

2015-2016 Regular Sessions

I N A S S E M B L Y

January 7, 2015

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to estab-
lishing a grading system for retail food stores, food service estab-
lishments and food warehouses

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

1 Section 1. Article 28 of the agriculture and markets law is renumbered
2 article 26-C, section 500 is renumbered section 420 and a new section
3 421 is added to read as follows:
4 S 421. RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT AND FOOD WARE-
5 HOUSE GRADING SYSTEM. 1. THE COMMISSIONER SHALL ESTABLISH A SYSTEM FOR
6 GRADING INSPECTION RESULTS FOR RETAIL FOOD STORES, FOOD SERVICE ESTAB-
7 LISHMENTS AND FOOD WAREHOUSES, AS DEFINED IN SECTION FOUR HUNDRED TWENTY
8 OF THIS ARTICLE. SUCH SYSTEM SHALL USE AND POST LETTERS A, B OR C TO
9 IDENTIFY AND REPRESENT SUCH GRADING AND CLASSIFICATION WITH ALL OTHER
10 LOWER GRADES BEING DEEMED TO BE FAILING GRADES. IN ESTABLISHING SUCH
11 SYSTEM OF GRADING, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE
12 PROVISIONS OF TITLE EIGHT OF ARTICLE THIRTEEN OF THE PUBLIC HEALTH LAW
13 AND THE PROVISIONS OF THE SANITARY CODE TO ESTABLISH A GRADING SYSTEM
14 THAT REFLECTS THE SAFETY AND SANITATION OF THE PREMISES AND FOOD HANDL-
15 ING PRACTICES TO ENSURE COMPLIANCE WITH STATE AND LOCAL LAWS.
16 2. SUCH RETAIL FOOD STORES, FOOD SERVICE ESTABLISHMENTS AND FOOD WARE-
17 HOUSES SHALL CONSPICUOUSLY POST NEAR THE ENTRANCE TO SUCH ESTABLISHMENT
18 THE LETTER GRADE IDENTIFYING AND REPRESENTING THE RESULT OF SUCH ESTAB-
19 LISHMENT'S MOST RECENTLY GRADED INSPECTION BY THE DEPARTMENT. SUCH POST-
20 ING SHALL BE DONE IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED
21 BY THE COMMISSIONER. IN ADDITION TO A LETTER GRADE, SUCH ESTABLISHMENT
22 SHALL RECEIVE THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE RETAIL
23 FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE MAY APPEAL SUCH
24 SUBSEQUENT ASSIGNMENT OF A LETTER GRADE DESIGNATION TO THE COMMISSIONER

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

1 FOR REVIEW WITHIN THIRTY DAYS OF SUCH ASSIGNMENT. WHILE ANY SUCH APPEAL
2 IS PENDING, THE RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD
3 WAREHOUSE SHALL POST THE LETTER GRADE THAT IS BEING APPEALED.

4 3. THE SUGGESTED INTERVAL BETWEEN REGULARLY SCHEDULED INSPECTIONS OF
5 RETAIL FOOD STORES, FOOD SERVICE ESTABLISHMENTS AND FOOD WAREHOUSES MAY
6 BE AS FOLLOWS:

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

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

11 4. A RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR FOOD WAREHOUSE
12 THAT REQUESTS A REINSPECTION FROM THE DEPARTMENT, SHALL PAY THE DEPART-
13 MENT A FEE OF UP TO TWO HUNDRED FIFTY DOLLARS. PROVIDED HOWEVER THAT THE
14 PROVISIONS OF THIS SUBDIVISION SHALL NOT NEGATE THE ABILITY OF ANY
15 DEPARTMENT TO INSPECT A RETAIL FOOD STORE, FOOD SERVICE ESTABLISHMENT OR
16 FOOD WAREHOUSE ON THE BASIS OF A COMPLAINT FROM A MEMBER OF THE PUBLIC.

17 S 2. This act shall take effect two years after it shall have become a
18 law. Effective immediately, the addition, amendment and/or repeal of
19 any rule or regulation necessary for the implementation of this act on
20 its effective date are authorized and directed to be made and completed
21 on or before such effective date.