

# STATE OF NEW YORK

8999

## IN SENATE

May 3, 2022

Introduced by Sen. BORRELLO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to permitting schools located within the state to purchase certain New York milk

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

1 Section 1. The education law is amended by adding a new section 915-a  
2 to read as follows:

3 § 915-a. Milk options. 1. As used in this section, the following terms  
4 shall have the following meanings:

5 (a) "New York milk" shall mean raw milk produced by the milking of  
6 cows physically located within the geographic boundaries of the state,  
7 transported to a dairy processing facility located within the geographic  
8 boundaries of the state and processed as fluid milk into containers  
9 intended for distribution to consumers.

10 (b) "Reduced fat New York milk" shall mean New York milk containing  
11 two percent milk fat. The term includes New York milk that has been  
12 flavored.

13 (c) "Whole New York milk" shall mean New York milk containing at least  
14 three percent milk fat. The term includes New York milk that has been  
15 flavored.

16 2. Notwithstanding any other provision of law or regulation to the  
17 contrary, a school board or other governing entity of a school located  
18 in the state may elect to utilize funds from state or local sources to  
19 obtain whole New York milk or reduced fat New York milk to provide or  
20 sell at such school.

21 3. The commissioner of education shall notify the superintendent or  
22 chief administrator of each school in the state of the provisions of  
23 this section.

24 4. The attorney general shall, on behalf of a school located within  
25 the state, bring a civil action against the federal government or any  
26 other entity to recover funds withheld or revoked as a result of an  
27 action taken by the school board or other governing entity of such  
28 school pursuant to subdivision two of this section.

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

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1 5. No later than two years after the effective date of this section,  
2 the commissioner of education, in consultation with the commissioner of  
3 agriculture and markets, shall issue a report to the governor and the  
4 legislature. Such report shall include all of the following information:

5 (a) A list of schools located within the state that have elected to  
6 provide or sell New York milk under this section.

7 (b) The approximate increase or decrease in the consumption of fluid  
8 milk at schools located within the state since the effective date of  
9 this section.

10 (c) Actions taken by the state to promote whole milk and reduced fat  
11 milk availability in schools located within the state.

12 (d) Any other information deemed relevant by the commissioner of  
13 education or the commissioner of agriculture and markets for the  
14 purposes of this section.

15 § 2. This act shall take effect on the thirtieth day after it shall  
16 have become a law and shall expire and be deemed repealed upon the  
17 occurrence of either of the following:

18 1. The amendment or repeal of section 9(a)(2)(A) of the National  
19 School Lunch Act (60 Stat. 230, 42 U.S.C. § 1758(a)(2)(A)), which  
20 results in the availability of whole milk or reduced fat milk, flavored  
21 or unflavored, in elementary and secondary schools in the state.

22 2. An update to the Dietary Guidelines for Americans published under  
23 section 301 of the National Nutrition Monitoring and Related Research  
24 Act of 1990 (Public Law 101-445, 7 U.S.C. § 5341), which permits the  
25 availability of whole milk or reduced fat milk, flavored or unflavored,  
26 in elementary and secondary schools in the state.

27 Provided, that the commissioner of education shall notify the legisla-  
28 tive bill drafting commission upon the occurrence of either event  
29 described in subdivisions one or two of this section in order that the  
30 commission may maintain an accurate and timely effective data base of  
31 the official text of the laws of the state of New York in furtherance of  
32 effectuating the provisions of section 44 of the legislative law and  
33 section 70-b of the public officers law.