

**New York State Senate
Standing Committee
on
Agriculture**



Senator Patricia A. Ritchie, Chair

Senator Timothy M. Kennedy, Ranking Member

Committee Members

Senator Patrick M. Gallivan

Senator Thomas O'Mara

Senator Michael H. Ranzenhofer

Senator James L. Seward

Senator Catharine M. Young

Senator Tony Avella

Senator Shirley L. Huntley

Senator David J. Valesky

Staff

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THE SENATE
STATE OF NEW YORK

SENATOR PATTY RITCHIE
48TH DISTRICT
OSWEGO, JEFFERSON, ST. LAWRENCE COUNTIES

December 2011

Honorable Dean G. Skelos
Majority Leader and Temporary President
New York State Senate
Room 330, New York State Capitol
Albany, NY 12247

CHAIR
SENATE AGRICULTURE COMMITTEE

COMMITTEES
COMMERCE, ECONOMIC DEVELOPMENT
& SMALL BUSINESS
CRIME VICTIMS, CRIME & CORRECTION
CULTURAL AFFAIRS, TOURISM, PARKS &
RECREATION
ENERGY & TELECOMMUNICATIONS
HIGHER EDUCATION
HOUSING, CONSTRUCTION &
COMMUNITY DEVELOPMENT
LOCAL GOVERNMENT

MEMBER
LEGISLATIVE COMMISSION ON
RURAL RESOURCES

Dear Senator Skelos:

It is with great pleasure that I submit to you the 2011 Annual Report of the New York State Senate Standing Committee on Agriculture.

As you know, the State's economic climate posed enormous challenges this year for New York State and specifically, agriculture. With the presentation of the Executive Budget, many agricultural programs were not funded and a proposal to establish a competitive grants program, whereby key agricultural programs and organizations would have to compete for \$1.2 million in funding, was advanced. Approval of this proposal would have been devastating to the State's agricultural community and jeopardized the future success of agriculture here in New York.

Working together, we successfully restored \$3.5 million in funding for these key programs which have been significantly reduced over the last several years. Funding for programs such as Pro-Dairy, Cornell's Diagnostic Lab, North Country Agriculture, the Farm Viability Institute, the Wine and Grape Foundation, and a host of others which allow the State's 36,300 farmers to return \$4.4 billion to the State's economy.

The Agriculture Committee met nine times during the legislative session, including a meeting to consider the Governor's appointment of the Commissioner of the Department of Agriculture and Markets. Of the bills reported out of committee, 21 were passed by the Senate, and eight were signed into law by the Governor.

Thank you for the opportunity to serve as Chair of the Agriculture Committee this year. I would also like to thank all members of the committee for their help in ensuring a very productive legislative session and for working on behalf of the State's agricultural industry.

Sincerely,

Patricia A. Ritchie
Senator, 48th District
Chair, Senate Agriculture Committee

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The New York State Senate Standing Committee on Agriculture held nine committee meetings during the 2011 Legislative Session to consider 33 bills, which were referred to the committee. Of the bills that were considered, 31 were reported out of committee, 21 were passed by the Senate, and eight were signed into law by the Governor.

The Committee also hosted guest speakers, considered one nomination, and held a series of three successful regional agribusiness forums. The first agribusiness forum was held in the North Country at the Dulles State Office Building in Watertown, on September 20, 2011. The second forum was held in Western New York at the Livingston County Government Center in Geneseo, on October 18, 2011, and the final agribusiness forum took place at the Riverhead Town Office Building in Riverhead, on October 20, 2011.

In addition, the Senate Agriculture Committee and Health Committee held a joint roundtable on the State and Local Response to Eastern Equine Encephalitis (EEE) in Central and Northern New York after the tragic death this summer of 4-year-old Maggie Wilcox. The roundtable took place on October 13, 2011 at the Oswego County Legislative Chambers in Oswego, and participants included State and local health officials, and experts on animal and human health, and disease prevention.

The following is a list of the dates, times, and locations of the Agriculture Committee Meetings that were held, with a listing of the bills that were considered, a brief description, and the final legislative action for each measure in 2011.

Monday, February 14, 2011, 12:30 PM, Room 123 CAP

S.769 (Young) – extends the definition of land for the purpose of eligibility for agricultural assessment to include land used for agricultural amusements which are produced from crops grown or produced on the farm, including, but not limited to, “corn mazes” and “hay bale mazes,” provided that such crops are harvested and marketed in the same manner as other crops produced on the farm (Chapter 47, L. 2011).

S.770 (Young, Ranzenhofer, Ritchie) – includes game birds bred or raised in conjunction with a Department of Environmental Conservation (DEC) Class A Game Bird License within the definition of “livestock and livestock products” under the Agricultural Districts Law (Passed Senate).

