

## **Selected Food, Farm and Nutrition Policy Laws: Introduction**

This report does not attempt to list every State law affecting food, farming and nutrition just those originally sponsored by the Task Force, and others we consider significant parts of State food, farm and nutrition policy. In some instances an entire law is a food policy law, such as the Direct Marketing Law. In other cases only a section or two of a much larger law is presented, such as the New York preference sections of State and local procurement law. If necessary for context, sections of a larger law are included with the relevant food policy section. Some of the laws are specifically targeted, such as those that support farmers' market development or nutrition outreach. The Farm-to-School Law is a more comprehensive approach that involves agriculture, nutrition and education programs and issues all in one law.

Virtually all of the Agriculture and Market laws ([AGM](#)), especially provisions affecting food safety, food processing and agricultural districts, could probably be considered part of food and farm policy, but not all are included in this report. Other relevant sections of laws may not be included, such as sections of Town Law that reference farmland protection and contain virtually the same language as the State sections. Here is a searchable link to the [laws](#) of the state if you wish to explore them. Several laws have been amended more than once over the years so it is important to periodically check for updates.

Many statutes also generate regulations by State agencies and some regulations are equivalent to laws. For example, although there are significant food safety laws in both Public Health ([PBH](#)) and AGM, food safety is primarily governed by State regulations. The State Department of Health (DOH) protects food consumers at food service establishments through the State Sanitary Code and the Department of Agriculture and Markets regulates retail food stores, food production and processing, and slaughterhouses. To view these regulations search [here](#). *(Note: To ensure that you are viewing the most current regulations, check the weekly New York [State Register](#) for recent rule adoptions that have not yet been published in the unofficial online version.)*

The most important law passed by the Legislature every year is the State budget. The budget contains hundreds of millions of dollars in federal and state funding for food assistance programs such as School Meals and the Women's, Infant and Children's (WIC) nutrition program, as well as smaller programs such as farmland protection, obesity and diabetes prevention, and nutrition program outreach.

Although annual budgets are not listed in this report they should be reviewed for a complete picture of the State's food policy. Some programs such as the federal WIC and the State Hunger Prevention Nutrition Assistance Program (HPNAP) are funded in annual budgets without being established in a separate permanent law. Other programs such as Farmland Protection are in the budget and established in law. The Healthy Food/Healthy Communities Initiative that is part of the economic development section in this report was established in permanent law through an annual budget bill rather than a stand-alone bill. Several laws in this report created programs whose funding may be found in the budget, but even a program established in law does not guarantee funding in the budget. Here is a link to the [State budget](#).

Every year the Task Force Chair sponsors proposed legislation to advance food policy goals as do many other legislators. All laws in this report started out as proposals. Here is a link to [legislative information](#) that is searchable by word or bill number.

## **[Table of Contents](#)**

# **Table of Contents:**

## **Selected Food, Farm and Nutrition Policy Laws**

### Economic Development/Marketing/Food Businesses/Procurement

#### **Economic Development Laws –Agriculture/Food/Rural**

**Direct Marketing** (Task Force Chapter 834 Laws of 1981)

#### **Farmers Markets**

#### **Farm Direct Marketing, Agri-Tourism And Specialty Food**

**Product Awards** (Task Force Chapter 212 Laws of 1996)

#### **Procurement Preferences for New York State Food And**

**Agricultural Products** (Task Force Chapter 703 Laws of 1980; Chapter 635 Laws of 1981; Chapter 980 Laws of 1984; Chapter 710 Laws of 1985; Chapter 741 Laws of 1986; Chapter 103 Laws of 1989 ; Chapter 269 Laws of 2004)

#### **Sales Tax and Food**

### Farming

**Aquaculture Plan** (Task Force Chapter 104 Laws of 1983)

#### **Farmland Protection and Viability Programs**

**Non-English Speaker Pesticide Certification Program** (Task Force Chapter 732 Laws of 2005)

### Food Assistance

#### **Community Gardens**

**Food Stamp Program** (Task Force Chapter 333 Laws of 2002 - Simplified Food Stamp Application Form)

#### **Gleaning: Liability For Canned, Perishable Food Or Farm**

**Products Distributed Free Of Charge** (Task Force Chapter 286 Laws of 1984; Chapter 932 Laws of 1986)

#### **Nutrition Outreach And Public Education Program**

### Nutrition and Health

**Childhood Obesity Prevention Program** (Task Force Chapter 604 of Laws of 2003)

#### **Child Performer Advisory Board To Prevent Eating Disorders**

(Task Force Chapter 675 Laws of 2007)

#### **Comprehensive Care Centers For Eating Disorders** (Task Force

Chapter 114 Laws of 2004)

#### **Professional Certification For Dietitians And Nutritionists**

### Schools

**Allergy and Anaphylaxis Management For Schools** (Task Force Chapter 579 Laws of 2007)

**Farm-To-School** (Task Force Chapter 2 Laws of 2002)

**Prohibiting The Sale Of Certain Sweetened Foods** (Task Force  
Chapter 674 Laws of 1987)

**School Breakfast – Paid, Free, and Reduced Prices** (Task Force  
Chapter 537 Laws of 1976; Chapter 798 Laws of 1980; Chapter 337 Laws of 1982; Chapters  
57, 614 and 615 Laws of 1993)

**School District Nutrition Advisory Committees**

**School Health Appraisal: BMI Reporting**

## **Economic Development Laws –Agriculture/Food/Rural**

(Urban Development Corporation Act 174/68 Chapter 174 of the laws of 1968 - Section 16-l Rural Revitalization Programs and Section 16-s The Upstate Agricultural Economic Development Fund And Healthy Food/Healthy Community's Initiative.) *(Note: Sections 1-16k, 16m-r, 16t-43 are either general provisions of Urban Development Corporation Act 174/68 or not specific to agriculture, food and rural communities.)*

### **§ 16-l. Rural revitalization program.**

1. Statement of legislative intent. The legislature finds that vast areas of rural New York state show signs of severe economic distress and lag behind the rest of the state in employment growth and income, with the gap widening with passing years. Poverty in many rural areas is pervasive, with the poor often outnumbering the affluent. The legislature further finds that rural communities in New York state need immediate assistance to develop the capacity to plan and organize for economic development, to undertake new economic development initiatives, to overcome obstacles to economic development and to fully utilize indigenous resources to provide rural residents with economic opportunities. The legislature further finds that, to begin to address these needs, a catalyst is needed to stimulate and encourage innovative economic development alternatives to declining employment in the agricultural and manufacturing sectors. The legislature further finds that, while agriculture is considered to be a major New York industry, state economic development financing programs do not treat agriculture as an industrial sector, and financing is not available to provide farmers with assistance to become more competitive in national and international markets. Therefore, the legislature declares that the revitalization of the state's rural economy is essential to New York's economic health and that state assistance in this regard is necessary and proper for achieving this public purpose.

2. Rural revitalization assistance grants.

(a) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants or enter into contracts for services, on a competitive basis in response to requests for proposals, to eligible entities and organizations as set forth in this subdivision to support community economic development programs and activities which increase or retain employment opportunities in rural New York state and otherwise contribute to the revitalization of local rural areas which are economically distressed through innovative activities designed to generate economic alternatives and opportunities in rural areas.

(b) Grants and contracts made by the corporation pursuant to this subdivision shall be subject to the following limitations:

(i) no such grant shall exceed one hundred thousand dollars per year, except that for the purpose of paragraph (f) of this subdivision, no such grant shall exceed fifty thousand dollars.

(ii) the corporation shall enter into no more than one grant per year per application under this subdivision.

(c) Preference shall be given to programs which meet highly distressed area criteria or which support empire zones established pursuant to article 18-B of the general municipal law; provide a local match; meet a substantial local or regional need; complement local programs or provide services not readily available from units of local government or the private sector.

(d) For the purposes of this subdivision, "rural area" shall mean a rural area as defined in subdivision 7 of section 481 of the executive law.

(e) Not-for-profit corporations, agricultural cooperative corporations, public benefit corporations and educational institutions serving rural areas, shall be eligible to apply for support under this subdivision for the following activities, provided, however, that the sum total of grants received by any one eligible entity does not exceed two hundred fifty thousand dollars in any one year:

- (i) innovative activities and programs designed to encourage value-added small business development and growth in rural areas, including cottage and crafts industries; group marketing of local products; women-owned industries; natural resources development; and tourism. Such activities and programs shall also include projects pertaining to agriculture and agribusiness development to stimulate the development and implementation of new and alternative production, processing, storage, distribution and marketing technologies and improvements for New York food, agricultural and forest products. Projects promoting strengthened farm management practices shall also be eligible for assistance;
- (ii) in-depth analysis within rural areas to support local efforts to identify new business opportunities, and to organize industry-wide collaborative efforts designed to create jobs and to develop growth strategies;
- (iii) support for the operation of programs designed to generate and leverage equity-type or working capital financing for new and small business enterprises in rural areas, or to meet other critical financing needs of existing rural businesses;
- (iv) support for multi-county activities designed to provide small business development and financial packaging assistance to new and small rural business enterprises to assure the continuation and growth of such enterprises; and
- (v) provide, or cause to be provided, technical assistance to small businesses to help such businesses comply with applicable federal, state and local rules and regulations, including, but not limited to, assistance to applicants for permits required by such rules and regulations.

(f) Any vocational education agency offering technical assistance services to small business, any small business development center located at a post-secondary educational institution, any county cooperative extension service, any agricultural cooperative corporation offering technical assistance services to farmers and non-farm agricultural businesses or any not-for-profit corporation offering technical assistance, shall be eligible to apply under this paragraph to establish rural enterprise extension services designed to provide technical assistance and services to entrepreneurs who are seeking to establish or who are operating small business ventures in rural areas where, for reasons of distance, population dispersal, or scale of business venture, conventional business incubation and assistance programs are not feasible, such extension services to sponsor, employ and support technical assistance specialists as circuit riders to serve the rural area served by the sponsoring entity.

(i) Such specialists shall be the outreach arm of the technical assistance program and shall:

- (A) provide technical and management assistance to entrepreneurs seeking to establish a new small business, including but not limited to, agribusinesses, part-time businesses, crafts-related businesses, tourism-related businesses, and other new businesses

that are started in areas distant from other existing programs and sources of technical assistance;

(B) regularly visit outlying areas of the region or areas served by the entity sponsoring the rural enterprise extension service program to provide both short-term and ongoing technical assistance and services to clients;

(C) arrange, when needed, for supplemental assistance to be provided by the sponsoring entity;

(D) conduct, with assistance from both local sources of expertise and the sponsoring entity local seminars in outlying regions on various aspects of entrepreneurship and new enterprise development; and

(E) provide information on other sources and programs of assistance, services and support, including financial sources, to entrepreneurs and small business operators.

(ii) Applications for support under this paragraph shall be required to demonstrate a need for a rural enterprise extension service program in the area to be served; the ability and willingness of the applicant to support technical assistance specialists employed as circuit riders with additional resources to provide intensive, long-term technical assistance or specialized technical assistance to client entrepreneurs and small business operators when necessary; and the ability to assist entrepreneurs and small business operators in locating appropriate sources of financial assistance.

(iii) For the purposes of this subdivision "vocational education agency" shall mean a community college or board of cooperative educational services operating within the state.

3. Agricultural job training assistance. The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to contract with the commissioner of agriculture and markets, in consultation with the commissioner of labor, to administer a program of job training for workers engaged in or to be engaged in the production, harvesting and processing of farm or aquatic products.

4. Farmers' market grant program.

(a) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants, on a competitive basis in response to requests for proposals, to municipal corporations, local development corporations, business improvement districts, not-for-profit corporations, regional marketing authorities and agricultural cooperatives organized pursuant to the cooperative corporations law, for the construction, reconstruction, improvement, expansion or rehabilitation of farmers' markets. The corporation is further authorized to contract with the commissioner of agriculture and markets, and such commissioner is authorized to contract with the corporation, to prepare and issue requests for proposals, accept grant applications, recommend those applications which best meet established criteria and to administer grants awarded under this subdivision.

(b) Grants made by the corporation pursuant to this subdivision shall:

(i) not exceed fifty thousand dollars per year; and

(ii) be limited to fifty percent of the total proposed farmers' market start-up or expansion costs, not including any capital expenditures except as set forth in paragraph (a) of this subdivision.

(c) The corporation shall enter into no more than one grant per year per application under this subdivision.

(d) The corporation shall consult with the department of agriculture and markets in order to establish such criteria governing the award of grants as authorized herein, as the corporation and such department deem necessary. Such criteria shall include, but not be limited to:

(i) the relative impact of the proposed farmers' market project on the economy of the area to be served;

(ii) the anticipated level of municipal support and local participation in the project by farmers and others;

(iii) the extent to which New York farmers would benefit, through the direct sale of farm and food products;

(iv) the equitable distribution of monies awarded for state assistance for farmers' markets among urban and rural areas; and

(v) the anticipated quantity of non-farm jobs which would be created and retained due to the proposed project.

(e) Preference shall be given to: applicants located in highly distressed areas and providing services not readily available from units of local government or the private sector and to applicants who are proposing to start a new farmers' market.

5. Rural single-tenant entrepreneurship and incubator facilities. The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-i of this act, to award grants, loans and loan guarantees to vocational education agencies for the development of single tenant entrepreneurship and incubator facilities in rural areas as provided in this subdivision.

(a) For the purposes of this subdivision:

(i) "rural area" shall mean a rural area as defined in subdivision 7 of section 481 of the executive law;

(ii) "vocational education agency" shall mean a community college or board of cooperative educational services operating within the state; and

(iii) "entrepreneurship and incubator facility" shall mean a single-tenant facility providing low-cost space, technical assistance and support services, to new business enterprises.

(b) In sparsely populated rural areas where multi-tenant incubator facilities are not feasible, assistance from the rural revitalization program may be provided to vocational education agencies that have an existing technical assistance capability that can be applied to the incubation of new firms for the purpose of constructing a single-tenant entrepreneurship and incubator facility or rehabilitating an existing space for use as a single-tenant entrepreneurship and incubator facility.

(c) Funds from the rural revitalization program pursuant to this subdivision shall only be provided for construction or rehabilitation of a facility. A vocational education agency receiving such assistance shall be required to provide any machinery and equipment necessary for a tenant to operate a start-up enterprise and shall be responsible for operating the facility, such operation to include classroom training in business principles and practices to the prospective owners of such enterprises prior to entering into any tenancy agreement with such



prospective owners, and the provision of technical assistance and services to a tenant.

6. Agricultural industry competitiveness assistance.

(a) For the purposes of this subdivision, "project" shall mean an agricultural project as set forth in paragraphs (b) and (b-1) of this subdivision.

(b) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-m of this act, to provide financial assistance in the form of loans, loan guarantees, and interest subsidy grants to subsidize loans from federally chartered instrumentalities and state and private lending institutions, including agricultural cooperative corporations, provided that such assistance to state lending institutions shall not exceed one-third of the total project cost or four hundred thousand dollars, whichever is less, to agricultural enterprises seeking to implement the following agricultural projects:

(i) making the transition from dairy farming to crop or livestock farming or specialty wood productions, or using former dairy farms for crop, livestock or specialty wood production, in order to keep farmland in production by producing products in local, national or international demand;

(ii) start-ups of new agribusinesses or expansions or upgrades of the facilities, technologies and operations of existing agribusinesses.

(b-1) The corporation is authorized, within available appropriations in the empire state economic development fund established pursuant to section 16-m of this act, to provide financial assistance in the form of loans, loan guarantees, working capital loans, and interest subsidy grants to subsidize loans from federally chartered instrumentalities and state and private lending institutions, including agricultural cooperative corporations, provided that such assistance to state lending institutions shall not exceed one-third of the total project cost or four hundred thousand dollars, whichever is less, to agricultural enterprises seeking to implement the projects listed in this paragraph. Funds for such loans, grants, subsidies, or any other assistance specified pursuant to this act may come from funds derived from the financial assistance for small and medium-sized business assistance projects established pursuant to section 9-a of this act, the regional revolving loan trust fund established pursuant to section 16-a of this act, the regional economic development partnership program established pursuant to section 16-e of this act, the empire state economic development fund established pursuant to section 16-m of this act, or from any other funds, programs, or projects administered by the corporation or by other state appropriations.

(i) the establishment or replanting of existing vineyards with other varieties that are in greater demand in the national and international marketplace and which will increase the national and international competitiveness of New York state grape growers;

(ii) the establishment or replanting of fruit orchards or small fruit acreages that have reached the end of their natural life cycles, with preference to plantings in the more popular varieties which have national and international markets;

(iii) the establishment, construction, retention, or expansion of facilities, buildings, machinery, equipment, and other productive assets used in the production, manufacture, processing, warehousing, research, or distribution or sale of fresh fruits or the processing of such fruits into

juices, wines, or other food products. Such project costs may include, but not be limited to, buildings, machinery, equipment, New York raw fruits, New York unprocessed or partially processed fruits, or other necessary working capital or operational funds or assistance needed to ensure the success of such project.

(c) The corporation shall determine the terms and interest rates of such loans; provided, however, in the case of financial assistance for vineyards, orchards, small fruit acreages, wineries, or processing plants, the corporation may defer repayment of principal and interest on loans for up to five years.

(d) Funds may be used to undertake feasibility studies to determine the projected local, national, and/or international demand for the proposed crop or product to be financed and the suitability of the land and climate for such production. In the case of a proposal to establish or replant a vineyard, the corporation shall consult with the New York state wine and grape foundation and the agricultural extension service of Cornell University to determine the appropriateness and feasibility of the proposed project.

(e) The provisions of section 10 and subdivision 2 of section 16 of this act shall not apply to assistance provided under this subdivision.

#### 7. Micro business revolving loan assistance grants.

(a) The corporation is authorized, within available appropriations in the empire state economic development fund, to provide financial assistance in the form of grants for the purpose of developing a statewide infrastructure that delivers financing and technical assistance to micro businesses across the state to stimulate new and existing micro business development relating to the use of agricultural products, forest products, cottage and crafts industries, tourism, and other businesses as provided for in subparagraph (i) of paragraph (e) of subdivision 2 of this section; provided such business employs five or fewer full-time persons and is based on the production, processing, and/or marketing of products grown or produced in this state. Assistance provided under this subdivision shall be awarded through a competitive process initiated by the corporation, in response to a request for proposals.

