

1103

2015-2016 Regular Sessions

I N   S E N A T E

January 8, 2015

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Introduced by Sen. AVELLA -- 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 establishment of a letter grading system for supermarkets

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 501 to read as follows:

3     S 501. SUPERMARKET GRADING SYSTEM. 1. FOR PURPOSES OF THIS SECTION,  
4     "SUPERMARKET" SHALL MEAN ANY ESTABLISHMENT THAT PREDOMINATELY ENGAGES IN  
5     THE SALE OF GROCERIES.

6     2. THE COMMISSIONER SHALL ESTABLISH A SYSTEM FOR GRADING INSPECTION  
7     RESULTS FOR SUPERMARKETS. SUCH SYSTEM SHALL USE AND POST LETTERS A, B OR  
8     C TO IDENTIFY AND REPRESENT SUCH GRADING AND CLASSIFICATION WITH ALL  
9     OTHER LOWER GRADES BEING DEEMED TO BE FAILING GRADES. IN ESTABLISHING  
10    SUCH SYSTEM OF GRADING, THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE  
11    PROVISIONS OF THE STATE SANITARY CODE TO ESTABLISH A GRADING SYSTEM THAT  
12    REFLECTS THE SAFETY AND SANITATION OF THE PREMISES AND FOOD HANDLING  
13    PRACTICES TO ENSURE COMPLIANCE WITH STATE AND LOCAL HEALTH LAW.

14    3. ANY SUPERMARKET SHALL CONSPICUOUSLY POST NEAR THE ENTRANCE TO SUCH  
15    ESTABLISHMENT THE LETTER GRADE IDENTIFYING AND REPRESENTING THE RESULT  
16    OF SUCH ESTABLISHMENT'S MOST RECENTLY GRADED INSPECTION BY THE LOCAL  
17    HEALTH OFFICER. SUCH POSTING SHALL BE DONE IN ACCORDANCE WITH RULES AND  
18    REGULATIONS PROMULGATED BY THE COMMISSIONER. FOR ANY SUPERMARKET RECEIV-  
19    ING A GRADE LOWER THAN "A", THE LOCAL HEALTH OFFICER SHALL ADVISE THE  
20    ESTABLISHMENT OF ITS GRADE AND THE FINDINGS UPON WHICH SUCH GRADE IS  
21    BASED. THE LOCAL HEALTH OFFICER SHALL CONDUCT A SUBSEQUENT INSPECTION OF  
22    SUCH SUPERMARKET NO SOONER THAN SEVEN DAYS, NOR LATER THAN TWENTY-ONE  
23    DAYS AFTER THE INSPECTION AT WHICH THE GRADE WAS GIVEN. IN THE INTERIM,  
24    THE PREVIOUS LETTER GRADE SHALL REMAIN POSTED. UPON THE CONCLUSION OF  
25    THE SUBSEQUENT INSPECTION, THE LOCAL HEALTH OFFICER SHALL DELIVER FOR

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

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1 POSTING A LETTER TO THE SUPERMARKET WHICH INDICATES THE GRADE FOR SUCH  
2 INSPECTION. IN ADDITION TO A LETTER GRADE, SUCH ESTABLISHMENT SHALL  
3 RECEIVE THE FINDINGS UPON WHICH SUCH GRADE IS BASED. THE SUPERMARKET  
4 MAY APPEAL SUCH SUBSEQUENT ASSIGNMENT OF A LETTER GRADE DESIGNATION TO  
5 THE COMMISSIONER FOR REVIEW WITHIN THIRTY DAYS OF SUCH ASSIGNMENT. WHILE  
6 ANY APPEAL IS PENDING, A SUPERMARKET SHALL POST THE LETTER GRADE THAT IS  
7 BEING APPEALED.

8 4. THE SUGGESTED INTERVAL BETWEEN REGULARLY SCHEDULED INSPECTIONS OF  
9 SUPERMARKETS MAY BE AS FOLLOWS:

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

11 (B) FOR ESTABLISHMENTS WITH A GRADE OF "B", AT LEAST ONCE EVERY NINE  
12 MONTHS; AND

13 (C) FOR ESTABLISHMENTS WITH A GRADE OF "C", AT LEAST ONCE EVERY SIX  
14 MONTHS.

15 5. AFTER AN INSPECTION IS CONDUCTED PURSUANT TO SUBDIVISION THREE OF  
16 THIS SECTION, A SUPERMARKET MAY REQUEST A REINSPECTION FROM THE LOCAL  
17 HEALTH OFFICER, AND SHALL PAY THE DEPARTMENT A FEE OF UP TO TWO HUNDRED  
18 FIFTY DOLLARS. PROVIDED HOWEVER THAT THE PROVISIONS OF THIS SUBDIVISION  
19 SHALL NOT NEGATE THE ABILITY OF ANY LOCAL HEALTH OFFICER TO INSPECT ANY  
20 RETAIL SERVICE ESTABLISHMENT ON THE BASIS OF A COMPLAINT FROM A MEMBER  
21 OF THE PUBLIC.

22 6. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ESTABLISHMENTS:

23 (A) OPERATED IN COLLEGE OR UNIVERSITY CAMPUSES OR CORRECTIONAL FACILI-  
24 TIES; OR

25 (B) SPONSORED BY A CHARITABLE ORGANIZATION.

26 S 2. This act shall take effect one year after it shall have become  
27 law; provided, however, that effective immediately, any rules and regu-  
28 lations necessary to implement the provisions of this act on its effec-  
29 tive date are authorized to be made on or before such date.