S.2485-A (Little) – relates to the harvest of timber on non-protected State lands and directs the Wood Products Development Council to work to improve public understanding of the timber industry and allows the Department of Environmental Conservation (DEC) to execute a contract which shall be valid and enforceable without first being approved by and filed with the State Comptroller, if the estimated value of the trees, timber or other forest products does not exceed \$50,000 (Passed Senate).

Guest Speaker: Julie Suarez, Director of Public Policy for the NY Farm Bureau discussed the Farm Bureau’s reaction to the Governor’s proposed Budget.

Wednesday, March 9, 2011, 11:00 AM, Room 816 LOB

S.793 (Young, Ranzenhofer) – includes organic biomass crops and retail farm operations within the definition of a “farm operation” for the purpose of eligibility for agricultural assessment. The measure defines a “retail farm operation” to mean a seasonal or annual enterprise with either permanent or nonpermanent structures that are operated for the purposes of selling predominantly farm and food products in conjunction with or in support of land used in agricultural production. The bill requires that such portion of the farm and food products exceed 50% of the gross annual income of the retail operation. “Farm and food products” are defined to mean any agricultural, horticultural, forest or other product of the soil or water, including but not limited to fresh or processed fruits, vegetables, eggs, dairy products, meat and meat-products, poultry and poultry products, fish and fish products, apple cider, fruit juice, wine, ornamental plants, nursery products, flowers and Christmas trees (Passed Senate).

S.847 (Young, Ranzenhofer) – increases the maximum allowable acreage for farm woodland which would be eligible for an agricultural assessment from 50 acres to 100 acres (Passed Senate).

A.2370-A (Seward, Grisanti, Johnson, Larkin, Ranzenhofer) – exempts establishments that are engaged in the processing of homemade baked goods, spice or powders that are to be sold exclusively at farmers’ markets or roadside stands from the definition of a “food processing establishment” and includes grinding within the term “processing” (Reported to the Floor).

S.3542 (Ritchie) – directs the State Fire Prevention and Building Code Council to implement rules and regulations that include maple production facilities and sugarhouses within the definition of agricultural buildings, so that such facilities will be qualified for exceptions for agricultural buildings. In addition, the bill allows for public access and assembly in sugarhouses as an agri-tourism activity (Passed Senate).

Guest Speakers: Mary Foote and Brandon Aldous, Student Representatives of the FFA provide an over view of their organization and David Campbell, President of the New York Maple Producers, provided a brief presentation as well.

Wednesday, March 23, 2011, 11:00 AM, Room 816 LOB

S.771 (Young) – specifies that the following information and data collected and maintained by the Department of Agriculture and Markets related to the registration and identification of farm premises and animals is confidential and not subject to public disclosure:

- the names and addresses of owners and premises contacts;
- the location of premises where animals are kept;
- the identification number of a premises or an animal; and
- all business, production and inventory data for animal production units.

Allows the department to disclose such information to any agency or to the public if it determines that such disclosure will aid in the law enforcement process or the protection of public or animal health and safety. The department may also disclose any summary data on the state of animal health on farms in the State and summary information which describes current animal health status and trends, but shall not publicly identify individual farms or producers (Passed Senate).

S.791 (Young, Ranzenhofer) – empowers the Department of Agriculture and Markets to develop best management practices in conjunction with the State Soil and Water Conservation Committee for the classification, operation and maintenance of farm pond dams. Defines "farm pond dam" to mean those dams meeting guidelines established by the Department and installed to principally enhance agricultural, environmental and conservation benefits on farms (Passed Senate).

S.4054-A (Ritchie, Griffo, Larkin, O'Mara, Young) – allows the manufacture and sale of frozen desserts made with wine with up to 5% alcohol by volume and provides for the same level of regulation as that which is required for ice cream made with wine. Also requires that warnings be listed on menus, menu boards and signs in establishments where individual servings of such products are sold at retail (Chapter 42, L. 2011).

S.4080 (Ritchie) – This measure removes the mandate that an accurate computing scale be located within 30 feet from the prepackaged display wherever food or food products are packaged or wrapped for sale by a retailer in advance of being sold, or offered or exposed for sale, and instead, requires such scales to be easily accessible to customers with a prominent and conspicuous sign reading "for customer use" displayed on or near such scale (Chapter 43, L. 2011).

Wednesday, March 30, 2011, 11:00 AM, Room 123 CAP

S.61 (Diaz) – requires the Commissioner of Agriculture and Markets to establish requirements for basic obedience courses for dogs and their owners which must be successfully completed. Specifies that such requirements shall include instruction for the owner on the principles of dog training, and instruction on the practice of obedience training by both the dog and its owner and directs the Commissioner to establish minimum requirements for the successful completion of such basic obedience courses (Defeated in Committee).

