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

7569

I N S E N A T E

May 10, 2016

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed 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:

Section 1. The public health law is amended by adding a new section 2505-b to read as follows:

S 2505-B. BREAST MILK BANKS. 1. PROCURING, PROCESSING, STORING, DISTRIBUTING AND USING HUMAN MILK FOR THE PURPOSE OF INFANT HUMAN CONSUMPTION FROM A NONPROFIT HUMAN BREAST MILK BANK IS A RENDERING OF A SERVICE AND NOT THE SALE OF HUMAN MILK FOR PROFIT OR FINANCIAL GAIN.

2. A HOSPITAL OR ORGANIZATION THAT COLLECTS, PROCESSES, STORES, OR DISTRIBUTES HUMAN MILK EITHER FROM A MOTHER EXCLUSIVELY FOR HER OWN CHILD OR FROM A MOTHER TO NOURISH A CHILD OTHER THAN HER OWN SHALL COMPLY WITH THE STANDARDS, ETHICAL PRACTICES AND GUIDELINES FOR COLLECTING, PROCESSING, STORING, OR DISTRIBUTING HUMAN MILK OF THE HUMAN MILK BANKING ASSOCIATION OF NORTH AMERICA UNLESS THE DEPARTMENT APPROVES ALTERNATE STANDARDS.

3. NO SCREENING TEST IS REQUIRED TO BE PERFORMED ON HUMAN MILK COLLECTED FROM A MOTHER EXCLUSIVELY FOR HER OWN CHILD.

4. A FOR-PROFIT HUMAN BREAST MILK BANK, COMPANY, OR COOPERATIVE THAT PROVIDES FINANCIAL COMPENSATION OR SHARES IN STOCK FOR PROCURING, PROCESSING, DISTRIBUTING, OR USING HUMAN MILK FOR THE PURPOSE OF HUMAN CONSUMPTION MUST COMPLY WITH THE STANDARDS, ETHICAL PRACTICES AND GUIDELINES OF THE HUMAN MILK BANKING ASSOCIATION OF NORTH AMERICA OR MORE STRINGENT GUIDELINES FOR SAFE PROCUREMENT, PROCESSING, STORING, OR DISTRIBUTION OF HUMAN BREAST MILK.

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

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

LBD11991-01-5

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

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

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

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

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

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

S 2. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law.