OF FOODS PRODUCED WITH CERTAIN TYPES OF FERTILIZERS. 1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ANAEROBIC DIGESTION" MEANS ANY NATURAL BIOLOGICAL PROCESSES INVOLVING MICROORGANISMS IN THE ABSENCE OF OXYGEN FOR THE PURPOSES OF BREAKING DOWN BIODEGRADABLE MATERIAL AND THE CREATION OF METHANE.

(B) "COMMERCIAL FERTILIZER" SHALL MEAN ANY SUBSTANCES CONTAINING ONE OR MORE RECOGNIZED PLANT NUTRIENTS WHICH IS USED FOR ITS PLANT NUTRIENT CONTENT, AND WHICH IS DESIGNED FOR USE OR CLAIMED TO HAVE VALUE IN PROMOTING PLANT GROWTH, EXCEPT UNMANIPULATED ANIMAL AND VEGETABLE MANURES, AGRICULTURAL LIMING MATERIAL, WOOD ASHES, GYPSUM AND OTHER PRODUCTS EXEMPTED BY REGULATION OF THE COMMISSIONER.

(C) "DIGESTATE" MEANS ANY LIQUID OR SOLID THAT IS PRODUCED AS THE RESULT OF THE PROCESS OF ANAEROBIC DIGESTION.

(D) "EFFLUENT" MEANS ANY GARBAGE, REFUSE, RAW SEWAGE, SEPTAGE OR SLUDGE PRODUCED FROM A SEWAGE TREATMENT PLANT, WASTE TREATMENT PLANT OR WATER SUPPLY TREATMENT PLANT THAT IS KNOWN TO CONTAIN EXCREMENTITIOUS WASTE PRODUCTS OR OTHER WASTES OR WASHINGS FROM THE BODIES OF HUMAN BEINGS.

2. (A) ANY FOOD FOR HUMAN CONSUMPTION OFFERED FOR RETAIL SALE IN NEW YORK IS MISBRANDED IF IT IS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS AND THAT FACT IS NOT DISCLOSED AS FOLLOWS:

(I) IN THE CASE OF A RAW AGRICULTURAL COMMODITY THAT IS NOT SEPARATELY PACKAGED OR LABELED, THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS SHALL BE PLACED ON THE CONTAINER USED FOR PACKAGING, HOLDING, AND/OR TRANSPORT IN A CLEAR AND CONSPICUOUS MANNER BY THE MANUFACTURER, AND MAINTAINED BY THE DISTRIBUTOR, AND DISPLAYED IN A CLEAR AND CONSPICUOUS MANNER ON THE RETAIL STORE SHELF OR BIN IN WHICH SUCH COMMODITY IS FOR SALE BY THE RETAILER;

(II) IN THE CASE OF PROCESSED FOOD CONTAINING SOME PRODUCTS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN AEROBIC DIGESTION PROCESS, THE MANUFACTURER MUST LABEL THE FOOD, IN A CLEAR AND CONSPICUOUS MANNER ON THE PACKAGE OF SUCH FOOD, WITH THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS; AND

(III) IN THE CASE OF ANY SEED OR SEED STOCK, THE MANUFACTURER OR OTHER ENTITY RESPONSIBLE FOR PRODUCING THE SEED MUST LABEL THE SEED OR SEED STOCK CONTAINER, THE SALES RECEIPT, AND ANY OTHER REFERENCE TO IDENTIFICATION, OWNERSHIP, OR POSSESSION, IN A CLEAR AND CONSPICUOUS MANNER WITH THE WORDS "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS.

(B) THIS SUBDIVISION SHALL NOT BE CONSTRUCTED TO REQUIRE EITHER THE LISTING OR IDENTIFICATION OF ANY INGREDIENTS THAT WERE PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS, NOR THAT THE PHRASE "PRODUCED WITH FERTILIZER CONTAINING ANAEROBICALLY DIGESTED HUMAN FECAL MATTER" OR ANY OTHER DERIVATIVE OF THOSE WORDS BE PLACED IMMEDIATELY PRECEDING ANY COMMON NAME OR PRIMARY PRODUCT DESCRIPTOR OF A FOOD.

(C) ANY PROCESSED FOOD OR RAW AGRICULTURAL COMMODITY THAT WOULD BE SUBJECT TO THIS SECTION SOLELY BECAUSE IT INCLUDES ONE OR MORE MATERIALS PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTIVE PROCESS IS NOT MISBRANDED PROVIDED THAT THESE MATERIALS ON THE AGGREGATE DO NOT ACCOUNT FOR MORE THAN NINE-TENTHS OF ONE PERCENT OF THE TOTAL WEIGHT OF THE PROCESSED FOOD OR RAW AGRICULTURAL COMMODITY.