(b) Not-for-profit corporations and public benefit corporations located in the state shall be eligible to apply to the corporation, in response to a request for proposals, for a grant, not to exceed two hundred thousand dollars in any one calendar year, to create a micro business revolving loan fund to be administered by the entity applying for such grant, hereafter referred to in this subdivision as "micro loan administrators", who shall be selected by the corporation from among eligible applicants. The corporation shall show preference in its awarding of grants to micro loan administrators whose service area meets the provisions of paragraph (c) of subdivision 2 of this section. All grant funds shall be dedicated to being re-lent to individual micro business borrowers, except that ten percent of such funds as are awarded may be used by micro loan administrators to provide training and technical assistance for such borrowers. Micro business loans shall be limited to twenty-five thousand dollars per borrower. Borrowers shall provide ten percent equity for loans up to ten thousand dollars. Loans above ten thousand dollars shall be matched on a one to one basis by including other loans, equity capital and in some circumstances, leveraged capital. The interest rate and the terms on such loans shall be determined by the micro loan administrators. The term of any loan shall not exceed five years. All loans shall be secured by lien positions on collateral at the highest level of priority that can accommodate the

borrower's ability to raise sufficient debt and equity capital for the project. Any interest earned on micro business loans shall be retained in a special account for the purpose of paying expenses of the loan administrator associated with administering the micro loan program.

(c) An eligible micro loan administrator applicant shall:

- (i) serve one or more rural counties;
- (ii) have established a loan committee comprised of five or more persons experienced in commercial lending in rural areas or in the operation of a for-profit small business and a staff person of the regional office of the department of economic development. Such loan committee shall review every application for micro loan assistance pursuant to this subdivision, shall determine the feasibility of the transaction proposed in the application and shall recommend to the board of directors or other governing body of the micro loan administrator such action as the committee deems appropriate;
- (iii) have available to its staff sufficient expertise to analyze applications for micro loan assistance, provide technical assistance to borrowers and to regularly monitor micro loan assistance to clients; and
- (iv) have an acceptable plan to market its services to potential borrowers through such entities as chambers of commerce, industry trade associations, banks, local development corporations, community based organizations and industrial development agencies.

(d) Applications to the corporation for certification or recertification as a micro loan administrator shall:

- (i) describe the organization, membership, loan committee, staff and sources of other funds, if any;
- (ii) identify the geographic area to be served;
- (iii) explain the method and criteria to be used in determining businesses eligible for micro loan assistance;
- (iv) describe the means for coordination of micro loan assistance with other funding sources within the geographic area to be served for the purposes of leveraging project financing;
- (v) include a proposal to reconfigure the geographic area served by the micro loan administrator, if applicable; and
- (vi) contain such other information as the corporation deems appropriate.

(e) The corporation shall, every five years, recertify that each micro loan administrator has complied with the terms and conditions of this subdivision. In the event a micro loan administrator is not recertified, or its certification is withdrawn, then the corporation shall give written notice to such micro loan administrator which shall thereafter neither make new loans under this subdivision nor undertake new obligations except upon written approval of the corporation. The corporation may thereafter certify another micro loan administrator in the manner provided in this subdivision for the selection of micro loan administrators. Upon the certification of a successor micro loan administrator, all remaining micro business loan funds, records and accounts of the micro loan administrator not recertified shall be transferred to the corporation, and the micro loan administrator not recertified shall cease to function pursuant to this subdivision. The corporation shall transfer returned funds to a successor micro loan administrator, or in the event no successor micro

loan administrator is certified, equally to other existing micro loan administrators.

8. Cluster based industry and agribusiness development grants.

(a) The corporation is authorized, within available appropriations in the empire state economic development fund, pursuant to section sixteen-m of this act, to award matching grants, on a competitive basis in response to requests for proposals, to eligible entities and organizations as set forth in this subdivision to support cluster based industry and agribusiness development activities which increase or retain employment opportunities and otherwise contribute to the growth or revitalization of rural areas.

(b) Cluster based industry and agribusiness development grants shall provide financial assistance for the purpose of establishing a program to support cluster based economic development efforts in rural areas. Such grants shall be used to:

- (i) Assess industry and agribusiness needs and develop methods of identifying industry and agribusiness clusters in a region; and
- (ii) Promote cluster based industry and agribusiness development initiatives targeted at businesses that would benefit from joint activities, marketing, and problem solving.

(c) Grant assistance provided under this subdivision shall be awarded through a competitive process initiated by the corporation, in consultation with the commissioner of agriculture and markets and local development agencies, in response to a request for proposals. To be eligible for a grant award, recipients shall provide matching funds in the form of cash, in-kind services or other resources as defined by the corporation.

(d) Not-for-profit corporations and public benefit corporations located in the state shall be eligible to apply to the corporation, in response to a request for proposals, for a matching grant, not to exceed 25,000 dollars in any one calendar year.

**§ 16-s.** The upstate agricultural economic development fund and healthy food/healthy community's initiative.

1. The upstate agricultural economic development fund and healthy food / healthy communities initiative is hereby created. The corporation is authorized, within available appropriations, to provide financial assistance in the form of loans, grants or contracts for services, to eligible entities as set forth in this subdivision to support the upstate revitalization fund to reduce the cost of financing the construction, expansion or renovation of agricultural economic development projects, to reduce the cost of agricultural inputs or to support activities related to the retention of existing farmers or the recruitment of new farmers and to increase the number of food markets providing affordable and nutritious foods in underserved areas.

2. Not-for-profit corporations, agricultural cooperative corporations, public benefit corporations, municipalities and educational institutions serving rural areas shall be eligible to apply for support under this subdivision for the following activities:

(a) Support for local efforts to identify new agricultural economic development opportunities, and to organize industry-wide collaborative efforts designed to develop growth strategies for the agricultural industry.

(b) Support for local or regional activities designed to provide business development and financial packaging assistance to new and expanding agricultural economic development projects.

- (c) Development and delivery of programs to promote the retention of existing farmers and to attract new farmers.
- (d) Feasibility studies to determine the projected local, national and/or international demand for the proposed crop or product to be financed pursuant to this section and the suitability of the land and climate for such production.
- (e) Support for land acquisition and/or the construction, acquisition or expansion of buildings, machinery and equipment associated with a project.
- (f) Loans can be provided by the corporation to agricultural cooperative corporations, not-for-profit corporations and public benefit corporations for the purpose of providing low cost financing from such entities to projects for purposes described in this subdivision.
- (g) Such projects shall be consistent with the environmental protection goals of the state.

3. Community development financial institutions, as defined by paragraph (a) of subdivision 2 of section sixteen-o of this act, shall be eligible to apply for designation under this subdivision to perform the duties of a program administrator for the healthy food/healthy communities initiative.

- (a) Program administrators will be required to enter into a contract with the corporation for the following responsibilities:
  - (i) raise matching capital to leverage state funds within three years of signing a contract with the corporation;
  - (ii) report, at least annually, on the sources and amounts of funds raised;
  - (iii) develop underwriting criteria; and
  - (iv) process loans and grants for food markets.

(b) Administrative costs of program administrators will be reimbursable as set forth in either rules and regulations issued in accordance with paragraph (d) of subdivision 5 of this section or in a request for proposal.

(c) Eligible food markets are any entities in subparagraph (i) of this paragraph. Eligible food markets must demonstrate that their proposed project will benefit an underserved area, as defined in subparagraph (ii) of this paragraph.

(i) An eligible food market applicant may be a for-profit business enterprise (including a corporation, limited liability company, sole proprietor, cooperative or partnership), a nonprofit organization or a food cooperative.

(ii) An underserved area is defined as a low- or moderate-income census tract, an area of below average supermarket density or an area having a supermarket customer base with more than 50 percent living in a low-income census tract.

(iii) Eligible uses for funds from state grants and loans to food markets include:

- (A) pre-development costs for project feasibility, including professional fees, market studies and appraisals;
- (B) land assembly, including demolition and environmental remediation;
- (C) site development;
- (D) infrastructure improvements, including renovation, new construction or adaptive reuse; and
- (E) equipment purchases.

(d) The program administrator shall review, and if appropriate approve, applications by food markets. The program administrator shall review

applications every other month for as long as funds remain available in the loan pool. The program administrator shall review each application to determine whether the proposed project is financially viable and demonstrates all of the following:

- (i) make a positive impact on the local economy;
- (ii) increases revenues to the state, the host municipality, or the market region or creates a new agricultural economic development opportunity;
- (iii) adherence to sound land use principles;
- (iv) promotes community development by working in conjunction with other programs;
- (v) incorporates energy efficiency and green building principles; and
- (vi) to the maximum extent practicable, provides healthy, nutritious food grown by sustainable agricultural practices.

4. Applications for assistance pursuant to this section, except for the healthy foods / healthy communities initiative, shall be reviewed and evaluated pursuant to eligibility requirements and criteria set forth in rules and regulations promulgated by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, and subject to approval by the board of directors of the upstate empire state development corporation. Approval of project applications shall be made by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, subject to approval by the board of directors of the upstate empire state development corporation.

5. Applications to be the program administrator for the healthy food/healthy communities initiative shall be reviewed and evaluated pursuant to eligibility requirements and criteria which may be set forth in either rules and regulations, a request for proposal or an application.

(a) Applications shall identify at least one food access, health or community development organization who will work with the program administrator applicant to:

- (i) analyze market opportunities in underserved areas;
- (ii) recruit food market operators and developers;
- (iii) pre-qualify food market applications on non-financial criteria; and
- (iv) provide technical assistance with regard to operating grocery stores in low-income communities.

(b) Administrative costs of the food access, health or community development organization will be reimbursable as set forth in rules and regulations issued in accordance with paragraph (d) of this subdivision or in a request for proposal.

(c) Approval of at least one program administrator shall be made by the upstate chairman, in consultation with the commissioner of the department of agriculture and markets, subject to approval by the board of directors of the upstate empire state development corporation.

(d) At his or her discretion, the upstate chairman of the corporation may promulgate rules and regulations, in consultation with the commissioner of the department of agriculture and markets, and subject to approval by the board of directors of the upstate empire state development corporation for the implementation of this section.

6. The corporation, in consultation with the commissioner of the department of agriculture and markets, shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the investments and accomplishments of the

upstate agricultural economic development fund. Such report shall include, but not be limited to, information on the number of jobs created and retained, levels of private sector investment, economic benefit to the state and local economies and types of industries invested in. Such report shall be submitted by July 1, 2009 and July first every year thereafter.

7. The corporation, in consultation with the commissioner of the department of agriculture and markets, shall submit a report to the director of the budget, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly evaluating the economic and social benefits of the upstate agricultural economic development fund. Such evaluation shall be prepared by an entity or entities independent of the corporation which shall be selected through a request for proposal process. Such evaluation shall be submitted by October 1, 2009 and October first every year thereafter.

8. The corporation is hereby authorized to promulgate rules and regulations in accordance with the state administrative procedure act as are necessary to fulfill the purposes of this section.

9. The provisions of section ten and subdivision 2 of section sixteen of this act shall not apply to assistance provided under this section.

## **[Table of Contents](#)**

## **Direct Marketing**

(Agriculture and Markets Law: Article 23 - Direct Marketing, sections 281 - 285-b.)

### **§ 281.** Declaration of legislative findings and intent.

The legislature hereby finds that inflation has caused higher prices in all phases of farm and food production and farm and food products distribution; and that the demand, by consumers within the state, for increasing supplies of wholesome, fresh and nutritious farm and food products provides a significant opportunity for the development of alternative marketing structures for food grown within the state by which such products may be supplied directly to the consuming public. The legislature finds also that encouraging direct sales from farms and other agricultural producers to consumers and other buyers can provide producers with a substantially increased income over that which is currently obtainable through the conventional wholesale marketing system. It is therefore the intent of the legislature and the purpose of this article to encourage expanded production of farm and food products through providing increased opportunities for farm and food product producers within the state to wholesale and retail their products directly to consumers on a state, regional and local basis; to encourage purchasing opportunities which will lower food costs to consumers; to increase the share of the consumer's food dollar retained by the producers of farm and food products; to make farm and food products more readily available to residents of the state; and to encourage and facilitate the purchase and use of farm and food products produced within the state by public and private institutions and agencies

### **§ 282.** Definitions. As used in this article:

1. "Direct marketing" means the sale of farm and food products directly from producers to consumers and food buyers.
2. "Farm and food product" means any agricultural, horticultural, forest, or other product of the soil or water that has been grown, harvested, or produced wholly within the state of New York. Such products shall include but not be limited to: fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, ornamental or vegetable plants, nursery products, flowers, firewood, fermented agricultural products, and Christmas trees.
3. "Producer" means any person who grows, produces, or causes to be grown or produced any farm and food products in New York state. This term shall also include members of the producer's family and the producer's employees.
4. "Farmers' market" means any building, structure or place, the property of a municipal corporation or under lease to or in possession of a public or private agency, used or intended to be used by two or more producers for the direct sale of farm and food products from producers to consumers and food buyers. Such market may also include facilities for the packing, shipping, first-instance processing or storage of farm and food products, and shall include all equipment used or intended to be used in connection with such facilities. Such market may also include other businesses which reasonably serve the public or make the market more convenient, efficient, profitable or successful, including, but not limited to, food service, baking, and non-food retailing.
5. "Public or private agencies" means any department, division, bureau, or program of the federal or state government, or local governments, public benefit corporations, private non-profit organizations, or educational institutions.



**§ 283.** Powers and duties of the commissioner. The commissioner shall have the powers and duties to:

1. Develop and implement programs designed to facilitate direct marketing.
2. Encourage direct marketing through the cooperative selling and buying of farm products or production supplies.
3. Provide technical or educational assistance to producers of farm products seeking new or improved methods of direct marketing of such products.
4. Provide assistance to wholesale buyers and retail stores seeking to purchase farm and food products directly from producers
5. Provide assistance to consumer or non-profit organizations seeking to purchase or facilitate the purchase of farm products directly from producers.
6. Publicize and encourage participation by producers and consumers in direct marketing programs.
7. Encourage the direct marketing of food and farm products to public and private agencies within the state.
8. Encourage the development of direct marketing programs within areas of the state which are identified as having poor consumer access to reasonably priced and high quality farm products.
9. Conduct conferences, seminars or workshops designed to promote the direct marketing of farm products within the state.
10. Contract, where necessary, and cooperate with other federal, state and local governmental, private non-profit agencies, and other private business organizations for the development, design and implementation of any activities authorized hereunder.
11. Establish a statewide advisory council which shall provide information to and advise the commissioner, as prescribed by him, on policy, planning and programs.
12. Establish regional advisory councils for direct marketing in those regions as may be necessary and desirable.
13. Undertake any other activities which he deems necessary to accomplish the purposes of this article.
14. Promulgate rules and regulations necessary to supplement and give full force and effect to the provisions of this article

**§ 284.** Establishment of statewide direct marketing activities. The department shall conduct statewide direct marketing activities which shall include, but not be limited to, the following:

1. Communications and promotion of direct marketing activities, to include, where appropriate, cooperation with the cooperative extension service in the area of education.
2. Development of institutional direct marketing programs to increase the purchase of New York state farm and food products in coordination with the office of general services and the department of education.
3. Development of a technical assistance program for initiating, improving, and expanding direct marketing activities and developing new forms of direct marketing.
4. Development of guidelines for direct marketing operations that will assist individual producers in reducing costs and improve their financial returns and help assure consumers of high quality food.
5. Assistance to retail food stores in purchasing directly from New York state food producers.
6. Assistance to direct marketing organizations in areas identified as having poor consumer access to high quality and reasonably priced food and farm products.

7. Assistance to producers or consumers to initiate or improve retail and wholesale farmers' markets.
8.
  - (a) Submission of a quinquennial report to the legislature, the first of which shall be submitted in the year two thousand six, which shall include an evaluation of the regional and institutional effect of direct marketing activities during the previous five years.
  - (b) Between report due dates, the department shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the legislature between such report due dates.
9. Establish the Hudson valley agricultural center to serve as a marketing, promotional, informational and cultural center for the Hudson river valley agricultural region and greenway and to promote the production of fruits (including juices, jellies, and preserves made there from), wine, cider, vegetables, and other agricultural products.

**§ 284-a.** Establishment of farm trails, apple trails and cuisine trails.

1. Marketing activities and designation of trails. The department shall conduct statewide and regional marketing activities which shall include, but not be limited to, the designation of farm trails, apple trails, and cuisine trails.
2. Definitions. For the purposes of this section:
  - (a) "farm trail" shall mean an association of producers that are in close proximity to each other, that sell in a cooperative manner a complementary variety of farm and food products, and that utilize a map, other directional devices, or highway signs to market products and direct patrons to their respective farms.
  - (b) "apple trail" shall mean an association of producers that are in close proximity to each other, that sell in a cooperative manner a wide variety of fresh apples or other fresh fruits or processed apple or other fruit products, and that utilize a map, other directional devices, or highway signs to market their products and direct patrons to their respective farms.
  - (c) "cuisine trail" shall mean an association of producers, that may include a combination of producers, food or agricultural product processors and retailers including, but not limited to, restaurants, that are in close proximity to each other, and that sell in a cooperative manner a complementary variety of unusual, unique, or hard to find fresh farm and food products and foods prepared primarily with such products for on or off premises consumption, including but not limited to, herbs, meats, vegetables, salad materials, wines, cut flowers, mushrooms, or fruits. Such trails may utilize a map, other directional devices, or highway signs to market their products and direct patrons to their places of business.
3. Designation of trails.
  - (a) The department shall designate farm, apple, and cuisine trails to promote greater agricultural marketing and promotional opportunities for agricultural producers located in the areas of such trails.
  - (b) Designations shall take into consideration geographic proximity and alignment, thematic consistency, geographic or historical consistency, density, economic feasibility, and the cooperation of agricultural producers on the trails to be designated. The department shall designate no more than ten farm trails, ten apple trails, and ten cuisine trails. Criteria for developing and approving such trails shall include:
    - (i) that the length of such trail, excluding laterals, is no longer than fifty miles,

- (ii) containing a sufficient number of producers to cost-effectively attract patrons to such trail association's participating members,
- (iii) incorporating considerations that maximize patronage of such trail,
- (iv) ensuring that proposed trail routes do not conflict with existing scenic byways designated pursuant to section three hundred forty-nine-dd of the highway law or wine trails designated pursuant to section three hundred forty-three-k of the highway law,
- (v) ensuring that trail designations are neither redundant nor cover themes or subjects or have names that have already been used by trails designated by the New York state scenic byways program or designated as a wine trail pursuant to section three hundred forty-three-k of the highway law,
- (vi) ensuring that the trail route is designed and laid out so that it is relatively simple and easy to follow for patrons and contains few branches or laterals that dead end at one association member's business, and
- (vii) upon consulting with the commissioner of transportation, trail designations that may support, augment, or reinforce the themes or subjects already covered by the existing scenic byways system or wine trails designated pursuant to the highway law.

