

# STATE OF NEW YORK

3792

2019-2020 Regular Sessions

## IN ASSEMBLY

January 31, 2019

Introduced by M. of A. McDONOUGH, D'URSO, RA, LAWRENCE, RAIA, MORINELLO,  
DAVILA -- read once and referred to the Committee on Consumer Affairs  
and Protection

AN ACT to amend the general business law, in relation to prohibiting the  
sale of snortable chocolate-based powder

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 399-dddd to read as follows:

3 § 399-dddd. Prohibition on the importation, distribution or sale of  
4 snortable chocolate-based powder. 1. No person, firm, corporation, or  
5 association shall import, distribute, sell or offer to sell any snorta-  
6 ble chocolate-based powder.

7 2. For the purposes of this section, the term "snortable chocolate  
8 based-powder" means any snortable chocolate-based powder which includes  
9 cacao powder, as well as ginkgo biloba, taurine and guarana.

10 3. Whenever there shall be a violation of this section an application  
11 may be made by the attorney general in the name of the people of the  
12 state of New York to a court or justice having jurisdiction by a special  
13 proceeding to issue an injunction, and upon notice to the defendant of  
14 not less than five days, to enjoin and restrain the continuance of such  
15 violations; and if it shall appear to the satisfaction of the court or  
16 justice that the defendant has, in fact, violated this section, an  
17 injunction may be issued by the court or justice, enjoining and  
18 restraining any further violations, without requiring proof that any  
19 person has, in fact, been injured or damaged thereby. In any such  
20 proceeding, the court may make allowances to the attorney general as  
21 provided in paragraph six of subdivision (a) of section eighty-three  
22 hundred three of the civil practice law and rules, and direct restitu-  
23 tion. Whenever the court shall determine that a violation of this  
24 section has occurred, the court may impose a civil penalty of not more

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

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1 than one thousand dollars for each violation. Each sale of a snortable  
2 chocolate-based powder in violation of this section shall constitute a  
3 separate violation. In connection with any such proposed application,  
4 the attorney general is authorized to take proof and make a determi-  
5 nation of the relevant facts and to issue subpoenas in accordance with  
6 the civil practice law and rules.

7 § 2. This act shall take effect immediately.