Note: The bill was placed on the agenda upon a motion for committee consideration pursuant to Senate Rule VII, §3(e).

S.62 (Diaz) – specifies that any person who owns a dog shall have such dog implanted, by the age of four months, with a special computer chip designed to hold information related to the identification of the owner or custodian of the dog, contact information, the dog's description, and other information. Requires such information to be transmitted to a State registry on dogs and be able to be read with a microchip scanner operated by the Department of Agriculture and Markets and directs the Commissioner to establish a State registry which contains identification information related to all licensed dogs (Defeated in Committee).

Note: The bill was placed on the agenda upon a motion for committee consideration pursuant to Senate Rule VII, §3(e).

S.848 (Young) – provides for State preemption of regulation of the sale and analysis of fertilizer thereby prohibiting municipal governments from adopting rules and regulations on fertilizer that are different from or in addition to any requirements established under Agriculture and Markets Law. The measure also specifies that it does not preempt or otherwise limit the authority of any county or municipality to adopt and enforce zoning regulations, fire codes, building codes or waste disposal restrictions (Reported to the Floor).

S.4144 (Ritchie) – **Departmental bill #1** - replaces the current biennial application deadline of November 1 for nursery grower and dealer registrations with a rolling application schedule where the registration would be in effect for two years from the date of issuance (Chapter 73, L. 2011).

Tuesday, April 5, 2011, 10:00 AM, Room 124 CAP

The committee met to consider and accept the nomination of Darrel J. Aubertine as Commissioner of the Department of Agriculture and Markets.

Mr. Aubertine served as a State Senator from the 48th Senate District and served as Chair of the Senate Agriculture Committee and the Rural Resources Commission. Before joining the Senate in 2008, Mr. Aubertine represented the 118th Assembly district in the New York State Assembly for five years, where he served as the chair of the Commission on State-Local Relations.

Tuesday, April 12, 2011, 10:00 AM, Room 816 LOB

S.3237-A (LaValle, et al.) – makes the knowing presence as a spectator at a place where an exhibition of animal fighting is being conducted a class B misdemeanor punishable by imprisonment for a period of up to 3 months, or by a fine of up to \$500 hundred dollars, or both (Chapter 332, L. 2011).

S.3317 (DeFrancisco, Griffo, Larkin, LaValle, Oppenheimer) – directs the Commissioner of the Division of Criminal Justice Services (DCJS) to establish and maintain a toll-free statewide number for use in the investigation and prevention of animal fighting which can be used to report observations or knowledge of persons engaging in such conduct. In addition, the information concerning animal fighting activity obtained from use of the toll-free number shall be transmitted to the appropriate State or local police department and/or to the society for the prevention of cruelty to animals (SPCA) in those counties where SPCAs have peace officers authorized to enforce provisions of law related to animal fighting. The measure also directs DCJS to prepare an annual report which includes information concerning the number, location, and nature of the calls received on the animal fighting hotline and specifies that it be published on DCJS's website (Passed Senate).

S.3806 (Ball) – This bill specifies that in instances where an animal is seized and impounded as provided for under State animal cruelty provisions, upon arraignment of charges, or within a reasonable time thereafter, the court shall order a hearing to determine whether the person from whom the animal is seized or the owner of the animal should be ordered to post a security. The security would be reimbursed to a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, for the cost of care for the seized animal and must be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization (Reported to Finance, Reported to Rules).

S.3911-A (Oppenheimer)/A.6373 (Cahill) – requires any animal in the custody of a shelter to be made available for adoption to another pound, duly incorporated humane society for the prevention of cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing the animal in an adoptive home, when such action is reasonably believed to improve the opportunity for adoption, after the time for redemption has expired (Chapter 83, L. 2011).

Wednesday, May 11, 2011, 9:30 AM, Room 816 LOB

S.850 (Young, O'Mara, Ranzenhofer) – authorizes the Commissioner of Agriculture and Markets to define and review farm conservation practices in conjunction with the State Soil and Water Conservation Committee to determine the scope of engineering, land surveying or architecture necessary for such practices on an on-going basis (Passed Senate).

S.4728 (Ritchie) – excludes the sale of an abstract of title to real property to be used for agricultural purposes, to either a prospective purchaser or an attorney representing a prospective purchaser, from State sales tax (Reported to the Floor).

S.5159 (Ritchie, Gallivan, Larkin) – allows for automatic renewal of an agricultural assessment provided that parcel eligibility is maintained and parcel acreage has not been altered in anyway and the applicant can submit records to prove such eligibility at the request of the assessor at any time. The measure also specifies that in the event that the applicant sells or ceases leasing land that is receiving the agricultural assessment, the applicant must notify the assessor within 30 days of the sale of such land or lapse of the lease (Passed Senate).