(c) In making designations, the department shall consult with:

- (i) the New York State Farmers Direct Marketing Association, the advisory council on agriculture, and the New York State scenic byways advisory board; and
- (ii) the commissioner of transportation. The commissioner of transportation shall cooperate with the department in carrying out the provisions of this section. The commissioner of transportation, upon receipt of a one time five hundred dollar application fee, is authorized to permit the installation and maintenance of signs on the state highway system for trails designated pursuant to this section. Such funds received by the commissioner of transportation pursuant to this subdivision shall be deposited pursuant to section eighty-nine-b of the state finance law. However, to avoid confusion and to limit any possible disruption of commerce, the trail designations called for pursuant to this section shall be of a ceremonial nature and the official names of such highway shall not be changed as a result of such designations. Signage for trails designated pursuant to this section may include "farm trail", "apple trail", "cuisine trail" or other descriptive language to promote the marketing of the trails products.

(d) Once approved, trail route designations may not be altered for a minimum period of time of eighteen months; provided, however, that additional participating members may be incorporated into already existing designated trail routes. The department may review the designation of any trail established pursuant to this section and review such trail's effectiveness in attracting patrons or tourists, increasing patronage of association member businesses, and expanding the marketing capabilities of all trail members. The department, upon periodically reviewing designated trails, may make suggestions to alter the route, adopt revisions to the business management practices of such trail association, or remove the designation of any such trail authorized by this section.

#### 4. Application for designation.

(a) Any association of producers as described in this section, upon payment of an application fee of two hundred fifty dollars and completion of an application form, may obtain from the department designation as a farm, apple, or cuisine trail. Such funds received by the department pursuant to this subdivision shall be deposited in the general fund. All applicants must satisfy the designation criteria stated in subdivision three of this section.

(b) The department, in approving any trail application and installation of highway signage, if such signage is requested by the applicant, shall consult with and satisfy all reasonable motor vehicle safety concerns specified by the commissioner of transportation to ensure that the trail designation, its route, or proposed signage does not impede vehicular traffic or diminish motorists' safety on the state highway system. The design of all highway signs must conform with all uniform traffic control device regulations and must be approved by the commissioner of transportation.

5. Application for federal monies. The department may apply for and accept federal monies that may be available to support such a program or funds from any other source to support this program. Upon approval of the commissioner of transportation, trails designated pursuant to this section may be eligible for and accept any federal highway aid or funds that may be available to support such program.

**§ 285.** Direct marketing advisory council for statewide activities.

1. There shall be established a statewide direct marketing advisory council to advise the commissioner in policy planning, and programs pertaining to direct marketing. The council will be convened at the request of the commissioner not less than two times per year, and the council's members shall serve without pay but shall be reimbursed for allowable and necessary travel expenses.

2. The advisory council shall consist of not less than seven members including the commissioner or his designated representative who shall serve as chairman, the commissioner of general services, the executive director of the state consumer protection board, the director of cooperative extension, two commercial farmers from different geographic locations representing different commodity enterprises to be appointed by the commissioner, and a consumer representative to be selected by the executive director of the state consumer protection board.

3. The duties and responsibilities of the statewide advisory council shall be prescribed by the commissioner and he may specifically delegate to the council any or all of the following duties and responsibilities:

(a.) Assisting the commissioner in the collection and assembly of information and data necessary for the proper administration of this article.

(b.) Study of matters pertaining to direct marketing and reporting its findings to the commissioner.

(c.) Recommend to the commissioner proposed rules and regulations, or amendments to existing rules and regulations, to effectuate the purposes of this article.

(d.) Advise the commissioner with respect to federal and state legislation and regulations which affect direct marketing within the state.

(e.) Recommend to the commissioner educational programs and promotional materials designed to foster direct marketing within the state.

(f.) The performance of such other duties relating to the administration of this article as the commissioner may delegate.

**§ 285-a.** Direct marketing advisory councils for regional marketing areas.

1. Regional direct marketing advisory councils may be established which shall be composed of representatives from consumer and producer organizations and county government interests, the appropriate representative of the commissioner, and a county cooperative extension service agent. These regional advisory councils shall be no more than five persons and shall meet at least three times annually, and council members shall serve without pay but shall be reimbursed for allowable and necessary travel expenses.
2. The duties and responsibilities of the regional advisory councils shall be prescribed by the commissioner and he may specifically delegate to the advisory council any or all of, but not be limited to, the following duties and responsibilities:
  - (a.) Identifying consumer groups and farmers interested in exploring direct marketing possibilities.
  - (b.) Recommending educational materials for consumer groups and farmers and appropriate ways to disseminate the needed information.
  - (c.) Pinpointing specific subject areas of direct marketing that are of interest to local food buying groups or producers and suggesting training methods.
  - (d.) Providing evaluations of existing direct marketing programs.

**§ 285-b.** Hudson valley agricultural advisory council.

1. The Hudson valley agricultural advisory council shall be appointed by the commissioner, and composed of representatives from consumer and producer organizations, county governments, conservation organizations and tourism organizations of the Hudson valley region. For the purposes of this section, the term "Hudson valley" shall mean the counties of Albany, Greene, Ulster, Orange, Rockland, Rensselaer, Columbia, Dutchess, Putnam and Westchester. The membership of the council shall consist of no more than eleven persons, who shall be residents of the Hudson valley, and who shall meet at least three times annually. Council members shall serve without pay but shall be reimbursed for allowable and necessary travel expenses.
2. The advisory council, in consultation with the Hudson river valley greenway communities council, the upstate New York tourism council, and the downstate New York tourism council, may recommend programs and promotional activities designed to preserve and enhance Hudson valley region tourism and agricultural open space, address issues affecting the viability of agriculture, including real property tax policies and municipal land use issues, and promote greater agricultural marketing and promotional opportunities for the region's agricultural producers to the department.
3. From time to time, but at least every two years, the advisory council shall issue a report evaluating such programs and promotional activities to be transmitted to the commissioner, the chairperson of the Hudson river valley greenway communities council, the chairperson of the upstate New York tourism council, and the chairperson of the downstate New York tourism council and, upon request, any other interested party. The advisory council shall also do all other things necessary and proper for the completion of a feasibility study of developing a tour of the Hudson valley to be known as "The Hudson Valley Ag Trail" to highlight the unique and significant agricultural and natural resources of the Hudson valley region.

**[Table of Contents](#)**

## **Farmers Markets**

(Agriculture and Markets Law: Article 22– Farmers Markets, sections 259-263)

**§ 259.** Legislative findings. The legislature hereby finds and declares that farmers' markets provide a vital and highly effective marketing mechanism for thousands of New York farmers, improve the access of consumers and wholesalers to New York farm products, and contribute to the economic revitalization of the areas in which the markets are located. The legislature further declares that farmers' markets provide consumers with access to a wide range of high quality, nutritious, farm fresh and processed New York state agricultural and food products; facilitate expanded wholesale distribution of New York state farm products to retail stores, restaurants, institutions and other wholesale food buyers; provide new and expanded farm and city jobs in agricultural production, marketing, and sales, and in market facilities development and operation; promote consumer awareness of New York state agriculture and agricultural products; and foster economic and social interaction between urban and rural residents of the state.

It is therefore the intent of the legislature and the purpose of this article to encourage farmers' markets in the state by providing state assistance to municipalities and public and private agencies interested in developing new markets or expanding or reconstructing existing farm market operations.

**§ 260.** Definitions. As used in this article:

1. "Farmers' market" shall mean any building, structure or place, the property of a municipal corporation or under lease to or in possession of a public or private agency, individual or business used or intended to be used by two or more producers for the direct sale of a diversity of farm and food products, as defined in subdivision four of this section, from producers to consumers and food buyers. Such market may also include facilities for the packing, shipping, first-instance processing or storage of farm and food products, and shall include all equipment used or intended to be used in connection with such facilities. Such market may also include other businesses which reasonably serve the public or make the market more convenient, efficient, profitable or successful, including, but not limited to, food service, baking, and non-food retailing.
2. "Public market" shall mean any building, structure or place, operated on a not-for-profit basis in the public interest for the buying, selling or keeping for sale of farm and food products at retail and/or wholesale, and may include a farmers' market.
3. "Producer" shall mean any person or persons who grow, produce, or cause to be grown or produced any farm or food products in New York state.
4. "Farm and food product" shall mean any agricultural, horticultural, forest, or other product of the soil or water, including but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, wine, ornamental or vegetable plants, nursery products, flowers, firewood and Christmas trees.
5. "First-instance processing" shall mean the washing, grading and packaging of farm and food products in connection with a farmers' market.
6. "Storage" shall mean a facility or equipment with a refrigerated, controlled atmosphere, or other enclosed unit used for the purpose of long-term storage of farm and food products in connection with a farmers' market.

7. "Public or private agency" shall mean any agency of federal, state or local government, regional market authority, public benefit corporation, not-for-profit corporation, cooperative corporation or educational institution.
8. "Rural area" shall mean a town having a population density of less than one hundred fifty persons per square mile or a county having a population of two hundred thousand or less as reflected in the latest federal census.

**§ 261.** Powers and duties of department. The department shall:

1. perform necessary activities to encourage the development and improvement of farmers' markets throughout New York state;
2. provide technical assistance to any public or private agency for the planning, financing or development of a farmers' market, which market may include facilities for first-instance processing, shipping, storage, and direct sales of farm and food products on a retail or wholesale basis;
3. provide grants, from amounts appropriated, for state assistance to farmers' markets, as provided under section two hundred sixty-two of this article;
4. collect, compile and publish economic information on farmers' markets in the state;
5. establish working relationships with interested individuals and organizations and cooperative extensions for the purposes of this article; and
6. compile listings of available funding resources for the development and/or improvement of farmers' markets within the state. The department shall periodically advise municipal corporations, regional market authorities, public benefit corporations, not-for-profit corporations and agricultural cooperatives organized pursuant to the cooperative corporations law as to the availability of such information and shall provide such listings upon request.

**§ 262.** State aid for farmers' markets.

1. There is hereby created within the department a program of grants for the purpose of providing state assistance for farmer's markets. In administering such program, the commissioner, to the extent feasible, shall ensure an equitable distribution of awards to rural areas and other areas of the state. State assistance provided pursuant to this section may be awarded for:
  - (a) the construction, reconstruction, improvement, expansion or rehabilitation of farmers' markets. Grants provided pursuant to this paragraph shall not exceed the lesser of fifty percent of project cost or fifty thousand dollars per project in any fiscal year.
  - (b) the purpose of providing promotional support for farmer's markets. Grants provided pursuant to this paragraph shall not exceed the lesser of fifty percent of project cost or five thousand dollars per applicant in any fiscal year.
2. Any municipal corporation, regional market authority, public benefit corporation, not-for-profit corporation or agricultural cooperative organized pursuant to the cooperative corporations law, may submit an application for state assistance for the construction, reconstruction, improvement, expansion or rehabilitation of a farmers' market under their control including assistance for engineering or architectural designs for new or reconstructed facilities, and for providing promotional support for farmers' markets.
3. The commissioner may approve or disapprove any application made pursuant to this section, and shall consider the following in his decision:
  - (a.) the relative impact of the proposed farmers' market project on the economy of the area to be served;
  - (b.) the anticipated level of municipal and local participation in the project;

- (c.) the extent to which New York farmers would benefit, through the direct sale of farm and food products;
  - (d.) the geographic distribution of monies appropriated for state assistance for farmers' markets; and
  - (e.) the anticipated quantity of non-farm jobs which would be created and retained due to the proposed project.
4. In administering the provisions of this section, the commissioner:
- (a.) may in the name of the state, contract to make, within the limitations of appropriations available therefor, state grants representing the state share of the costs of projects approved and to be undertaken pursuant to this section;
  - (b.) shall examine vouchers for the payment of assistance pursuant to an approved contract and shall forward approved vouchers to the state comptroller. All such payments shall be paid on the audit and warrant of the state comptroller; and
  - (c.) may perform such other and further acts and promulgate such rules and regulations as may be necessary, proper or desirable to carry out the provisions of this section.

**§ 263. Quinquennial report.**

1. The commissioner shall quinquennially report to the governor and the legislature on or before January first, two thousand seven and on or before January first of each fifth year thereafter on the status of the state farmers' markets program, as provided under this article. Such report shall include:
- (a) the number and nature of proposals made to the department for state assistance;
  - (b) the number, nature and geographic location of approved farmers' markets development or improvement projects, and the amounts of each award made thereto;
  - (c) an assessment of the effectiveness of existing farmers' markets to facilitate New York producers to direct market their farm and food products to retail and wholesale consumers; and
  - (d) any recommendations for program improvement.
2. Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.

**[Table of Contents](#)**



## **Farm Direct Marketing, Agri-Tourism And Specialty Food Product Awards**

(Economic Development Law: Article 4– General Powers of Department, Section 100 - General Powers of Department, subdivision 18a-18c) (*Note: Section 100, subdivisions 1-18 are unrelated to food/ farm policy.*)

**§ 100.** General powers of department. The commissioner acting by and through the department of economic development shall have power and it shall be his duty:

18-a. to establish, in cooperation with the commissioner of agriculture and markets and the state liquor authority, procedures for proposing to the governor nominations for annual awards to be known as "New York state wine retailers awards". These non-monetary awards shall be given in recognition of unusual efforts made by restaurants, and/or retailers licensed to sell alcoholic beverages for off-premises consumption, to inform consumers as to the availability, diversity and excellence of wines made in the state from grapes grown in the state, and to feature these wines. The governor shall, at his discretion, issue up to three awards annually.

18-b. to promote, in cooperation with the New York wine and grape foundation, state policies that will encourage the production and sale of New York labelled wines.

**18-c. to establish, in cooperation with the commissioner of agriculture and markets, procedures for proposing nominations to the governor for three annual, non-monetary awards to be known as:**

**(a) New York State Direct Farm Marketing Award;**

**(b) New York State Agri-Tourism Award; and**

**(c) New York State Specialty Food Product Award.**

**These awards shall be given in recognition of unusual efforts by farmers, food processors and food retailers for the marketing of New York state grown agricultural commodities or foods processed from or primarily containing New York state agricultural commodities and for promoting New York state farms that are also tourist destinations. (*Note: 18-c is Chapter 212 Laws of 1996*)**

[\*\*Table of Contents\*\*](#)

## **Procurement Preferences for New York State Food And Agricultural Products**

(State Finance Law: Article 11 - State Purchasing, Section 165-Purchasing Restrictions, Subdivision 4-4a. General Municipal Law: Article 5-A- Public Contracts, Section 103, Subdivision 1, 8a, 9 and 10)

**State Procurement** (*Note: Section 165, subdivisions 1-3 and 5-8 are unrelated to food/farm policy.*)

### **§ 165. Purchasing restrictions.**

#### **4. Special provisions for purchase of available New York food products.**

(a) Except as otherwise provided in this subdivision, when letting contracts for the purchase of food products on behalf of facilities and institutions of the state, solicitation specifications of the office of general services and any other agency, department, office, board or commission may require provisions that mandate that all or some of the required food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located within New York state.

(b) The commissioner of agriculture and markets shall determine, using uniform criteria, those food products for which the requirements of this subdivision are deemed beneficial and shall promulgate and forward to the appropriate agencies a list of such food products, and shall in addition ascertain those periods of time each year that those food products are available in sufficient quantities for competitive purchasing and shall forward such information to purchasing agencies. The commissioner of agriculture and markets shall update such list as often as is deemed by him or her to be necessary.

(c) (i) Prior to issuing a solicitation for such food products, purchasing agencies shall advise the commissioner of agriculture and markets of the quantities of each food product on the list promulgated by the commissioner of agriculture and markets to fulfill that agency's purchasing needs.

(ii) The commissioner of agriculture and markets will then make a determination of whether those products required by the purchasing agency are available in sufficient quantities to satisfy the purchasing agency's requirements.

(iii) Upon a determination by the commissioner of agriculture and markets that the food products required by the purchasing agency are available in sufficient quantities to fulfill the agency's purchasing needs, the purchasing agency may include in its solicitation a requirement that all or some of those food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located within New York state.

(iv) Upon a determination by the commissioner of agriculture and markets that such food products are not available in sufficient quantities to fulfill the agency's purchasing needs, the purchasing agency shall issue a solicitation that does not require that all or some of those food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located within New York state. In such cases, the purchasing agency may include such requirements in the next contract for such food products that is let if at

such time those food products are available in sufficient quantities. If at that time, those food products are not available in sufficient quantities, the requirement shall again be waived until such time as the products are available.

(v) In the event that the purchasing agency receives no offers that meet the agency's requirement that all or some of the food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located within New York state, it may waive the provisions of this subdivision and award a contract in accordance with other applicable statutes. In addition, if the commissioners of agriculture and markets, economic development and any such individual agency shall agree as to the deleterious economic impact of specifications requiring such purchases, such agencies may waive the provisions of this subdivision for such purchases.

(d) The commissioner, and the commissioner of agriculture and markets, may issue such regulations as they deem necessary and proper for the implementation of this subdivision.

(e) Notwithstanding any other section of law, rule, regulation or statute, the department of agriculture and markets shall supply information required by paragraph b of this subdivision to the office of general services and to all other appropriate agencies.

(f) (i) With each offer, the offered shall certify that the food products provided pursuant to that solicitation will be in conformity with the provisions of the percentage required to meet or exceed the requirements in the solicitation specifying that all or some of the food products be grown, produced, or harvested within New York state or that any processing of such food products take place in facilities located within New York state.

(ii) Any successful offerer who fails to comply with the provisions of this subdivision, at the discretion of such agency, board, office or commission, shall forfeit the right to bid on contracts let under the provisions of this subdivision for a period of time to be determined by the commissioner and the commissioner of agriculture and markets.

(g) The commissioner and the commissioner of agriculture and markets shall advise and assist the chancellor of the state university of New York in extending the benefits of the provisions of this subdivision to the university and shall modify any regulations or procedures heretofore established pursuant to this subdivision, in order to facilitate such participation.

