

8512

2015-2016 Regular Sessions

I N A S S E M B L Y

October 9, 2015

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring human breast milk banks, companies and cooperatives to comply with certain standards and to provide for education and support of certain breast-feeding mothers

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

1 Section 1. The public health law is amended by adding a new section
2 2505-b to read as follows:
3 S 2505-B. BREAST MILK BANKS. 1. PROCURING, PROCESSING, STORING,
4 DISTRIBUTING AND USING HUMAN MILK FOR THE PURPOSE OF INFANT HUMAN
5 CONSUMPTION FROM A NONPROFIT HUMAN BREAST MILK BANK IS A RENDERING OF A
6 SERVICE AND NOT THE SALE OF HUMAN MILK FOR PROFIT OR FINANCIAL GAIN.
7 2. A HOSPITAL OR ORGANIZATION THAT COLLECTS, PROCESSES, STORES, OR
8 DISTRIBUTES HUMAN MILK EITHER FROM A MOTHER EXCLUSIVELY FOR HER OWN
9 CHILD OR FROM A MOTHER TO NOURISH A CHILD OTHER THAN HER OWN SHALL
10 COMPLY WITH THE STANDARDS, ETHICAL PRACTICES AND GUIDELINES FOR COLLECT-
11 ING, PROCESSING, STORING, OR DISTRIBUTING HUMAN MILK OF THE HUMAN MILK
12 BANKING ASSOCIATION OF NORTH AMERICA UNLESS THE DEPARTMENT APPROVES
13 ALTERNATE STANDARDS.
14 3. NO SCREENING TEST IS REQUIRED TO BE PERFORMED ON HUMAN MILK
15 COLLECTED FROM A MOTHER EXCLUSIVELY FOR HER OWN CHILD.
16 4. A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE THAT
17 PROVIDES FINANCIAL COMPENSATION OR SHARES IN STOCK FOR PROCURING, PROC-
18 ESSING, DISTRIBUTING, OR USING HUMAN MILK FOR THE PURPOSE OF HUMAN
19 CONSUMPTION MUST COMPLY WITH THE STANDARDS, ETHICAL PRACTICES AND GUIDE-
20 LINES OF THE HUMAN MILK BANKING ASSOCIATION OF NORTH AMERICA OR MORE
21 STRINGENT GUIDELINES FOR SAFE PROCUREMENT, PROCESSING, STORING, OR
22 DISTRIBUTION OF HUMAN BREAST MILK.

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

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1 5. (A) A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE
2 WORKING WITH BREASTFEEDING MOTHERS IN THIS STATE CAN ONLY ACCEPT MILK
3 FROM A MOTHER WHO IS AT LEAST ONE HUNDRED AND EIGHTY DAYS POSTPARTUM.

4 (B) A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE OPER-
5 ATING IN THIS STATE CANNOT REMIT PAYMENT TO A PARTICIPATING MOTHER UNTIL
6 AT LEAST TWENTY-EIGHT DAYS AFTER RECEIPT AND ACCEPTANCE OF THE EXPRESSED
7 HUMAN BREAST MILK.

8 6. A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE SHALL
9 WORK WITH LOCAL, COMMUNITY-BASED LACTATION SUPPORT GROUPS TO PROVIDE
10 ONGOING BREASTFEEDING EDUCATION AND LACTATION SUPPORT FOR ITS PARTIC-
11 IPATING MOTHERS TO ENSURE THAT THE NEEDS OF THE NURSING CHILDREN OF
12 PARTICIPATING MOTHERS ARE THE PRIORITY AND ARE ADEQUATELY NOURISHED BY
13 THE MOTHER'S OWN BREAST MILK.

14 7. A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE OPER-
15 ATING IN THIS STATE SHALL ENSURE THAT, AT A MINIMUM, FIFTY PERCENT OF
16 THE HUMAN BREAST MILK PRODUCED BY PARTICIPATING MOTHERS IN A SPECIFIC
17 LOCALITY IS DISTRIBUTED TO HOSPITALS IN THIS STATE FOR THE HOSPITAL'S
18 NEONATAL INTENSIVE CARE UNIT OR TO LOCAL NONPROFIT HUMAN BREAST MILK
19 BANKS TO PROVIDE HUMAN BREAST MILK FOR VULNERABLE PREMATURE OR ILL
20 INFANTS OR FOR DISTRIBUTION TO FOSTER PARENTS OR ADOPTIVE PARENTS IN
21 THIS STATE WHO WISH TO PROVIDE BREAST MILK FOR THEIR FOSTER OR ADOPTIVE
22 NEWBORN OR INFANT CHILDREN.

23 8. A FOR-PROFIT HUMAN BREAST MILK BANK OPERATING IN THIS STATE SHALL
24 CONDUCT AN ANNUAL AUDIT, AT ITS OWN EXPENSE, THAT CLEARLY DEMONSTRATES
25 WHETHER OR NOT THE DISTRIBUTION OF BREAST MILK COLLECTED COMPLIES WITH
26 THE REQUIREMENTS OF SUBDIVISION SIX OF THIS SECTION. THE FOR-PROFIT
27 HUMAN BREAST MILK BANK SHALL SUBMIT A REPORT WITH THE FINDINGS OF THE
28 AUDIT TO THE DEPARTMENT NO LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND
29 SEVENTEEN AND EVERY JANUARY THIRTY-FIRST ANNUALLY THEREAFTER.

30 9. A FOR-PROFIT HUMAN BREAST MILK BANK THAT DOES NOT COMPLY WITH THE
31 PROVISIONS OF SUBDIVISION EIGHT OF THIS SECTION SHALL BE RESPONSIBLE FOR
32 A FINE TO BE DETERMINED BY THE COMMISSIONER. THE COMPTROLLER SHALL
33 CREDIT THE MONEY FROM SUCH FINES TO THE DEPARTMENT FOR USE IN INFANT
34 MORTALITY PREVENTION PROJECTS.

35 10. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO MOTHER-TO-MOTHER
36 MILK SHARING GROUPS.

37 S 2. This act shall take effect on the first of January next succeed-
38 ing the date upon which it shall have become a law.