S.5168-A (Ritchie) – includes a “commercial equine operation” within the definition of a “farm operation,” thus extending agricultural district protections and eligibility for an agricultural assessment to such operations, provided that they meet certain eligibility criteria. Defines a “commercial equine operation” to mean an agricultural enterprise consisting of at least seven acres and stabling at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or both. Specifies that under no circumstances shall this include operations whose primary on site function is horse racing (Chapter 384, L. 2011).

Thursday, June 2, 2011, 9:30 AM, Room 816 LOB

S.2015 (LaValle, Griffo, Maziarz, Oppenheimer) – establishes an animal abuser registry for any individual who has been convicted of a felony violation of animal abuse or a comparable statute in another state and requires the individual, after being present within the State for more than 10 days, to register with the county

sheriff by the 11th day. Specifies that failure to do so is a class E felony and directs the NYS Division of Criminal Justice Services (DCJS) to maintain a central registry of such individuals. In addition, requires DCJS to make the information available to the public through internet, telephone, written, and in-person access (Reported to the Floor).

S.3626 (Saland)/A.20 (Cahill) – requires the Commissioner of Agriculture and Markets, upon the request of any municipality, farm owner or operator, to render an opinion to the appropriate local government officials, as to whether farm operations would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances or local laws pertaining to agricultural practices and to the appropriate local land use enforcement officials administering local land use regulations, ordinances, or local laws or reviewing a permit pertaining to agricultural practices (A.20, Chapter 497, L. 2011).

S.4340 (Ritchie, Gallivan, LaValle, Libous) – amends Agriculture and Markets Law, Tax Law, Vehicle and Traffic Law, and Environmental Conservation Law in relation to reducing farm based taxes, fees and regulations. Creates a refundable investment tax credit, exempts farm wineries from certain reporting requirements, reduces filing fees for agricultural businesses organized as partnerships, LLCs, and corporations, establishes a MTA payroll tax exemption for farmers and an MTA agricultural vehicle supplemental registration fee exemption, reduces agriculture plate registration fees, and reduces SPDES permit fees for farm operations, among other things (Reported to the Floor, Committed to Finance).

S.4352 (Ranzenhofer) – requires an additional 10% in matching grant funding of agricultural environmental programs implemented in watersheds which are deemed by the Commissioner of Environmental Conservation to be critical to recreational fishing (Reported to the Floor).

S.4906 (Klein, Savino) – creates a Community Gardens Task Force to identify and develop ways to encourage State agencies, municipalities and private parties to establish and expand community gardens and the activities conducted by such gardens (Reported to the Floor).

S.5160 (Ritchie) – expands the definition of crops, livestock and livestock products to include silvopasturing* products, including products from a planned and managed combination of trees, forages and commercial livestock for a productive benefit (Passed Senate).

*Silvopasturing is the scientifically-based, ecologically-sound practice of livestock grazing in wooded areas which can yield numerous benefits for farm operations.

S.5172 (Ritchie, Adams, Young) – deems unlawful tampering with a farm animal a misdemeanor if a person, after notice has been given that a farm prohibits unlawful tampering, knowingly or intentionally does so, punishable by imprisonment for up to a year or a fine of up to \$1,000. Specifies that any person who violates such provision shall be liable in an amount equal to the damages sustained as a result of such violation, including attorney's fees and costs, veterinarian's fees and costs, and the cost of purchasing a replacement farm animal, if applicable (Reported to the Floor).

S.5499 (Ritchie, Gallivan) – amends the Agriculture and Markets Law and the Environmental Conservation Law to ensure that consumer packaging of maple syrup offered for sale be plainly and conspicuously marked as to the grade and deems wash water produced during the process of making maple syrup to not be a pollutant, therefore exempting such operations from SPDES permit requirements (Passed Senate).

Guest Speaker: Joseph M. Gergela, III, Executive Director of the Long Island Farm Bureau addressed the committee.

Monday June 6, 2011, 12:30 PM, Room 816 LOB

S.2409-C (Grisanti) – amends directs the Department of Agriculture and Markets to develop a training, examination, and certification program for dog control, police, and peace officers who deal with animal control or animal abuse issues. The measure also allows local governments to require individuals appointed as dog control officers to complete such a course and successfully pass an examination given by the Department. Exempts police and peace officers who deal with animal control or abuse issues from such training and certification (Passed Senate).

S.5084 (Ball, Addabbo) – prohibits a person convicted of aggravated cruelty to animals from owning or possessing a companion animal unless authorized by a court order after appropriate psychiatric or psychological testing which indicates by clear and convincing evidence that the person is capable and has sound mental capacity and ability to own and properly care for such an animal in a humane manner (Reported to the Floor).