#### 4-a. Favored source status for New York state labelled wines.

(a) In order to advance specific economic goals, New York state labelled wines, as defined in subdivision twenty-a of section three of the alcoholic beverage control law, shall have favored source status for the purposes of procurement in accordance with the provisions of this subdivision. Procurement of these New York state labelled wines shall be exempt from the competitive procurement provisions of section one hundred sixty-three of this article and other competitive procurement statutes. Such exemption shall apply to New York state labelled wines as defined in subdivision twenty-a of section three of the alcoholic beverage control law produced by a licensed winery as defined in section seventy-six of the alcoholic beverage control law.

(b) The commissioner of taxation and finance, in consultation with the commissioners of the state liquor authority shall prepare a list of wines that are eligible as determined by the criteria in paragraph a of this subdivision and that are available and are being provided, for purchase by state agencies, public benefit corporations, commissions or political subdivisions from those entities which produce such New York state labelled wine. Such list may include references to catalogs and other descriptive literature which are available directly from any winery that produces wine accorded favored source status under this subdivision. The commissioner shall make this list available to prospective vendors, state agencies, public benefit corporations, political subdivisions and other interested parties. Any wines that meet the criteria under paragraph a of this subdivision shall be eligible for this favored source status.

(c) The state procurement council in consultation with the commissioners of the state liquor authority, and upon application from a winery, will determine if a particular New York state labelled wine meets the required criteria under paragraph a of this subdivision for favored source status, and if so, such wine shall be added to the list of favored source status New York state labelled wines. In order to insure that such list reflects current production and/or availability of commodities and services, the state procurement council may delete at the request of a winery a favored wine from the list established by the criteria in paragraph a of this subdivision. The state procurement council will also determine if a particular wine no longer meets the required definition under paragraph a of this subdivision for favored source status, and if it does not, such wine shall be deleted from the list of favored source status or favored wines.

(d) The commissioners of the state liquor authority, in consultation with the commissioner of taxation and finance and office of general services, shall make every effort to encourage state agencies, public authorities and political subdivisions when they purchase any quantity of wine to purchase those wines that have been granted favored source status as determined by the commissioners of the state liquor authority and the state procurement council.

(e) The list shall be maintained by the office of general services in accordance with provisions of section one hundred sixty-two of this article and shall be revised as necessary to reflect the additions and deletions of wines as determined by the state procurement council.

**Local Government and School District Procurement** *(Note: Section 103, subdivision 1 is the main provision of section 103 requiring competitive bids for local governments which includes school districts. Subdivisions 8a, 9 and 10 generally refer to subdivision 1 when they begin with the phrase "Notwithstanding the foregoing provisions of this section... ." Subdivisions 2-8 and 11-15 are unrelated to food/farm policy.)*

**§ 103.** Advertising for bids; letting of contracts; criminal conspiracies.

1. Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than thirty-five thousand dollars and all purchase contracts involving an expenditure of more than ten thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district, to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner

provided by this section. In any case where a responsible bidder's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by a political subdivision, the gross price shall be reduced by the amount of such allowance, for the purpose of determining the low bid. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, such officer, board or agency may award the contract to any of such bidders. Such officer, board or agency may, in his or its discretion, reject all bids and readvertise for new bids in the manner provided by this section. For purposes of this section, "sealed bids", as that term applies to purchase contracts, shall include bids submitted in an electronic format, provided that the governing board of the political subdivision or district, by resolution, has authorized the receipt of bids in such format. Submission in electronic format may not, however, be required as the sole method for the submission of bids. Bids submitted in an electronic format shall be transmitted by bidders to the receiving device designated by the political subdivision or district. Any method used to receive electronic bids shall comply with article three of the state technology law, and any rules and regulations promulgated and guidelines developed thereunder and, at a minimum, must

- (a) document the time and date of receipt of each bid received electronically;
- (b) authenticate the identity of the sender;
- (c) ensure the security of the information transmitted; and
- (d) ensure the confidentiality of the bid until the time and date established for the opening of bids. The timely submission of an electronic bid in compliance with instructions provided for such submission in the advertisement for bids and/or the specifications shall be the responsibility solely of each bidder or prospective bidder. No political subdivision or district therein shall incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids.

**\*Effective until June 1, 2013**

- 8-a. (a) Notwithstanding the foregoing provisions of this section, a political subdivision, when letting contracts in accordance with this subdivision for the purchase of food products, may require provisions that mandate that the essential components of such food products are grown, produced or harvested in New York state, or that any processing of such food products take place in facilities located within New York state.
- (b) The commissioner of agriculture and markets shall determine, using uniform criteria, those food products for which the requirements of this subdivision are deemed beneficial. The commissioner shall promulgate a list of such food products and ascertain those periods of time each year that the listed food products are available in sufficient quantity for competitive purchasing and shall forward such information upon request to such political subdivisions that shall make determinations as provided herein. The commissioner of agriculture and markets shall update such list as often as he deems necessary.
- (c) (i) Such political subdivision shall specify, with the advice of the commissioner of agriculture and markets, the percentage of each food product required to be grown, produced, harvested or processed within New York state.
- (ii) Upon a determination by such political subdivision that such food products are not available in sufficient quantity for purchasing, the specifications requiring such purchase shall be waived for that specific

food product until the next contract for such food product is let out for bid.

(iii) Upon a determination by such political subdivision that food processing facilities are not available for the processing of food products purchased under specifications required by this section, the specifications requiring such processing shall be waived.

(iv) In the event that such a political subdivision receives no acceptable bids it may waive the provisions of this section and shall award a contract in accordance with other applicable statutes. In addition, if the commissioners of agriculture and markets and economic development agree as to any deleterious economic impact of specifications requiring such purchase, the provisions of this subdivision may be waived by a political subdivision for such purchase.

(d) The commissioner of the office of general services and the commissioner of agriculture and markets may issue such regulations as they deem necessary to implement this subdivision and to assist political subdivisions in complying with this subdivision.

(e) Notwithstanding any other provision of law, the department of agriculture and markets shall supply information required by paragraph (b) of this subdivision to the office of general services within one hundred eighty days of the effective date of this subdivision.

(f) The commissioners of general services, agriculture and markets, and economic development shall provide the legislature with a report on the fifteenth day of January of the second year next succeeding the year in which this subdivision became effective, and in their discretion periodically report thereafter, on the effects of this subdivision and on recommendations on ways to make it more effective.

9. Notwithstanding the foregoing provisions of this section to the contrary, a board of education may, on behalf of its school district, separately purchase eggs, livestock, fish, dairy products (excluding milk), juice, grains, and species of fresh fruit and vegetables directly from New York State producers or growers, or associations of producers and growers, provided that:

(a) such association of producers or growers is comprised of ten or fewer owners of farms who also operate such farms and who have combined to fill the order of a school district as herein authorized, provided however, that a school district may apply to the commissioner of education for permission to purchase from an association of more than ten owners of such farms when no other producers or growers have offered to sell to such school;

(b) the amount that may be expended by a school district in any fiscal year for such purchases shall not exceed an amount equal to twenty cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district;

(c) all such purchases shall be administered pursuant to regulations promulgated by the commissioner of education. Such regulations shall: be developed in consultation with the commissioner of agriculture and markets to accommodate and promote the provisions of the farm-to-school program established pursuant to subdivision five-b of the section sixteen of the agriculture and markets law and subdivision thirty-one of section three hundred five of the education law as added by chapter two of the laws of two thousand two; ensure that the prices paid by a

district for any items so purchased do not exceed the prices of comparable local farm products that are available to districts through their usual purchases of such items; ensure that all producers and growers who desire to sell to school districts can readily access information in accordance with the farm-to-school law; include provisions for situations when more than one producer or grower seeks to sell the same product to a district to ensure that all such producers or growers have an equitable opportunity to do so in a manner similar to the usual purchasing practices of such districts; develop guidelines for approval of purchases of items from associations of more than ten growers and producers; and, to the maximum extent practicable, minimize additional paperwork, recordkeeping and other similar requirements on both growers and producers and school districts.

10. Notwithstanding the foregoing provisions of this section to the contrary, a board of education may, on behalf of its school district, separately purchase milk, directly from licensed milk processors employing less than forty people pursuant to the provisions of this subdivision. The amount that may be expended by a school district in any fiscal year pursuant to this section shall not exceed an amount equal to twenty-five cents multiplied by the total number of days in the school year multiplied by the total enrollment of such school district. All purchases made pursuant to this subdivision shall be administered pursuant to regulations promulgated by the commissioner of education. The regulations promulgated by the commissioner of education shall ensure that the prices paid by a school district for items purchased pursuant to this subdivision do not exceed the market value of such items and that all licensed processors who desire to sell to a school district pursuant to this subdivision have equal opportunities to do so.

## **[Table of Contents](#)**

## Sales Tax and Food

(Article 28-Sales and Compensating Use Tax, Part 2, Sections 1105 Imposition of sales tax and 1115 Exemptions from sales and use tax.)

**§ 1105.** *(Note: Section 1105 subdivisions a-c and e-f do not apply to food)* Imposition of sales tax. On and after June first, nineteen hundred seventy-one, there is hereby imposed and there shall be paid a tax of four percent upon:

- (d) (i) The receipts from every sale of beer, wine or other alcoholic beverages or any other drink of any nature, or from every sale of food and drink of any nature or of food alone, when sold in or by restaurants, taverns or other establishments in this state, or by caterers, including in the amount of such receipts any cover, minimum, entertainment or other charge made to patrons or customers (except those receipts taxed pursuant to subdivision (f) of this section):
  - (1) in all instances where the sale is for consumption on the premises where sold;
  - (2) in those instances where the vendor or any person whose services are arranged for by the vendor, after the delivery of the food or drink by or on behalf of the vendor for consumption off the premises of the vendor, serves or assists in serving, cooks, heats or provides other services with respect to the food or drink; and
  - (3) in those instances where the sale is made through a vending machine that is activated by use of coin, currency, credit card or debit card (except the sale of drinks in a heated state made through such a vending machine) or is for consumption off the premises of the vendor, except where food (other than sandwiches) or drink or both are
    - (A) sold in an unheated state and,
    - (B) are of a type commonly sold for consumption off the premises and in the same form and condition, quantities and packaging, in establishments which are food stores other than those principally engaged in selling foods prepared and ready to be eaten.
- (ii) The tax imposed by this subdivision shall not apply to:
  - (A) food or drink which is sold to an air line for consumption while in flight;
  - (B) food or drink sold to a student of a nursery school, kindergarten, elementary or secondary school at a restaurant or cafeteria located on the premises of such a school, or food or drink, other than beer, wine, or other alcoholic beverages, sold at a restaurant, tavern or other establishment located on the premises of a college, university or a school (other than a nursery school, kindergarten, elementary or secondary school) to a student enrolled therein who purchases such food or drink under a contractual arrangement whereby the student does not pay cash at the time he is served, provided the school, college or university described in this subparagraph is operated by an exempt organization described in subdivision (a) of section eleven hundred sixteen, or is created, incorporated, registered, or licensed by the state legislature or pursuant to the education law or the regulations of the commissioner of education, or is incorporated by the regents of the university of the State of New York or with their consent or the consent of the commissioner of education as provided in section two hundred sixteen of the education law;



**§ 1115.** (Note: Section 1115 subdivision a, paragraphs 3-43 and subdivisions b-j and l-y do not apply to food.) Exemptions from sales and use taxes.

(a) Receipts from the following shall be exempt from the tax on retail sales imposed under subdivision (a) of section eleven hundred five and the compensating use tax imposed under section eleven hundred ten:

(1) Food, food products, beverages, dietary foods and health supplements, sold for human consumption but not including

(i) candy and confectionery,

(ii) fruit drinks which contain less than seventy percent of natural fruit juice,

(iii) soft drinks, sodas and beverages such as are ordinarily dispensed at soda fountains or in connection therewith (other than coffee, tea and cocoa) and

(iv) beer, wine or other alcoholic beverages, all of which shall be subject to the retail sales and compensating use taxes, whether or not the item is sold in liquid form.

The food and drink excluded from the exemption provided by this paragraph under subparagraphs (i), (ii) and (iii) of this paragraph shall be exempt under this paragraph when sold for seventy-five cents or less through any vending machine activated by the use of coin, currency, credit card or debit card. With the exception of the provision in this paragraph providing for an exemption for certain food or drink sold for seventy-five cents or less through vending machines, nothing herein shall be construed as exempting food or drink from the tax imposed under subdivision (d) of section eleven hundred five.

(2) Water, when delivered to the consumer through mains or pipes.

(k) Receipts from the sale of food eligible to be purchased with coupons issued under or pursuant to the federal food stamp act of nineteen hundred seventy-seven (7 U.S.C. § 2011 et seq.), as amended, from retail food stores and other participants, approved for participation under or pursuant to such act, shall be exempt from the sales and compensating use taxes imposed under this article, when such food is purchased with such coupons, but only so long as such act conditions state participation in the federal food stamp program on this state providing an exemption from state and local sales taxes for purchases of food made with coupons issued under or pursuant to such act and this state is participating in such program.

(w) Receipts from sales by a senior citizen independent housing community of food or drink (other than beer, wine or other alcoholic beverages) for consumption on the premises of such community (1) to its residents and (2) to guests of such residents, provided that the dining facility where food and drink is served to such residents and their guests is not open to the public, shall be exempt from the tax imposed by subdivision (d) of section eleven hundred five of this article, provided that any such food or drink shall be exempt only where it is served at the dining facility at such community or served to the residents or the residents' guests in the residents' rooms. For the purposes of this subdivision, the term "senior citizen" means a person at least fifty-five years of age and the term "senior citizen independent housing community" means a residential facility, with or without additional facilities such as recreational facilities, which is designed for senior citizens, the residents of which are senior citizens, spouses of

such senior citizens or any other person, not necessarily related, who has resided with a senior citizen for at least six months and persons hired to provide live-in, long term care to a resident and who are actually providing such care to such a resident for compensation. Nothing in this subdivision shall be construed to apply to food or drink sold or served at a hotel, motel, rooming house or other similar establishment or at a restaurant, tavern or other similar establishment. The exemption provided by this subdivision shall not be construed to apply to food or drink sold through vending machines.

## **Table of Contents**

## **Aquaculture Plan**

*(Note: This is an “unconsolidated law” passed in 1983. It does not amend or establish a section of consolidated law, for example, Agriculture & Markets Law, and cannot be found in the online directory of laws.)*

**§ 1.** The Legislature finds that there is significant potential for growth in the aquacultural industry of New York; that this potential provides an opportunity for local economic development and expansion in the commercial cultivation of marine and fresh-water finfish, shellfish and plants for human consumption to provide another local food source for consumers. Development of aquaculture would create additional employment opportunities in an industry that is compatible with the economy and lifestyle of many of the state’s coastal and inland rural areas.

Further, the legislature finds that factors such as lack of access to risk capital, lack of secure access to underwater lands, water columns and coastal wetlands, limited processing facilities, a need for biological research and deficiencies in laws and regulations are inhibiting investment in aquacultural enterprises.

The legislature, therefore, declares that in order to effectively support the growth of this important industry, there is a need for realistic state aquacultural planning, balancing the legitimate interests of the recreational, commercial fishing, shellfish and aquacultural industries, with the common property resources of the state and setting out a plan for research and development to foster the expansion of aquaculture.

**§ 2.** The New York Sea Grant Institute of the State University of New York and Cornell University and the college of Agriculture and Life Sciences at Cornell University is hereby authorized to undertake a study to prepare and develop a statewide aquaculture plan. Such an economic development plan shall delineate and critically analyze the current status of the state’s aquaculture industry. Such a study shall include, but not be limited to:

- a. Determining the potential for aquacultural products in terms of need and markets;
- b. Reviewing the species of finfish, shellfish and plans available for aquacultural production and marketing mechanisms which are now available;
- c. Determining the potential for investment by farmers and fisherman, local and out-of-state businesses
- d. Identifying existing barriers to the aquaculture industry and making recommendations appropriate to the removal of such barriers;
- e. Identifying state agencies and public and private research and educational institutions concerned with research, education, regulation, promotion and marketing functions related to aquaculture;
- f. Recommending governmental and non-governmental mechanisms which can assist and enhance aquacultural activity through extension and transfer of existing and new technologies, practices and information; and
- g. Assessing the current state of technology in commercial and public aquaculture and making recommendations for upgrading this technology to state of the art levels.

Within one year from the date on which such study is undertaken, the New York Sea Grant Institute and the College of Agriculture and Life Sciences at Cornell University shall complete such study and development of a statewide aquaculture plan and shall report the results of such study, and make appropriate recommendations to the governor

and the legislature. Such other educational and research institutions determined to have an interest in the findings of the study shall receive the materials and documents transmitted to the governor and the legislature.

## **Table of Contents**

## **Farmland Protection and Viability Programs**

(Agriculture and Markets Law: Article 25-AAA Agricultural and Farmland Protection Programs, sections 321-326 and Article 25-AAAA Farmland Viability Program, Sections 327-330. State Finance Law: Article 6 Funds of the State, section 92-s, subdivision 6, paragraph d.)

### **Agricultural And Farmland Protection Programs**

**§ 321.** Statement of legislative findings and intent. It is hereby found and declared that agricultural lands are irreplaceable state assets. In an effort to maintain the economic viability, and environmental and landscape preservation values associated with agriculture, the state must explore ways to sustain the state's valuable farm economy and the land base associated with it. External pressures on farm stability such as population growth in non-metropolitan areas and public infrastructure development pose a significant threat to farm operations, yet are the pressures over which farmers have the least control. Local initiatives in agricultural protection policy, facilitated by the agricultural districts program established in article twenty-five-AA of this chapter, have proved effective as a basic step in addressing these pressures. In an effort to encourage further development of agricultural and farmland protection programs, and to recognize both the crucial role that local government plays in developing these strategies, plus the state constitutional directive to the legislature to provide for the protection of agricultural lands, it is therefore declared the policy of the state to promote local initiatives for agricultural and farmland protection.

**§ 322.** Definitions. When used in this article:

1. "Agricultural and farmland protection" means the preservation, conservation, management or improvement of lands which are part of viable farming operations, for the purpose of encouraging such lands to remain in agricultural production.
2. "Plan" means the county and municipal agricultural and farmland protection plan as provided for in this article.
3. "Program" means the state agricultural and farmland protection program created pursuant to the provisions of this article.
4. "Not-for-profit conservation organization" means an organization as defined in subdivision two of section 49-0303 of the environmental conservation law.

