STATE OF NEW YORK

3212

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. SEPULVEDA -- 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 using the term "human food grade" for certain pet food

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

Section 1. Section 130 of the agriculture and markets law is amended by adding a new subdivision 3 to read as follows:

3. (a) A registrant may apply to the commissioner for designation, including a renewal of a designation, of a pet food as human food grade. An application for the designation shall be made on a form prescribed by the commissioner and shall be accompanied by an application fee of one hundred dollars. The commissioner shall approve the application and grant the designation if it demonstrates the following to the satisfaction of the commissioner:

(i) The pet food is produced in facilities that abide by United States Department of Agriculture ("USDA") criteria and inspection rules and are listed on the USDA Meat, Poultry and Egg Product Inspect (MPI) Directory.

(ii) Each ingredient and the resulting product are stored, handled, processed, and transported under current good manufacturing practices specified in 21 CFR Part 117 Subpart B.

(iii) A continuing letter of guarantee and warranty from each supplier of each ingredient used in such product, that the ingredient, to the extent it is under control of the supplier, conforms with subparagraphs (i) and (ii) of this paragraph and is suitable for human consumption.

(iv) A list of every ingredient in the pet food.

(b) The commissioner may suspend or revoke the designation, after written notice to the registrant and an opportunity to be heard, when: (i) any statement in the application was false or misleading; or (ii)

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

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the registrant fails to comply with any requirement for the designation or applicable regulations.

(c) (i) A designation of a pet food as "human food grade" under this subdivision means that the pet food is suitable for human consumption but is intended for consumption by pets. A pet food designated under this subdivision may be labeled, advertised and represented as human food grade, or use words, symbols, or images of that meaning. The commissioner shall create a symbol, label, or wording that a registrant may, but is not required to, use for a pet food designated under this subdivision.

(ii) Any label, advertisement or representation implying that a pet food is human food grade shall include words, symbols or images, of at least equal size as those implying that it is human food grade, clearly indicating that it is intended for consumption by pets or particular categories of pets.

(iii) No person may label, advertise or represent any product as being a pet food of human food grade, or words of that meaning, or using any image conveying that meaning, unless the product is designated under this subdivision.

(d) A designation under this subdivision shall be valid for two years from the date of issuance or from the date of renewal.

(e) This subdivision does not diminish the applicability of any other provisions of this article.

§ 2. Section 131 of the agriculture and markets law, as added by chapter 816 of the laws of 1974, is amended to read as follows:

§ 131. Misbranding. A commercial feed shall be deemed to be misbranded if:

1. Its labeling is false or misleading in any particular, including through the use of words or images that do not honestly represent the ingredients used in the commercial feed.

2. It is distributed under the name of another commercial feed.

3. It is not labeled , advertised or represented as required in, or is labeled, advertised or represented in violation of, section one hundred thirty of this article.

4. It purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner.

5. Any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the commissioner of agriculture and markets shall make regulations and take other actions reasonably necessary to implement this act on that date.