(D) THIS SUBDIVISION SHALL NOT APPLY TO ANY OF THE FOLLOWING:

(I) A RAW AGRICULTURAL COMMODITY OR FOOD THAT HAS BEEN GROWN, RAISED, PRODUCED, OR DERIVED WITHOUT THE KNOWING AND INTENTIONAL USE OF FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS. INCLUDED WITHIN THE EXCLUSION UNDER THIS PARAGRAPH, THE PERSON RESPONSIBLE FOR COMPLYING WITH PARAGRAPH (A) OF THIS SUBDIVISION WITH RESPECT TO A RAW AGRICULTURAL COMMODITY OR FOOD, SHALL OBTAIN FROM WHOMEVER SOLD THE RAW AGRICULTURAL COMMODITY OR FOOD TO THAT PERSON, A WRITTEN STATEMENT, WHICH SHALL BE INCLUDED ON AN INVOICE THAT MAY BE IN AN ELECTRONIC FORM, THAT THE RAW AGRICULTURAL COMMODITY OR FOOD: (A) HAS NOT BEEN KNOWINGLY OR INTENTIONALLY PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS; AND (B) HAS BEEN SEGREGATED FROM, AND HAS NOT BEEN KNOWINGLY OR INTENTIONALLY COMMINGLED WITH FOODS THAT MAY HAVE

1 BEEN PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGESTATE PRODUCED  
2 OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC  
3 DIGESTION PROCESS. IN PROVIDING SUCH STATEMENT, A PERSON MAY RELY ON A  
4 WRITTEN STATEMENT, WHICH MAY BE IN AN ELECTRONIC FORM, FROM HIS OR HER  
5 OWN SUPPLIER THAT CONTAINS SUCH AN AFFIRMATION;

6 (II) ANY PROCESSED FOOD THAT WOULD BE SUBJECT TO THIS SUBDIVISION  
7 SOLELY BECAUSE ONE OR MORE OF THE PROCESSING AIDS OR ENZYMES USED IN ITS  
8 PRODUCTION WERE PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF DIGES-  
9 TATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE THROUGH  
10 AN ANAEROBIC DIGESTION PROCESS;

11 (III) ANY ALCOHOLIC BEVERAGE THAT IS SUBJECT TO REGULATION BY THE  
12 ALCOHOLIC BEVERAGE CONTROL LAW;

13 (IV) FOOD THAT HAS BEEN LAWFULLY CERTIFIED TO BE LABELED, MARKETING,  
14 AND OFFERED FOR SALE AS "ORGANIC" PURSUANT TO THE FEDERAL ORGANIC FOODS  
15 PRODUCTION ACT OF 1990, 7 U.S.C. 6501, ET SEQ., AND THE NATIONAL ORGANIC  
16 PROGRAM REGULATIONS PROMULGATED PURSUANT THERETO BY THE UNITED STATES  
17 DEPARTMENT OF AGRICULTURE;

18 (V) FOOD THAT IS NOT PACKAGED FOR RETAIL SALE AND THAT EITHER: (A) IS  
19 A PROCESSED FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION;  
20 OR (B) IS SERVED, SOLD, OR OTHERWISE PROVIDED IN ANY RESTAURANT OR OTHER  
21 FOOD FACILITY THAT IS ENGAGED IN THE SALE OF FOOD PREPARED AND INTENDED  
22 FOR IMMEDIATE CONSUMPTION; OR

23 (VI) MEDICAL FOOD.

24 (E) ANY PERSON, FIRM, CORPORATION, OR OTHER LEGAL ENTITY VIOLATING  
25 THIS SUBDIVISION SHALL BE SUBJECT TO THE PENALTIES FOR FALSE LABELS AND  
26 MISREPRESENTATIONS AS SET FORTH IN SECTION THREE HUNDRED NINETY-TWO-B OF  
27 THIS ARTICLE, PROVIDED HOWEVER THAT A RETAILER SHALL NOT BE PENALIZED  
28 FOR THE FAILURE TO LABEL UNDER SECTION THREE HUNDRED NINETY-TWO-B OF  
29 THIS ARTICLE UNLESS (I) THE RETAILER IS THE MANUFACTURER OF THE FOOD,  
30 SEED OR SEED STOCK PRODUCED WITH COMMERCIAL FERTILIZER COMPOSED OF  
31 DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM EFFLUENT THAT HAS GONE  
32 THROUGH AN ANAEROBIC DIGESTION PROCESS AND SELLS SUCH FOOD UNDER A BRAND  
33 IT OWNS OR (II) THE RETAILER'S FAILURE TO LABEL WAS KNOWING AND WILLFUL.  
34 IN AN ACTION IN WHICH IT IS ALLEGED THAT A RETAILER HAS VIOLATED THE  
35 PROVISIONS OF THIS SECTION, IT SHALL BE A DEFENSE THAT SUCH RETAILER  
36 RELIED ON (A) ANY DISCLOSURE CONCERNING FOODS PRODUCED WITH COMMERCIAL  
37 FERTILIZER COMPOSED OF DIGESTATE PRODUCED OR PARTIALLY PRODUCED FROM  
38 EFFLUENT THAT HAS GONE THROUGH AN ANAEROBIC DIGESTION PROCESS RECEIVED  
39 PURSUANT TO THIS SECTION OR (B) THE LACK OF ANY DISCLOSURE.

40 S 3. Severability clause. If any provision of this act or its applica-  
41 tion to any person, legal entity, or circumstance is held invalid, the  
42 remainder of the act or the application of the provision to other  
43 persons, legal entity or circumstances shall not be affected.

44 S 4. This act shall take effect twenty-four months after it shall have  
45 become a law; provided, however, that effective immediately, the depart-  
46 ment of agriculture and markets shall adopt any rules and regulations  
47 necessary to implement this act, including, but not limited to, creating  
48 and maintaining a list, which shall be made available to the public at  
49 no cost, of raw agricultural commodities that are produced with commer-  
50 cial fertilizer composed of digestate produced or partially produced  
51 from effluent that has gone through an anaerobic digestion process.