**§ 323.** State agricultural and farmland protection program. The commissioner shall initiate and maintain a state agricultural and farmland protection program to provide financial and technical assistance, within funds available, to counties, municipalities and not-for-profit conservation organizations for their agricultural and farmland protection efforts. Activities to be conducted by the commissioner shall include, but not be limited to:

1. developing guidelines for the creation by counties and municipalities of agricultural and farmland protection plans;
2. providing technical assistance to county agricultural and farmland protection boards, as established in article twenty-five-AA of this chapter, and municipalities;
3. administering state assistance payments to county agricultural and farmland protection boards and municipalities;
4. disseminating information to county and municipal governments, owners of agricultural lands and other agricultural interests about the state agricultural and farmland protection program established pursuant to this article;

5. administering state assistance payments to not-for-profit conservation organizations; and
6. reporting biennially to the governor and the legislature regarding the activities of the commissioner, the types of technical assistance rendered to county agricultural and farmland protection boards, municipalities and not-for-profit conservation organizations, and the need to protect the state's agricultural economy and land resources.

**§ 324.** County agricultural and farmland protection plans.

1. County agricultural and farmland protection boards may develop plans, in cooperation with the local soil and water conservation district and soil conservation service, which shall include, but not be limited to:

- (a) the location of any land or areas proposed to be protected;
- (b) an analysis of the following factors concerning any areas and lands proposed to be protected:
  - (i) value to the agricultural economy of the county;
  - (ii) open space value;
  - (iii) consequences of possible conversion; and
  - (iv) level of conversion pressure on the lands or areas proposed to be protected; and
- (c) a description of the activities, programs and strategies intended to be used by the county to promote continued agricultural use.

2. The county agricultural and farmland protection board shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the county legislative body for its approval.

3. The county agricultural protection plan must be submitted by the county to the commissioner for approval.

**§ 324-a.** Municipal agricultural and farmland protection plans.

1. Municipalities may develop agricultural and farmland protection plans, in cooperation with cooperative extension and other organizations, including local farmers. These plans shall include, but not be limited to:

- (a) the location of any land or areas proposed to be protected;
- (b) an analysis of the following factors concerning any areas and lands proposed to be protected:
  - (i) value to the agricultural economy of the municipality;
  - (ii) open space value;
  - (iii) consequences of possible conversion; and
  - (iv) level of conversion pressure on the lands or areas proposed to be protected; and
- (c) a description of activities, programs and strategies intended to be used by the municipality to promote continued agricultural use, which may include but not be limited to revisions to the municipality's comprehensive plan pursuant to paragraph (a) of subdivision two of section two hundred seventy-two-a of the town law and land use regulations as defined in paragraph (b) of subdivision two of section two hundred seventy-two-a of the town law as appropriate.

2. The municipality shall conduct at least one public hearing for public input regarding such agricultural and farmland protection plan, and shall thereafter submit such plan to the municipal legislative body and the county agricultural farmland protection board for approval.

3. The municipal agricultural and farmland protection plan must be submitted by the municipality to the commissioner for approval.

**§ 325. Agricultural protection.**

1. Subject to the availability of funds, a program is hereby established to finance through state assistance payments the state share of the costs of county and municipal agricultural and farmland protection activities. State assistance payments for planning activities shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for planning activities shall not exceed twenty-five thousand dollars to each municipality other than a county or fifty thousand dollars to two such municipalities applying jointly, and shall not exceed seventy-five percent of the cost of preparing an agricultural and farmland protection plan. A county which has an approved farmland protection plan may after one hundred twenty months from the date of such approval by the commissioner apply for additional state assistance payments for planning activities related to the updating of their current plan or development of a new farmland protection plan. Such additional state assistance payments shall not exceed fifty thousand dollars to each county agricultural and farmland protection board or one hundred thousand dollars to two such boards applying jointly, and shall not exceed fifty percent of the cost of preparing an agricultural and farmland protection plan. State assistance payments for implementation of approved agricultural and farmland protection plans may fund up to seventy-five percent of the cost of implementing the county plan or portion of the plan for which state assistance payments are requested. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded, provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project.

2. (a) A county agricultural and farmland protection board, two such boards acting jointly, a municipality or two such municipalities acting jointly shall make application to the commissioner in such manner as the commissioner may prescribe. Application for state assistance payments for planning activities may be made at any time after the county agricultural and farmland protection board has formed and has elected a chairperson. A county agricultural and farmland protection board may make application for state assistance payments for plan implementation at any time after the commissioner has approved a county agricultural and farmland protection plan pursuant to section three hundred twenty-four of this article. Application made jointly by two county agricultural and farmland protection boards may be made after such agricultural and farmland protection plan is approved by each county pursuant to the provisions of section three hundred twenty-four of this article. State assistance payments to such counties shall not exceed seventy-five percent of the cost of implementing the county agricultural and farmland protection plan or portion of the plan for which state assistance has been requested. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(b) Within a county, a municipality which has in place a local farmland protection plan may apply and shall be eligible for agricultural protection state assistance payments to implement its plan, or a portion of its plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for the county in which the municipality is located and that any plan developed on or after January first, two thousand six complies with section three hundred twenty-four-a of this article. State assistance payments to such municipalities shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(c) A not-for-profit conservation organization may apply and shall be eligible for agricultural protection state assistance payments to implement a county or municipal agricultural and farmland protection plan approved by the commissioner provided that the proposed project is endorsed for funding by the county agricultural and farmland protection board for the county in which the proposed project is located. The proposed project must also be endorsed for funding by the municipality in which the proposed project is located if the not-for-profit conservation organization is seeking agricultural protection state assistance payments to implement an approved municipal agricultural and farmland protection plan. State assistance payments to such not-for-profit organizations shall not exceed seventy-five percent of the cost of implementing the local plan or portion of the plan for which state assistance has been requested. Such maximum shall be increased by a percentage equal to the percentage of the total eligible costs for such specified projects that are contributed by the owner of the agricultural land for which the project is being funded; provided, however, that in no event shall the total of such state assistance payments exceed eighty-seven and one-half percent of such eligible costs for any specified project. The commissioner may require such information or additional planning as he or she deems necessary to evaluate such a request for state assistance.

(d) In evaluating applications for funding, the commissioner shall give priority to projects intended to preserve viable agricultural land as defined in section three hundred one of this chapter; that are in areas facing significant development pressure; and that serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.

3. Upon receipt of a request for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, shall make a determination as to whether or not such projects shall receive state assistance.

**§ 325-a.** State assistance payments to not-for-profit conservation organizations.

1. Subject to the availability of funds, a program is hereby established for the purpose of awarding state assistance to not-for-profit conservation organizations for activities that will assist counties and municipalities with their agricultural and farmland protection efforts. To be eligible, an organization shall have at least one active farmer on their



board of directors at the time of application or shall provide for the appointment of a farmer to such board of directors in a manner approved by the commissioner.

2. Awards of state assistance payments shall be made on a competitive basis through a request for proposal process which shall set forth the standards for the selection process, the required proposal format, the costs which are eligible for funding, reporting requirements, and such other provisions as the commissioner may deem necessary, proper or desirable to achieve the purposes of this section. Applications for state assistance payments must be endorsed by the agricultural and farmland protection board for the county or counties in which the funded activities would be implemented.

3. In evaluating applications, the commissioner shall give priority to activities that will assist counties and municipalities with their agricultural and farmland protection efforts by disseminating information and providing technical assistance to county and municipal governments, owners of agricultural lands and other agricultural interests.

4. Upon receipt of an application for state assistance, the commissioner shall review the request, consult with the advisory council on agriculture and, within ninety days from the receipt of a complete application, make a determination as to whether or not the application will be funded.

5. State assistance payments awarded to an applicant shall be used in a manner which does not in any way unreasonably restrict or regulate farm operations in contravention of the purposes of article twenty-five-AA of this chapter.

6. State assistance payments awarded pursuant to this section shall not exceed fifty thousand dollars to any applicant in any fiscal year, and shall not exceed five hundred thousand dollars to all applicants in any fiscal year.

**§ 326.** Promulgation of rules and regulations. The commissioner is empowered to promulgate such rules and regulations and to prescribe such forms as he or she deems necessary to effectuate the purposes of this article.

### **Farmland Viability Program**

**§ 327.** Legislative intent. The legislature hereby finds, determines and declares that the New York agriculture industry has a substantial impact on the overall economic health and well-being of the state. Furthermore, state farms preserve approximately 7.7 million acres of open space as working landscapes, thus contributing to the overall quality of the state's environment. Preserving farmland as a working agricultural landscape provides open space benefits for all residents of the state, and maintains the land as a natural habitat for animals. Properly managed farmland has been demonstrated to be the best environmental usage of land for watershed protection, so it is in the best interest of the state to maintain agricultural land. The legislature hereby declares that in order to ensure the continued economic viability of the agricultural industry, and to preserve the environmental benefits of agricultural land use, the department shall create a farmland viability program.

**§ 328.** Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Program" shall mean the farmland viability program.
2. "Agricultural product" shall mean any agricultural or aquacultural product of the soil or water, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, and fruit juice.

3. "Value added" shall mean the increase in the fair market value of an agricultural product resulting from the processing of such product.
4. "Applicant" shall mean any individual, partnership, association, cooperative, corporation or limited liability company that manages a farm operation as defined in section three hundred one of this chapter, or county agricultural and farmland protection board with an approved agricultural protection plan, or an agricultural cooperative as defined in section one hundred eleven of the cooperative corporations law, applying for financial assistance under the provisions of this article.

**§ 329.** Farmland viability program. The commissioner shall initiate and maintain a state farmland viability program within the department which is intended to improve the profitability and efficiency of participating farms. The program shall provide technical and financial assistance in the form of matching grants to applicants for projects which contribute to overall farm profitability and sound environmental management.

1. The commissioner may award grants, within available funding, for the following purposes:

- (a.) to a county agricultural and farmland protection board for the implementation of any component of its approved agricultural protection plan which addresses improved farm profitability;
- (b.) to an applicant, other than a county agricultural and farmland protection board, for the development of a farmland viability plan or a portion of such a plan, which shall assess overall farm profitability and identify potential strategies for improved farm profitability such as farm expansion, value added production, diversification, environmental management, or marketing and promotional activities, and
- (c.) to an applicant, other than a county agricultural and farmland protection board, for the implementation of any component of its farmland viability plan which has been approved by the commissioner.

2. The commissioner shall consult with the college of agriculture and life sciences at Cornell university and the state advisory council on agriculture to identify and coordinate available resources for the farmland viability program.

**§ 330.** Matching grant program.

1. Subject to the availability of funds, a matching grant program is hereby established to effectuate the purposes of the program. Grants to applicants, other than a county agricultural and farmland protection board, shall not exceed seventy-five percent of the costs of preparing or implementing a farmland viability plan or portion thereof. Grants to county agricultural and farmland protection boards for implementation of an approved agricultural protection plan shall not exceed fifty percent of the cost of implementing such plan or portion thereof.

2. Project grants shall be awarded on a competitive basis through a request for proposal process which shall set forth the standards for the selection process, the required project proposal format, costs eligible for funding, project implementation, reporting requirements, and such other provisions as the commissioner may deem necessary or beneficial in implementing the program.

## **State Finance Law**

**§ 92-s.** Environmental protection fund. (*Note: Subdivisions 2-5 are unrelated to farmland protection.*)

1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a special fund to be known as the "environmental protection fund" (*Note: Subdivisions 6, paragraphs (b), (c) and (e) are unrelated to farmland protection.*)

6. (a) All moneys heretofore and hereafter deposited in the environmental protection transfer account shall be transferred by the comptroller to the solid waste account, the parks, recreation and historic preservation account or the open space account upon the request of the director of the budget.

(d) Moneys from the open space account shall be available, pursuant to appropriation, for any open space land conservation project, bio-diversity stewardship and research pursuant to chapter five hundred fifty-four of the laws of nineteen hundred ninety-three, for the purposes of agricultural and farmland protection activities as authorized by article twenty-five-AAA of the agriculture and markets law, non-point source abatement and control projects pursuant to section 17-1409 of the environmental conservation law and section eleven-b of the soil and water conservation districts law, for Long Island Central Pine Barrens area planning or Long Island south shore estuary reserve planning pursuant to title thirteen of article fifty-four of the environmental conservation law, and for operation and management of the Albany Pine Bush preserve commission pursuant to subdivision two of section 54-0303 of the environmental conservation law.

## **[Table of Contents](#)**

## **Non-English Speaker Pesticide Certification Program**

(Environmental Conservation Law: Title 7 - Registration of Pesticides, Section 33-0703-Application for registration and Title 9 – Permits and Certification, Section 33-0905-Pesticide applicator certification.)

**Section 33-0703.** Application for registration. The applicant shall file with the commissioner a statement including:

1. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant;
2. The name of the pesticide;
3. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it including directions for use;
4. If requested by the commissioner a full description of the tests made and their results upon which the claims are based. In the case of registration of a pesticide which has been registered for the previous year, a statement shall be required only with respect to information which is different from that furnished when the pesticide was last registered; and

**5. For restricted use pesticides, if requested by the commissioner Spanish or other language translation of the label including directions for use.** (*Note: Subdivision 5 added by Chapter 732 Laws of 2005.*)

**Section 33-0905.** Pesticide applicator certification.

1. Any person who engages in the commercial or private application of pesticides or the sale of restricted use pesticides shall be certified by the commissioner except as provided in subdivision two of this section. No certification shall be valid unless the certified person also holds a valid identification card issued by the commissioner.
2. The provisions of this article relating to registration and certification shall not apply to:

- (a) residential application of pesticides as defined in this article; or
- (b) private application of a general use pesticide as defined in this article.

3. (a) Application for pesticide applicator certification shall be made to the commissioner. The application shall be on a form prescribed by the commissioner and shall be accompanied by the fee or fees provided in section 33-0911.  
(b) An applicant for certification shall satisfy the commissioner as to his knowledge and experience concerning the proper use and application of pesticides and pesticide application equipment through examination prior to initial certification. Recertification shall be by training, workbook, or examination as required by the commissioner.  
(c) Upon certification, the commissioner shall certify the applicant for the appropriate category of certification and shall issue a certification identification card to the applicant. The certification may restrict the applicant to the use of a certain type or types of equipment or materials.  
(d) Except as provided in paragraphs e and f of this subdivision, pesticide applicator certifications shall be valid for three years after which every applicator shall recertify according to the requirements then in effect. Certification identification cards shall be valid for three years.

(e) Private applicator certifications shall be valid for five years after which every such applicator shall recertify according to the requirements then in effect.

Private applicator certification identification cards shall be valid for five years.

(f) Pesticide applicator certification for a commercial pesticide applicator with only subcategory 3A-ornamentals, shade trees and turf or only subcategory 3B-turf shall be valid for one year after which every applicator shall recertify according to the requirements then in effect. Certification identification cards for a commercial pesticide applicator with only subcategory 3A-ornamentals, shade trees and turf or only subcategory 3B-turf shall be valid for one year.

**(g) The commissioner is authorized to provide all examinations, training materials, applications, and any other forms or written materials necessary for a private and/or commercial applicator certification in Spanish for applicants whose primary language is Spanish and for other languages if the commissioner deems it necessary. The commissioner may require applicants for registration of pesticides to make available pesticide label information and instructions in Spanish and other languages, when necessary, for applicators certified in Spanish or other languages. (Note: Paragraph g added by Chapter 732 Laws of 2005.)**

## **[Table of Contents](#)**

## **Community Gardens**

(Agriculture and Markets Law: Article 2-C Community Gardens, sections 31g-i.)

**§ 31-g.** Definitions. As used in this article, unless another meaning is clearly indicated:

1. "Community garden" shall mean public or private lands upon which citizens of the state have the opportunity to garden on lands which they do not individually own.
2. "Garden" shall mean a piece of land appropriate for cultivation of herbs, fruits, flowers, or vegetables.
3. "Municipality" shall mean any county, town, village, city, school district or other special district.
4. "Office" shall mean the office of community gardens.
5. "Use" shall mean to avail oneself of or to employ without conveyance of title gardens on vacant public lands by any individual or organization.
6. "Vacant public land" shall mean any land owned by the state or a public corporation including a municipality that is not in use for a public purpose, is otherwise unoccupied, idle or not being actively utilized for a period of at least six months and is suitable for garden use.

**§ 31-h.** Office of community gardens; powers; duties.

1. The commissioner shall establish within the department an office of community gardens which shall have the authority and responsibility for carrying out the provisions of this article in cooperation with the state department of environmental conservation, the state education department, the department of state, cooperative extensions and other state agencies and municipalities.
2. The duties of the office shall include:
  - (a.) Upon request, the office shall assist in the identification of vacant public land within a given geographical location and provide information regarding agency jurisdiction and the relative suitability of such lands for community gardening purposes;
  - (b.) Serve as a coordinator on behalf of interested community groups and the appropriate state or local agencies to facilitate the use of vacant public lands for community garden use for not less than one growing season by receiving and forwarding with recommendation completed applications to the appropriate agency;
  - (c.) Support and encourage contact between community garden programs already in existence and those programs in the initial stages of development; and
  - (d.) Seek and provide such assistance, to the extent funds or grants may become available, for the purposes identified in this article.

**§ 31-i.** Use of state owned land for community gardens.

1. Any state agency, department, board, public benefit corporation, public authority or commission with title to vacant public land may permit community organizations to use such lands for community gardening purposes. Such use of vacant public land may be conditioned on the community organization possessing liability insurance and accepting liability for injury or damage resulting from use of the vacant public land for community gardening purposes.
2. State agencies which have received an application for use of public lands for community garden purposes shall respond to the applicant within thirty days and make a final determination within one hundred eighty days.

