STATE OF NEW YORK

1069

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sens. BORRELLO, GALLIVAN, MATTERA, OBERACKER, O'MARA, TEDISCO -- 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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