[\*\*Table of Contents\*\*](#)

## **Food Stamp Program**

(Social Services Law: Article 3 - Local Public Welfare Organization; Powers And Duties, Title 5 - Records, Reports, Funds And Appropriations, Section 95 - Food Stamp Program)

### **§ 95.** Food stamp program.

1. (a) The department is authorized to submit the plan required by the federal food stamp act of nineteen hundred sixty-four, to the secretary of the federal department of agriculture for approval, and to act for the state in any negotiations relative to the submission and approval of such plan, and may make such arrangements and take such action, not inconsistent with law, as may be required to obtain and retain such approval, to implement such plan, and to secure for the state the benefits available under such act.  
(b) The department is authorized to accept a designation, in accordance with the provisions of section twenty-nine, under any other federal law which may make food stamps available for needy families and individuals, and to perform such functions as may be appropriate, permitted or required by or pursuant to such law.
2. The department is empowered, with the consent and approval of the governor, to delegate or assign to any other department or agency of the state the performance of such function or functions under the plan or designation as may be appropriate and permitted or required by the appropriate federal law or regulations. Any state department or agency is hereby empowered and required to perform the function or functions so delegated or assigned to it.
3. (a) Each commissioner of social services is authorized and required, in accordance with regulations of the department, to make application for inclusion of his social services district in the federal food stamp plan or plans and to assist needy families and individuals of his social services district to obtain nutritionally adequate diets through participation in such federal food stamp plan or plans. However, only those persons who qualify for food stamps in accordance with federal and state requirements, and standards promulgated by the department, shall be certified as eligible to receive such stamps.  
(b) Each commissioner of social services is authorized and required, subject to state and federal requirements therefor, to act on behalf of the department and receive, store, and issue food stamps, either directly, or with the approval of the department, through a banking institution and/or other appropriate public or private agency.  
(c) Each commissioner of social services shall develop and submit to the department for its approval a plan describing his district's operations under this section, which plan shall accord with federal and state requirements.
4. A person's need or eligibility for public assistance and care shall not be affected by his receipt of food stamps.
5. Any inconsistent provision of law notwithstanding, the value of any free food stamps provided an eligible person shall not be considered income or resources for any purpose, including taxation.
6. (a) Any inconsistent provision of law notwithstanding, expenditures made by a social services district for the purpose of certifying eligibility of needy families and individuals, including those who are not in receipt of public assistance and care, for food stamps, and for distributing and redeeming such stamps shall be deemed to be expenditures for the administration of public assistance and care,

and shall be subject to reimbursement by the state in accordance with the provisions of section one hundred fifty-three of this chapter to the extent of one hundred percent in accordance with paragraph (b) of this subdivision.

(b) Such expenditures for food stamp administrative costs shall be subject to reimbursement by the state in accordance with regulations to be promulgated by the department, which regulations shall be subject to the approval of the director of the budget, shall be consistent with federal law and regulations, and shall be based on:

(i) an allocation of administrative costs attributable to both food stamps and home relief to permit maximum use of federal funds; and

(ii) an allocation of administrative costs attributable to both food stamps and aid to dependent children such that only those administrative costs that cannot be allocated to aid to dependent children are allocated to the food stamp program, provided, however, that if federal law, regulations, or cost allocation procedures require those administrative costs that may be allocated to be allocated between aid to dependent children and food stamps, then the administrative costs so allocated to food stamps shall be reimbursed as costs of public assistance and care in accordance with the provisions of paragraphs a and d of subdivision one of section one hundred fifty-three of this chapter.

7. When an eligible recipient under this section is issued an authorization to participate in the food stamp program by written or electronic means, such authorization to participate may be redeemed for food stamp program coupons at designated redemption centers by the recipient or by an authorized representative. When an eligible recipient under this section is issued food stamp program coupons, such food stamp program coupons may be used to purchase food items from a food distributor by the recipient or by an authorized representative. Any other transfer or sale of authorizations to participate or food stamp program coupons shall constitute an unauthorized use of said authorizations or coupons. For the purposes of this subdivision, "authorized representative" shall be defined in regulations promulgated by the commissioner.

8. Except as part of a transaction pursuant to subdivision seven of this section or as necessary for a food distributor to redeem food stamp program coupons subsequent to such a transaction, any acquisition, acceptance, purchase, possession, sale, transfer, alteration or manufacture of authorizations to participate or food stamp program coupons, real or counterfeit, by any person shall constitute an unauthorized use of said authorizations or coupons. For purposes of this subdivision, the term "person" shall mean any individual, corporation, partnership, association, agency, or other legal entity, or any part thereof.

9. (a) The parent or other individual who is living with and exercising parental control over a child under the age of eighteen who has an absent parent is not eligible to participate in the food stamp program if such person refuses to cooperate with the department in establishing the paternity of the child (if the child is born out of wedlock) and in obtaining support for the child or the parent (or other individual) and the child. This paragraph does not apply to the parent (or other individual) if the department determines that there is good cause for the refusal to cooperate.

(b) A putative or identified noncustodial parent of a child under the age of eighteen is not eligible to participate in the food stamp program if such individual refuses to cooperate with the department in establishing the paternity of the child (if the child is born out of wedlock) and in providing support for the child. The



use of the information collected pursuant to this paragraph shall be limited to the purposes for which the information is collected and is subject to the confidentiality provisions set forth in section one hundred thirty-six of this chapter.

(c) To the extent not inconsistent with federal law and regulations, an individual is not eligible to participate in the food stamp program as a member of any household if the individual is under court order to pay child or combined child and spousal support and has accumulated support arrears equivalent to or greater than the amount of current support due for a period of four months.

**\*10. \* This subdivision expired September 30, 2005**

*(a) Social services districts are authorized to operate a food assistance program in accordance with regulations promulgated by the office of temporary and disability assistance within the department of family assistance. Social services district participation in the food assistance program is optional. Districts opting to participate in the food assistance program shall provide written notification to the office. Such written notification shall include, but not be limited to, a statement whereby the district agrees to operate a food assistance program in accordance with federal and state statutory, regulatory and policy requirements.*

*(b) In order to be eligible to receive benefits in the food assistance program, a person must:*

*(i) be otherwise fully eligible to receive federal food stamp benefits except for the provisions of section four hundred two of the Personal Responsibility And Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) as amended by the Farm Security and Rural Investment Act of 2002 (P.L. 107-171); and*

*(ii) on August twenty-second, nineteen hundred ninety-six, have been living in the United States; and*

*(iii) (1) be identified as a victim of domestic violence through procedures outlined in section three hundred forty-nine-a of this chapter or classified as a qualified alien through application of the provisions contained in subsection (c) of 8 USC §1641; or (2) be elderly as defined by 7 USC 2012; and*

*(iv) not have been absent from the United States for more than ninety days within the twelve month period immediately preceding the date of application for the food assistance program; and*

*(v) apply to the United States department of justice, immigration and naturalization services for United States citizenship. If the applicant for the food assistance program is eligible to apply for United States citizenship, such application shall be made no later than thirty days from the date of application for the food assistance program. If the applicant for the food assistance program is not eligible to apply for United States citizenship on the date of application for the food assistance program, such application for citizenship must be made no later than thirty days after the person becomes eligible to apply for United States citizenship in accordance with the requirements of the United States immigration and naturalization services.*

*(c) Social services districts shall be financially responsible for fifty percent of the non-federal share of the necessary costs of operating the food assistance program, including the cost of purchasing the food stamps and any other payments to the federal government required for participating in the program.*

*To the extent that the office of temporary and disability assistance makes expenditures to operate the food assistance program on behalf of a social services district, the participating social services district shall reimburse the office for fifty percent of the non-federal share of such costs.*

*(d) Any provision of federal or state law or regulations imposing a sanction, fine, disqualification or other penalty, including criminal penalties, for any violation of such law or regulation with respect to the food stamp program shall apply to the food assistance program.*

*(e) The office of temporary and disability assistance is authorized to submit a plan to the federal government in accordance with federal law (P.L. 105-18) in order to secure federal approval to operate the food assistance program in accordance with that law. Such plan shall describe the conditions and procedures under which the benefits will be issued including eligibility standards, benefit levels, and the methodology the office will use to determine the payments due to the federal government.*

*(f) The office of temporary and disability assistance is authorized to purchase food stamps from the federal government for use in the food assistance program and to make such other expenditures as are necessary to operate the program. The office of temporary and disability assistance may operate the food assistance program using food stamp coupons or other access devices including an electronic benefit transfer card, personal identification number or debit card. To the extent that such means of benefit issuance is being used by participants in the federal food stamp program in New York state.*

*(g) At the time of application for the food assistance program, an applicant shall, as a condition of receiving such assistance, present proof of identity to the social services official as the office of temporary and disability assistance may require by regulation and the applicant shall provide such proof thereafter whenever required by such official. The commissioner of the social services district shall require that a recipient of food assistance benefits comply with the requirements of an automated fraud prevention system as established for recipients of public assistance and care in accordance with the provisions of this chapter. Such system shall be used to establish personally unique identification factors to prevent fraud and multiple enrollments. The social services district shall be responsible for fifty percent of the costs of establishing and operating such system in accordance with paragraph (c) of this subdivision. Personally identifying information about applicants for and recipients of the food assistance program obtained through the establishment or operation of the system by the office, social services districts or by a contractor shall be kept confidential in accordance with section one hundred thirty-six of this chapter and the regulations of the office.*

*(h) Any inconsistent provision of law notwithstanding, in the event the federal government assesses a penalty, sanction, or fine because of a social services district's incorrect issuance of food stamp benefits in cases where the household consists of both federally participating food stamp program recipients and recipients under the food assistance program, social services districts shall be responsible for one hundred percent of the penalty, sanction, or fine assessed by the federal government.*

*(i) The commissioner of the office of temporary and disability assistance is authorized to file regulations on an emergency basis that are deemed by the commissioner to be necessary to implement the food assistance program.*

*(j) If any clause, sentence, paragraph or subdivision of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or subdivision thereof directly involved in the controversy in which such judgement shall have been rendered.*

*(k) This subdivision shall be effective only when and for so long as that federal approval, as set forth in paragraph (e) of this subdivision, has been obtained. This subdivision shall terminate and cease to be in force and effect on and after September thirtieth, two thousand five.*

**11. Notwithstanding any other provision of law to the contrary, the office of temporary and disability assistance within the department of family assistance shall develop a brief, simplified application form for the food stamp program only. The office of temporary and disability assistance shall develop the form in consultation with food stamp outreach organizations and consider how the form may be used to reach as many potential applicants as possible, especially those over sixty years of age and those who are employed. (Note: Subdivision 11 is Chapter 333 Laws of 2002**

## **[Table of Contents](#)**

## **Gleaning: Liability For Canned, Perishable Food Or Farm Products Distributed Free Of Charge**

(Agriculture and Markets Law: Article 4D Liability For Canned, Perishable Food Or Farm Products Distributed Free Of Charge, Sections 71 y-z.)

**§ 71-y.** Definitions. As used in this article:

1. "Perishable foods" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. Perishable food includes, but is not limited to, fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits or vegetables and foods that have been packaged, refrigerated or frozen, or otherwise require refrigeration to remain nonperishable. This definition shall not include game or wild game.
2. "Canned foods" means any canned food that has been hermetically sealed and commercially processed and prepared for human consumption, including canned or preserved fruits, vegetables or other articles of food. There is specifically excluded for purposes of this section canned goods that are rusted, leaking, swollen or canned goods that are defective or cannot be otherwise offered for sale to members of the general public.
3. "Farm products" means any agricultural, dairy or horticultural product or any product designed or intended for human consumption or prepared principally from an agricultural, dairy or horticultural product.
4. "Charitable or nonprofit organization" means any organization which is exempt from federal or state income taxation, except that the term does not include organizations which sell or offer to sell such donated items of food.
5. "Organized gleaning" means the harvest of an agricultural crop that has been donated by an owner, lessee, or occupant of premises or occupant of a farm by persons who are sponsored by a charitable not-for-profit organization.
6. "Game or wild game" means any deer or big game, or portions thereof, as defined in section 11-0103 of the environmental conservation law, taken by lawful hunting.
7. "Public food service establishment" means any building, vehicle, place or structure, or any room or division in a building, vehicle, place or structure where food is prepared, served or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

**§ 71-z.** Liability for canned, perishable food or farm products distributed free of charge.

1. Notwithstanding any other provision of law, a good-faith donor of any canned or perishable food, farm product, game or wild game, apparently fit for human consumption, to a bona fide charitable or nonprofit organization, for free distribution, shall not be subject to criminal penalty or civil damages arising from the condition of the food, if the said donor reasonably inspects the food at the time of donation and finds the food apparently fit for human consumption and unless the donor has actual or constructive knowledge that the food is adulterated, tainted, contaminated or harmful to the health or well-being of the person consuming said food. Such good-faith donor shall include, but not be limited to, public food service establishments.
2. This section includes the good faith donation of canned or perishable food or farm products not readily marketable due to appearance, freshness, grade, surplus or other considerations, but shall not be deemed or construed to restrict the authority of any lawful agency to otherwise regulate or ban the use of such food for human consumption.

3. A not-for-profit charitable organization shall provide liability insurance to persons engaged in gleaning activities organized or sponsored by such charitable organization.

## **Table of Contents**

## **Nutrition Outreach And Public Education Program**

(Social Services Law: Article 8-A- Nutrition outreach and public education program, Sections 465-465d.)

**§ 465.** Nutrition outreach and public education program; establishment.

The nutrition outreach and public education program is established within the office of temporary and disability assistance. Such program is established to ensure maximum participation by eligible persons in federal and state food assistance programs. The program shall be structured so as to increase participation statewide but with particular attention to high risk areas with a focus on certain at risk populations.

**§ 465-a.** Definitions. As used in this article:

1. "High risk areas" means any county or urban area where a significant percentage or number of those potentially eligible for food assistance programs are not participating in such programs.
2. "Food assistance programs" means programs including but not limited to food stamp programs, school breakfast and lunch programs, child care food programs, summer food service programs, special supplemental programs for women, infants and children, congregate meal programs and home delivered meal programs.
3. "At risk populations" means populations including but not limited to families with children receiving family assistance, households receiving federal supplemental security income payments, households with incomes at or below one hundred eighty-five percent of the poverty level, recipients of emergency food, elderly or disabled persons, homeless persons, unemployed persons, and families and persons residing in rural households who are at risk of nutritional deficiencies.

**§ 465-b.** Responsibilities of the commissioner. The commissioner shall directly or through contract administer a program of nutrition outreach that shall include but not be limited to:

1. statewide coordination;
2. provision of information as to the availability of, eligibility criteria for, and application procedure for food assistance programs;
3. coordination of efforts among state agencies including, but not limited to, the department of health, the office for the aging, and the education department and community agencies involved in food assistance programs;
4. compilation of statistical data from state and local agencies and dissemination to community organizations; and
5. nutrition education.

**§ 465-c.** Grants to community organizations. The commissioner shall make grants within the amount appropriated therefor to community-based organizations or consortia of community-based organizations in high risk areas for outreach activities. Such outreach activities shall include but not be limited to:

1. identification of barriers to participation in food assistance programs including the unavailability of such programs;
2. information as to program availability, individual or household eligibility, and application procedure;
3. identification of at risk populations and individuals within the at risk populations who are not participating;
4. assistance with eligibility requirements including verification and enrollment;

5. dissemination of information to and conducting training sessions for local groups; and
6. nutrition education to at risk populations.

**§ 465-d.** Criteria for high risk areas. In selecting those areas which would be determined to be high risk and therefore eligible for a grant, the commissioner may consider factors including, but not limited to:

1. fifty percent or more of those potentially eligible are not participating in the food stamp program or where a significant number of the population potentially eligible, particularly the working poor and the elderly, are not participating;
2. twenty-five percent or more of children are eligible for free or reduced price meals within the school lunch program;
3. infant mortality or morbidity rates;
4. economic indicators including, but not limited to, the unemployment rate, prevailing wages, and recent loss of job base;
5. high concentration of at risk populations; and
6. unavailability of food assistance programs in the area because of lack of provider participation or knowledge about the existence of such programs.

## [Table of Contents](#)

## **Childhood Obesity Prevention Program**

(Public Health Law: Article 25, Maternal & Child Health, Sections 2599a-d)

**§ 2599-a.** Childhood obesity prevention program; establishment. The childhood obesity prevention program is established within the department.

**§ 2599-b.** Program development.

1. The program shall be designed to prevent and reduce the incidence and prevalence of obesity in children and adolescents, especially among populations with high rates of obesity and obesity-related health complications including, but not limited to, diabetes, heart disease, cancer, osteoarthritis, asthma and other conditions. The program shall use recommendations and goals of the United States departments of agriculture and health and human services, the surgeon general and centers for disease control in developing and implementing guidelines for nutrition education and physical activity projects as part of obesity prevention efforts. The content and implementation of the program shall stress the benefits of choosing a balanced, healthful diet from the many options available to consumers, without specifically targeting the elimination of any particular food group, food product or food-related industry.

2. The childhood obesity prevention program shall include, but not be limited to:

- (a) developing media health promotion campaigns targeted to children and adolescents and their parents and caregivers that emphasize increasing consumption of low-calorie, high-nutrient foods, decreasing consumption of high-calorie, low-nutrient foods and increasing physical activity designed to prevent or reduce obesity;
- (b) establishing school-based childhood obesity prevention nutrition education and physical activity programs including programs described in section twenty-five hundred ninety-nine-c of this article, as well as other programs with linkages to physical and health education courses, and which utilize the school health index of the National Center for Chronic Disease Prevention and Health Promotion or other recognized school health assessment;
- (c) establishing community-based childhood obesity prevention nutrition education and physical activity programs including programs which involve parents and caregivers, and which encourage communities, families, child care and other settings to provide safe and adequate space and time for physical activity and encourage a healthy diet;
- (d) coordinating with the state education department, department of agriculture and markets, office of parks, recreation and historic preservation, office of temporary and disability assistance, office of children and family services and other federal, state and local agencies to incorporate strategies to prevent and reduce childhood obesity into government food assistance, health, education and recreation programs;
- (e) sponsoring periodic conferences or meetings to bring together experts in nutrition, exercise, public health, mental health, education, parenting, media, food marketing, food security, agriculture, community planning and other disciplines to examine societal-based solutions to the problem of childhood obesity and issue guidelines and recommendations for New York state policy and programs
- (f) developing training programs for medical and other health professionals to teach practical skills in nutrition and exercise education to children and their parents and caregivers; and



- (g) developing screening programs in coordination with health care providers and institutions including but not limited to day care centers and schools for overweight and obesity for children aged two through eighteen years, using body mass index (BMI) appropriate for age and gender, and notification, in a manner protecting the confidentiality of such children and their families, of parents of BMI status, and explanation of the consequences of such status, including recommended actions parents may need to take and information about resources and referrals available to families to enhance nutrition and physical activity to reduce and prevent obesity.
3. The department shall periodically collect and analyze information from schools, health and nutrition programs and other sources to determine the prevalence of childhood obesity in New York state, and to evaluate, to the extent possible, the effectiveness of the childhood obesity prevention program.

**§ 2599-c.** School-based childhood obesity prevention and physical activity programs. The commissioner shall encourage the establishment of school-based childhood obesity prevention and physical activity programs that promote:

1. A healthy school environment, including physical and aesthetic surroundings and culture designed to prevent and reduce the incidence and prevalence of obesity; and
2. Parent/community involvement, including an integrated school, parent, and community approach for enhancing the health and well-being of students.

**§ 2599-d.** Powers of commissioner. The commissioner may administer directly or through contract, within the amount of funds allocated and within amounts appropriated pursuant to paragraph (k) of subdivision one of section twenty-eight hundred seven-v of this chapter, the childhood obesity prevention program. The commissioner shall also make grants, within the amount of funds available therefore, for community-based and school-based projects targeted to high-risk populations and communities to implement the provisions of this title.

## [Table of Contents](#)

## **Child Performer Advisory Board To Prevent Eating Disorders**

(Labor law: Article 4-A - Employment And Education Of Child Performers, Section 154)

**§ 154.** Child performer advisory board to prevent eating disorders.

1. The commissioner, in consultation with the commissioner of health and the commissioner of mental health, shall establish a child performer advisory board for the purpose of recommending guidelines for the employment of child performers and models under the age of eighteen and preventing eating disorders such as anorexia nervosa and bulimia nervosa amongst such persons. The advisory board shall consist of at least sixteen but no more than twenty members appointed by the commissioner, and shall include: representatives of professional organizations or unions representing child performers or models; employers representing child performers or models; physicians, nutritionists and mental health professionals with demonstrated expertise in treating patients with eating disorders; at least one representative from each of the comprehensive care centers for eating disorders established pursuant to article twenty-seven-J of the public health law; advocacy organizations working to prevent and treat eating disorders; and other members deemed necessary by the commissioner. In addition, the commissioner of health and the commissioner of mental health, or their designees, shall serve on the advisory board. The members of the advisory board shall receive no compensation for their services but shall be reimbursed their actual and necessary expenses incurred in the performance of their duties.

2. The advisory board is authorized to develop recommendations to the commissioner establishing guidelines relating to the employment of child performers and models under the age of eighteen for purposes of preventing and accessing treatment for eating disorders such as anorexia nervosa and bulimia nervosa amongst such child performers and models. When developing such guidelines, the advisory board shall consider

- (a) body mass index standards or weight and height standards,
- (b) employment restrictions for persons diagnosed with or suspected of having an eating disorder,
- (c) requiring medical or mental health screenings, by medical or mental health professionals with demonstrated expertise in the diagnosis and treatment of eating disorders, for persons suspected of having an eating disorder, and (d) requiring referrals for treatment of eating disorders.

3. The advisory board shall further develop recommendations for educational and informational materials for such child performers and models, their parents and/or guardians and their employers regarding awareness and recognition of eating disorders, and referral and treatment information of eating disorders such as anorexia nervosa and bulimia nervosa.

4. The commissioner shall consider the recommendations developed by the advisory board, which include employment guidelines and the development of educational and informational materials pursuant to this section, when adopting, promulgating, amending and rescinding the rules and regulations necessary to carry out the provisions of this section. The advisory board shall report to the commissioner regarding its recommendations, including the guidelines, programs and findings developed pursuant to this section.

**[Table of Contents](#)**

## **Comprehensive Care Centers For Eating Disorders**

(Public Health Law: Article 27-J - Comprehensive Care Centers For Eating Disorders, Sections 2799-d through 2799-i. and Article 28 – Hospitals, Section 2807-v Tobacco control and insurance initiatives pool distributions. Mental Hygiene Law: Article 31 - Regulation And Quality Control Of Services For The Mentally Disabled, Section 31.25. Insurance Law: Article 32- Insurance Contracts - Life, Accident And Health, Annuities, Section 3221 Group or blanket accident and health insurance policies; standard provisions; Article 43 - Non-Profit Medical And Dental Indemnity, Or Health And Hospital Service Corporations, Sections 4303 Benefits and, 4322 Standardization of individual enrollee direct payment contracts offered by health maintenance organizations which provide out-of-plan benefits.)

### **Public Health Law**

**§ 2799-d.** Legislative findings. The legislature hereby finds that effective diagnosis and treatment for citizens struggling with eating disorders, a complex and potentially life-threatening condition, requires a continuum of interdisciplinary providers and levels of care. Such effective diagnosis and treatment further requires the coordination and comprehensive management of an individualized plan of care specifically oriented to the distinct needs of each individual.

The legislature further finds that, while there are numerous healthcare providers in the state with expertise in eating disorder treatment, there is no generally accessible, comprehensive system for responding to these disorders. Due to the lack of such a system the legislature finds that treatment, information/referral, prevention and research activities are fragmented and incomplete. In addition, due to the broad, multifaceted needs of individuals with eating disorders, insurance payments for the necessary plan of care and providers is usually fragmented as well, leaving citizens with insufficient coverage for essential services and, therefore, at risk of incomplete treatment, relapse, deterioration and potential death.

The legislature therefore declares that the state take positive action to facilitate the development and public identification of provider networks and care centers of excellence to provide a coordinated, comprehensive system for the treatment of such disorders, as well as to conduct community education, prevention, information/referral and research activities. The legislature further declares that health coverage by insurers and health maintenance organizations should include covered services provided through such centers and that, to the extent possible and practicable, health plan reimbursement should be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers are required to provide.

**§ 2799-e.** Definitions. For purposes of this article:

1. "Eating disorder" is defined to include, but not be limited to, conditions such as anorexia nervosa, bulimia and binge eating disorder, identified as such in the ICD-9-CM International Classification of Disease or the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, or other medical and mental health diagnostic references generally accepted for standard use by the medical and mental health fields.
2. "Comprehensive care centers for eating disorders" or "comprehensive care centers" means a provider-sponsored system of care, organized by either corporate affiliation or clinical association for the common purpose of providing a coordinated, individualized plan of care for an individual with an eating disorder, across a continuum that includes

all necessary non-institutional, institutional and practitioner services and treatments, from initial patient screening and evaluation, to treatment, follow-up care and support.

**§ 2799-f.** Comprehensive care centers for eating disorders; established. The commissioner shall provide for the public identification of comprehensive care centers for persons with eating disorders for the purposes of:

1. Promoting the operation of a continuum of comprehensive, coordinated care for persons with eating disorders;
2. Promoting ready access to information, referral and treatment services on eating disorders for consumers, health practitioners, providers and insurers, with access in every region of the state;
3. Promoting community education, prevention and patient entry into care; and
4. Promoting and coordinating regional and statewide research efforts into effective methods of education, prevention and treatment, including research on the various models of care.

**§ 2799-g.** Qualifying criteria.

1. In order to qualify for state identification as a comprehensive care center for eating disorders pursuant to this article, applicants must demonstrate to the commissioner's satisfaction that, at a minimum:

(a) The applicant can provide a continuum of care tailored to the specialized needs of individuals with eating disorders, with such continuum including at least the following levels of care:

(i) Individual health, psychosocial and case management services, in both noninstitutional and institutional settings, from licensed and certified practitioners with demonstrated experience and expertise in providing services to individuals with eating disorders;

(ii) Medical/surgical, psychiatric and rehabilitation care in a general hospital or a hospital licensed under the mental hygiene law; provided that, whenever practicable and appropriate, the service setting for any such care shall be oriented to the specific needs, treatment and recovery of persons with eating disorders;

(iii) Residential care and services in a residential health care facility licensed under article twenty-eight of this chapter, or a facility licensed under article thirty-one of the mental hygiene law which will provide a program of care and service setting that is specifically oriented to the needs of individuals with eating disorders;

(b) The care of individuals will be managed and coordinated at each level and throughout the continuum of care;

(c) The applicant is able to conduct activities for community education, prevention, information/referral and research; and

(d) The applicant meets such additional criteria as are established by the commissioner.

2. Eligible applicants shall include but are not limited to providers licensed under article twenty-eight of this chapter or article thirty-one of the mental hygiene law or health or mental health practitioners licensed under title eight of the education law.

3. The commissioner shall seek the recommendation of the commissioner of mental health prior to identifying an applicant as a comprehensive care center under this article.

**§ 2799-h.** State identification of comprehensive care centers for eating disorders; commissioner's written notice.

1. The commissioner shall identify a sufficient number of comprehensive centers to ensure adequate access to services in all regions of the state, provided that, to the extent possible, the commissioner shall identify such care centers geographically dispersed throughout the state, and provided further, however, that the commissioner shall, to the extent possible, initially identify at least three such centers.

2. The commissioner's identification of a comprehensive care center for eating disorders under this article shall be valid for not more than a two year period from the date of issuance. The commissioner may reissue such identifications for subsequent periods of up to two years, provided that the comprehensive care center has notified the commissioner of any material changes in structure or operation based on its original application, or since its last written notice by the commissioner, and that the commissioner is satisfied that the center continues to meet the criteria required pursuant to this article.

3. The commissioner may suspend or revoke his or her written notice upon a determination that the comprehensive care center has not met, or would not be able to meet, the criteria required pursuant to this article, provided, however that the commissioner shall afford such center an opportunity for a hearing, in accordance with section twelve-a of this chapter, to review the circumstances of and grounds for such suspension or revocation and to appeal such determination.

**§ 2799-i.** Restricted use of title. No person or entity shall claim, advertise or imply to consumers, health plans or other health care providers that such provider or practitioner is a state-identified comprehensive care center for eating disorders unless it is qualified pursuant to section twenty-seven hundred ninety-nine-h of this article.

**§ 2807-v.** Tobacco control and insurance initiatives pool distributions.

1. Funds accumulated in the tobacco control and insurance initiatives pool or in the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, including income from invested funds, shall be distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following: (*Note: paragraphs a & b are unrelated to eating disorders*)

(c) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, enhanced community services account, or any successor fund or account, for mental health services programs for case management services for adults and children; supported housing; home and community based waiver services; family based treatment; family support services; mobile mental health teams; transitional housing; and community oversight, established pursuant to articles seven and forty-one of the mental hygiene law and subdivision nine of section three hundred sixty-six of the social services law; and for comprehensive care centers for eating disorders pursuant to section twenty-seven hundred ninety-nine-l of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the enhanced community services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law; from the tobacco control and insurance initiatives pool

established for the following periods in the following amounts: *(Note: The paragraphs that follow (c) specify different levels of funding for different years for all the funds and purposes in the tobacco control and insurance initiatives pool distributions.)*

### **Mental Hygiene Law**

**§ 31.25.** Residential services for treatment of eating disorders.

The commissioner shall establish, pursuant to regulation, licensed residential providers of treatment and/or supportive services to children, adolescents, and adults with eating disorders, as that term is defined in section twenty-seven hundred ninety-nine-e of the public health law. Such regulations shall be developed in consultation with representatives from each of the comprehensive care centers for eating disorders established pursuant to article twenty-seven-J of the public health law and licensed treatment professionals, such as physicians, psychiatrists, psychologists and therapists, with demonstrated expertise in treating patients with eating disorders.

### **Insurance Law**

**§ 3221.** Group or blanket accident and health insurance policies; standard provisions.

*(Note: Section 3221, subdivisions a-j and k, sub-paragraphs 1-13 are not specific to eating disorders.)*

(k) (14) No group or blanket policy delivered or issued for delivery in this state which provides medical, major medical or similar comprehensive-type coverage shall exclude coverage for services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article twenty-seven-J of the public health law; provided, however, that reimbursement under such policy for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

**§ 4303.** Benefits. *(Note: Subdivisions a-y, and z, sub-paragraphs z-1 and z-1(2)aa and bb are not specific to eating disorders.)*

(z) No contract issued by a medical expense indemnity corporation, a hospital service corporation or a health service corporation shall exclude coverage of a health care service, as defined in paragraph two of subsection (e) of section four thousand nine hundred of this chapter, rendered or proposed to be rendered to an insured on the basis that such service is experimental or investigational, is rendered as part of a clinical trial as defined in subsection (b-2) of section forty-nine hundred of this chapter, or a prescribed pharmaceutical product referenced in subparagraph (B) of paragraph two of subsection (e) of section forty-nine hundred of this chapter provided that coverage of the patient costs of such service has been recommended for the insured by an external appeal agent upon an appeal conducted pursuant to subparagraph (B) of paragraph four of subsection (b) of section four thousand nine hundred fourteen of this chapter. The determination of the external appeal agent shall be binding on the parties. For purposes of this paragraph, patient costs shall have the same meaning as such term has for purposes of subparagraph (B) of paragraph four of subsection (b) of section four thousand nine hundred fourteen of this chapter; provided, however, that coverage for the services required under this subsection shall be provided subject to the terms and conditions generally applicable to other benefits provided under the policy.

(z-1) (2) (dd) No health service corporation or medical service expense indemnity corporation which provides medical, major medical or similar comprehensive-type coverage shall exclude coverage for services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article twenty-seven-J of the public health law; provided, however, that reimbursement by such corporation for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

**§ 4322.** Standardization of individual enrollee direct payment contracts offered by health maintenance organizations which provide out-of-plan benefits. *(Note: Subdivision a and paragraphs 1-26 are not specific to eating disorders)*

(b) The in-plan and out-of-plan covered benefits for the standardized individual enrollee direct payment contract shall include coverage for all health services which an enrolled population in a health maintenance organization might require in order to be maintained in good health, rendered without limitation as to time and cost, except to the extent permitted by this chapter. The in-plan and out-of-plan covered services include the following:

(27) Services covered under such policy when provided by a comprehensive care center for eating disorders pursuant to article twenty-seven-J of the public health law; provided, however, that reimbursement under such policy for services provided through such comprehensive care centers shall, to the extent possible and practicable, be structured in a manner to facilitate the individualized, comprehensive and integrated plans of care which such centers' network of practitioners and providers are required to provide.

## [Table of Contents](#)

## **Professional Certification For Dietitians And Nutritionists**

(Education Law: Title 8 – Professions, Article 157- Dietetics and Nutrition, Section 8000-8006.)

**§ 8000.** Introduction. This article applies to the use of the titles "certified dietitian" and "certified nutritionist". The general provision for all professions contained in article one hundred thirty of this title shall apply to this article.

**§ 8001.** Definitions.

1. Dietetics and nutrition are herein each defined as the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health.
2. Where the title "certified dietitian" or "certified nutritionist" is used in this article it shall mean "certified dietitian", "certified dietician", or "certified nutritionist".
3. A certified dietitian or certified nutritionist is one who engages in the integration and application of principles derived from the sciences of nutrition, biochemistry, physiology, food management and behavioral and social sciences to achieve and maintain people's health, and who is certified as such by the department pursuant to section eight thousand four of this article. The primary function of a certified dietitian or certified nutritionist is the provision of nutrition care services that shall include:
  - (a) Assessing nutrition needs and food patterns;
  - (b) Planning for and directing the provision of food appropriate for physical and nutrition needs; and
  - (c) Providing nutrition counseling.

**§ 8002.** Use of titles. Only a person certified under this article shall be authorized to use the title "certified dietitian", "certified dietician", or "certified nutritionist".

**§ 8003.** State board for dietetics and nutrition. A state board for dietetics and nutrition shall be appointed by the board of regents, on recommendation of the commissioner, for the purpose of assisting the board of regents and the department on matters of certification and professional conduct in accordance with section sixty-five hundred eight of this chapter. The board shall consist of not less than thirteen members, ten of whom shall be certified dietitians or certified nutritionists, except that the members of the first board need not be certified but shall be persons who are eligible for certification under the provisions of this article prior to their appointment to the board. The first board, with respect to members representing the profession, shall consist of five members registered by a national dietetic association having registration standards acceptable to the department and five members who are members of or registered by a national nutritional association having membership and/or registration standards acceptable to the department. Thereafter, members of the profession appointed to such board shall be certified pursuant to this article. To the extent reasonable, the board of regents should insure the state board is broadly representative of various professional interests within the dietetic and nutritional community. Three members shall be representatives of the general public. An executive secretary to the board shall be appointed by the board of regents on the recommendation of the commissioner.

**§ 8004.** Requirements for certification. To qualify for certification, an applicant shall fulfill the following requirements:

1. File an application with the department;



2. (a) (1) Have received an education including a bachelor's degree, or its equivalent as determined by the department, in dietetics/nutrition or an equivalent major course of study which shall include appropriate core curriculum courses in dietetics/nutrition from an accredited college or university as approved by the department, in accordance with the commissioner's regulations; and  
(2) Have completed a planned, continuous, experience component, in accordance with the commissioner's regulations, in dietetic or nutrition practice under the supervision of a certified dietitian or certified nutritionist or a dietitian or nutritionist who is registered by or is a member of a national dietetic association or national nutrition association having registration or membership standards acceptable to the department; such experience shall be satisfactory to the board and in accordance with the commissioner's regulations; or
  - (b) (1) Have received an education including an associates degree in dietetics or nutrition acceptable to the department,  
(2) In the last fifteen years have completed ten years of experience and education in the field of dietetics or nutrition satisfactory to the board in accordance with the commissioner's regulations. These ten years must be the full time equivalent of any combination of post secondary dietetic or nutrition education and dietetic or nutrition work experience satisfactory to the board in accordance with the commissioner's regulations, and  
(3) Have obtained the endorsement of three dietitians or nutritionists acceptable to the department;
3. Pass an examination satisfactory to the board and in accordance with the commissioner's regulations; provided that such examination shall test a level of knowledge and experience equivalent to that obtained by an individual satisfactorily meeting the requirements of paragraph (a) of subdivision two of this section;
  4. Pay a fee of one hundred seventy-five dollars to the department for admission to a department conducted examination and for initial certification, a fee of eighty-five dollars for each reexamination, a fee of one hundred fifteen dollars for an initial certification for persons not requiring admission to a department conducted examination, a fee of one hundred fifty-five dollars for each triennial registration period;
  5. Be at least eighteen years of age.

**§ 8005.** Special provisions. Nothing contained in this article shall be deemed to alter, modify or impair any conditions of employment relating to service in the federal government, the state of New York, its political subdivisions, including school districts, or special districts and authorities or any facilities or institutions under the jurisdiction of or subject to the certification of any agency of the state of New York or its political subdivisions.

**§ 8006.** Special conditions. A person shall be certified without examination provided that, within three years of the effective date of this article, the individual:

1. files an application and pays the appropriate fees to the department; and
2. (a) is registered as a dietitian or nutritionist by a national dietetic or national nutrition association having registration standards acceptable to the department;  
(b) meets the requirements of subparagraph one of paragraph (a) of subdivision two and subdivision five of section eight thousand four of this article and has been actively engaged in the provision of nutrition care services for a minimum of three years during the five years immediately preceding the effective date of this article; or

(c) meets all the requirements of paragraph (b) of subdivision two and subdivision five of section eight thousand four of this article.

## **Table of Contents**

## **Allergy and Anaphylaxis Management For Schools**

(Public Health Law: Article 25-Maternal and Child Health, Title I - General Provisions, Section 2500-h)

**§ 2500-h.** Anaphylactic policy for school districts.

1. The commissioner, in consultation with the commissioner of education, shall establish an anaphylactic policy for school districts setting forth guidelines and procedures to be followed for both the prevention of anaphylaxis and during a medical emergency resulting from anaphylaxis. Such policy shall be developed after consultation with representatives of pediatric physicians, school nurses and other health care providers with expertise in treating children with anaphylaxis, parents of children with life threatening allergies, school administrators, teachers, school food service directors and appropriate not-for-profit corporations representing allergic individuals at risk for anaphylaxis.

2. The anaphylactic policy established by subdivision one of this section shall include the following:

(a) a procedure and treatment plan, including responsibilities for school nurses and other appropriate school personnel, for responding to anaphylaxis;

(b) a training course for appropriate school personnel for preventing and responding to anaphylaxis;

(c) a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with a food or other allergy which could result in anaphylaxis;

(d) a communication plan for intake and dissemination of information regarding children with a food or other allergy which could result in anaphylaxis; and

(e) strategies for the reduction of the risk of exposure to anaphylactic causative agents, including food and other allergens.

3. On or before June thirtieth, two thousand eight, an anaphylactic policy shall be jointly forwarded by the commissioner and the commissioner of education to each local school board of education, charter school, and board of cooperative educational services in the state. Each such board and charter school shall consider and take action in response to such anaphylactic policy.

### **[Table of Contents](#)**

## **Prohibiting The Sale Of Certain Sweetened Foods**

(Education Law: Title I-General Provisions, Article 19-Medical and Health Service, Section 915)

§ 915. Prohibiting the sale of certain sweetened foods. From the beginning of the school day until the end of the last scheduled meal period, no sweetened soda water, no chewing gum, no candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn, and no water ices except those which contain fruit or fruit juices, shall be sold in any public school within the state.

### **[Table of Contents](#)**

## **Farm-To-School**

(Agriculture and Markets Law: Article 2 -Department of Agriculture and Markets; Jurisdiction; General Powers and Duties, Section 16 - General powers and duties of department, subdivision 5-b. Education Law: Article 7-Commissioner of Education, Section 305-General powers and duties, subdivision 31.)

**§ 16. Agriculture and Markets.** General powers and duties of department. The department through the commissioner shall have power to: *(Note: Section 16, subdivisions 1-5a and 6-44 are unrelated to Farm-to-School.)*

5-b. Establish, in cooperation with the commissioner of education, a farm-to-school program to facilitate and promote the purchase of New York farm products by schools, universities and other educational institutions under the jurisdiction of the education department. The department shall solicit information from the education department regarding school districts and other educational institutions interested in purchasing New York farm products, including but not limited to, the type and amount of such products schools wish to purchase and the name of the appropriate contact person from the interested school district. The department shall make this information readily available to interested New York farmers, farm organizations and businesses that market New York farm products. The department shall provide information to the education department and interested school districts and other educational institutions about the availability of New York farm products, including but not limited to, the types and amount of products, and the names and contact information of farmers, farm organizations and businesses marketing such products. The commissioner shall report to the legislature on the need for changes in law to facilitate the purchases of such products by schools and educational institutions.

The department shall also coordinate with the education department, and school food service, education, health and nutrition, farm, and other interested organizations in establishing a promotional event, to be known as New York Harvest For New York Kids Week, in early October each year, that will promote New York agriculture and foods to children through school meal programs and the classroom, at farms and farmers' markets and other locations in the community.

**§ 305 Education.** General powers and duties. The commissioner of education is hereby charged with the following powers and duties: *(Note: Section 305, subdivisions 1-30 are unrelated to Farm-to-School.)*

31. The commissioner shall cooperate with the commissioner of agriculture and markets in establishing a farm-to-school program and coordinating New York Harvest For New York Kids Week as described in subdivision five-b of section sixteen of the agriculture and markets law. The commissioner's responsibilities shall include, but not be limited to, compiling information for the department of agriculture and markets from school districts and other educational institutions under the department's jurisdiction interested in purchasing New York farm products and disseminating to those districts and institutions information from the department of agriculture and markets about the

availability of New York farm products, and contact information for farmers and other businesses marketing such products. The commissioner shall report to the legislature about the need for changes in law to facilitate the purchase of such products by schools and other institutions.

## **Table of Contents**

## **School Breakfast – Paid, Free, and Reduced Prices**

*(Note: This is an “unconsolidated law” composed of a series of laws passed from 1980 through 1993. It does not amend or establish a section of consolidated law, for example, Education Law, and cannot be found in the online directory of laws.)*

**§1.** a. As used in this act:

- i. The term “pupil” means a child attending any public school in any grade from pre-kindergarten through high school, whether such pupil attends classes on either a full day, split session or half day basis, provided however, a pupil attending an afternoon session shall be eligible only for the school lunch program.
- ii. The term “participating school facility” means a public school which participated on or after January first, nineteen hundred seventy-six in the National School Lunch Program.
- iii. The term “school district” means any school district that participated on or after January 1<sup>st</sup>, 1993 in the National School Lunch Program, except that as used in subdivision i of this section and in section two of this act school district means any school district within the state.
- iv. The term “severe need school” shall have the same definition as such term as pursuant to Federal Child Nutrition Act of 1966.

b. By no later than September first, nineteen hundred seventy-six, each school which has one-third or more of its pupils from households having incomes less than the level of free breakfast eligibility as promulgated pursuant to section nine of the National School Lunch Act as amended (42 U.S.C. 1758), and section four (e) of the Child Nutrition Act of nineteen hundred sixty-six as amended (42 U.S.C. 1773 (e)), shall establish a school breakfast program for which each pupil attending any participating school facility shall be afforded the opportunity to receive a free, reduced and full price breakfast meeting nutritional standards established by the United State Department of Agriculture pursuant to the federal Child Nutrition Act for type A breakfast and as required by the then controlling federal legislation and derivative regulations.

- c. (i) By no later than September 1, 1977 each school district with one hundred twenty-five thousand inhabitants or more shall establish a school breakfast program for which each pupil attending any participating school facility under the district’s jurisdiction shall be afforded the opportunity to receive a free, reduced, and full price breakfast pursuant to the requirements of this act.
- (ii) By no later than September 1, 1993, school districts shall establish a school breakfast program for which each pupil attending any participating elementary school facility under the district’s jurisdiction which is a severe need school shall be afforded the opportunity to receive a free, reduced and full price breakfast.
- (iii) By not later than September 1, 1994 school districts shall establish a school breakfast program for which each pupil attending any participating school facility under the district’s jurisdiction which is a severe need school shall be afforded the opportunity to receive a free, reduced and full price breakfast.
- (iv) By no later than September 1, 1995 school districts shall establish a school breakfast program for which each pupil attending any participating

elementary school facility under the district's jurisdiction shall be afforded the opportunity to receive a free, reduced and full paid breakfast. (v) Any school not offering a breakfast program on the dates specified in this section, which would be required under the provision of paragraph (i), (ii), (iii) or (iv) of this subdivision to implement such program in September of the same year, may apply to the commissioner of education for an exemption from the provisions of this act. Such an exemption shall not be granted by such commissioner unless a school demonstrates with good cause: (1) that there is no need for such breakfast program because of low enrollment or documented projections of low participation or (2) that economic hardship or other good cause makes the establishment of such a program impractical. Such commissioner shall establish explicit good cause criteria in regulations pursuant to this act and annually review the basis for such exemptions. Such commissioner may also grant a waiver for up to one year from the provisions of this subdivision to allow adequate time for planning and implementation of a breakfast program.

d. In accordance with subsections (c) and (d) of section seventeen hundred seventy-three of title forty-two of the United States Code and derivative regulations, the commissioner of education shall determine which participating school facilities are financially unable to support the service of free and reduced price breakfasts and therefore are considered "especially needy" school facilities. Such school facilities subsequently shall be assigned the appropriate increased "especially needy" per meal reimbursement calculated pursuant to such code and regulations in support of the cost of free and reduced price breakfasts.

e. In the provision of free and reduced price meals for the school breakfast programs, the state commissioner of education shall prescribe maximum eligibility standards permissible under section nine of the National School Lunch Act and section four of the Child Nutrition Act.

f. The time of day at which the breakfast is served shall be determined by the local school authorities for each participating school facility and shall not necessarily be limited to the period before which class begins.

g. No school district shall be required to operate a breakfast program in any of its schools if the state elects to terminate participation in the National School Breakfast Program: nor shall any district be required to operate a breakfast program if the corresponding federal program is no longer made available by the federal government or the federal funding thereunder is withdrawn, for any reason whatsoever.

h. Any school district may apply to the commissioner at any time during the school year for authority to suspend the participation of a school in the school breakfast program. The school district must inform parents of children attending the school of its intent to apply for a suspension and the reason for the application in advance of the submission of the application. In such application, the school district shall enumerate any alternatives available for the provision of school breakfasts to students affected by the application. Such alternatives may include in-classroom feeding. Approval of the commissioner to suspend participation in the program shall be limited to the school year affected by the application. Prior to a determination by the commissioner there shall be an appropriate opportunity for the submission of information by the public relative to the application for suspension. The determination by the commissioner shall be made available for public inspection at the school district office. Approval



may only be granted by the commissioner based on a finding that either of the following conditions apply to the school:

(a) Pupil participation in the program is below twenty students on an average daily basis for any quarter of the school year and the school has made demonstrable efforts to evaluate the reasons for such participation and taken reasonable steps to increase participation; which steps shall include an outreach program to inform parents of the availability and value of the school breakfast program, or

(b) The facilities for providing the breakfast program are unavailable for the purposes of the program and no other appropriate facilities are available. Unavailable facilities shall mean cafeterias or lunchrooms which cannot be used due to alterations or improvements.

i. Notwithstanding any other provision of law, a school district commencing operation of a breakfast program in any of its schools after the effective date of this act may in the first school year of operation in a school submit with its application for the state subsidy or any other state assistance available, a plan specifying its proposed labor and related costs for the school breakfast program. Upon approval of such a plan by the department, the actual cost of the school breakfast program, if it is in excess of the sums available to it from state and federal reimbursement rates, shall be paid by the state to the school district. Such payment shall only take place after all available reimbursement for program costs has been applied to the costs of the program. The commissioner shall promulgate such rules and regulations as are necessary or appropriate to carry out the purposes of this chapter.

j. Notwithstanding any other provision of law, a school district, other than a school district required to establish a breakfast program pursuant to paragraph (i), (ii), (iii), or (v) of subdivision c of this section, which elects to participate in the school breakfast program may by majority vote of the board of education of such district terminate participation in the breakfast program in any school or schools of the district provided such termination shall not become effective prior to June thirtieth of the school year within which such vote was taken. A school district, which subsequently commences in any school or schools operation of a breakfast program previously terminated by the board of education pursuant to this subdivision, shall not be eligible for the additional payment for costs exceeding the sums available for the state and federal reimbursement rates as provided subdivision h of this section.

**§2.** a. Notwithstanding any monetary limitations with respect to school breakfast programs contained in any law or regulation in the school years commencing July first, nineteen hundred eighty and thereafter, the available per free breakfast state subsidy shall not be less than eleven cents, the available per reduced price breakfast state subsidy shall not be less than twelve cents, and the available per paid breakfast subsidy shall not be less than twenty-five hundredths cents. Such state subsidy shall be based on the number of free, reduced and paid breakfasts served to children and shall be used to cover all actual costs of the school breakfast program, including but not limited to deficits created by limitation in the applicability of the federal category of “severe need” to paid breakfast costs. Available state breakfast subsidies greater than actual costs for breakfast shall be applied to cover actual costs of the operation of the school lunch program.

b. The commissioner may authorize or require school districts to submit a single application for reimbursement for costs incurred in the operation of the school food service programs. Such application shall combine all allowable costs for the school breakfast and school lunch programs into a consolidated application for reimbursement. However, school districts must account separately for reimbursement for “severe need”, when such reimbursement is available.

c. For the purposed of this act, federal funds, available under the National School Lunch Act, as amended, and the Child Nutrition Act, as amended, shall be utilized to the maximum extent possible for costs related to the provision of the school breakfast program and the school lunch program prior to the utilization of any state funds made available under this legislation.

**§2-a** No school district participating in the national school lunch program on or after the date on which this section becomes effective shall terminate such program in whole or in part without first providing sixty days’ notices of its intent to the parents or guardians of pupils enrolled in the district and to the commission of education.

**§3.** The state commissioner of education hereby is directed to request the bureau of school food management to provide any additional information and assistance which may be required by the schools and school districts to aid them in developing and implementing the various school food programs.

The provisions of this act shall not be construed to authorize a public school heretofore required to maintain a school breakfast program to discontinue the maintenance of such program.

## **[Table of Contents](#)**

## **School District Nutrition Advisory Committees**

(Education Law: Title I-General Provisions Article 19-Medical and Health Service, Section 918)

**§ 918.** School district nutrition advisory committees.

1.
  - a. Every school district is hereby authorized and encouraged to establish a child nutrition advisory committee.
  - b. The district advisory committee is encouraged to meet at least quarterly.
  - c. The committee is encouraged to include, but not be limited to, a representative of the school board, the food preparation staff, the physical education departments, the school nurse or health staff, a registered dietitian, if available, the faculty of the district, the parent teacher associations in the district, the students enrolled in the district, and the parents or guardians of students enrolled in the district.
  - d. If, due to special circumstances of a district, it is impossible or impracticable for all groups recommended to have members on the committee to be represented, the district may approve a committee that, to the greatest extent possible, represents the interests of the aforementioned groups.
2. The district is encouraged to give, in such newsletter, if any, that precedes the commencement of school in the fall, written notice to all parents or guardians of enrolled students of the existence of a school district nutrition advisory committee and supply information as to how such interested parents or guardians may participate on such committee.
3. The district is encouraged, to the extent practicable, to give notice to all parents or guardians and students through its regular newsletters or other regular forms of written communication as to the scheduled dates of all meetings of the advisory committee.
4. The committee is encouraged to study all facets of the current nutritional policies of the district including, but not limited to, the goals of the district to promote health and proper nutrition, vending machine sales, menu criteria, educational curriculum teaching healthy nutrition, educational information provided to parents or guardians regarding healthy nutrition and the health risks associated with obesity, opportunities offered to parents or guardians to encourage healthier eating habits to students, and the education provided to teachers and other staff as to the importance of healthy nutrition. In addition the committee shall consider recommendations and practices of other districts and nutrition studies.
5. The committee is encouraged to report periodically to the district regarding practices that will educate teachers, parents or guardians and children about healthy nutrition and raise awareness of the dangers of obesity. The committee is encouraged also to provide any parent teacher associations in the district with such findings and recommendations. school district regarding the status of the implementation of the district's programs to improve students' nutritional awareness and healthy diet.

**[Table of Contents](#)**

## **School Health Appraisal: BMI Reporting**

(Education Law: Article 19 - Medical and Health Service, Section 904 Health Appraisal)

### **§ 904. Examinations by health appraisal.**

1. Each principal of a public school, or his or her designee, shall report to the director of school health services having jurisdiction over such school, the names of all students who have not furnished health certificates as provided in section nine hundred three of this article, or who are children with disabilities, as defined by article eighty-nine of this chapter, and the director of school health services shall cause such students to be separately and carefully examined and tested to ascertain whether any student has defective sight or hearing, or any other physical disability which may tend to prevent him or her from receiving the full benefit of school work, or from requiring a modification of such work to prevent injury to the student or from receiving the best educational results. Each examination shall also include a calculation of the student's body mass index (BMI) and weight status category. For purposes of this section, BMI is computed as the weight in kilograms divided by the square of height in meters or the weight in pounds divided by the square of height in inches multiplied by a conversion factor of 703. Weight status categories for children and adolescents shall be as defined by the commissioner of health. In all school districts, such physician, physician assistant or nurse practitioner shall determine whether a one-time test for sickle cell anemia is necessary or desirable and he or she shall conduct such tests and the certificate shall state the results. If it should be ascertained, upon such test or examination, that any of such students have defective sight or hearing, or other physical disability, including sickle cell anemia, as above described, the principal or his or her designee shall notify the parents of, or other persons in parental relation to, the child as to the existence of such disability. If the parents or other persons in parental relation are unable or unwilling to provide the necessary relief and treatment for such students, such fact shall be reported by the principal or his or her designee to the director of school health services, whose duty it shall be to provide relief for such students. Each school and school district chosen as part of an appropriate sampling methodology shall participate in surveys directed by the commissioner of health pursuant to the public health law in relation to students' BMI and weight status categories as determined by the examination conducted pursuant to this section and which shall be subject to audit by the commissioner of health. Such surveys shall contain the information required pursuant to this subdivision in relation to students' BMI and weight status categories in aggregate. Parents or other persons in parental relation to a student may refuse to have the student's BMI and weight status category included in such survey. Each school and school district shall provide the commissioner of health with any information, records and reports he or she may require for the purpose of such audit. The BMI and weight status survey and audit as described in this section shall be conducted consistent with confidentiality requirements imposed by federal law. Data collection for such surveys shall commence on voluntary basis at the beginning of the two thousand seven academic school year, and by all schools chosen as part of the sampling methodology at the beginning of the two thousand eight academic school year. The department shall also utilize the collected data to develop a report of child obesity and obesity related diseases.

2. Notwithstanding the provisions of subdivision one of this section, no examinations shall be required pursuant to this section where a student or the parent or person in parental relation to such student objects thereto on the grounds that such examinations conflict with their genuine and sincere religious beliefs.

**[Table of Contents](#)**