



NEW YORK STATE ASSEMBLY

ANNUAL

2012

REPORT



**Committee on
Agriculture**

William Magee, Chairperson

SHELDON SILVER, SPEAKER



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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Assemblyman 111TH District

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Agriculture Committee

CHAIRMAN
Joint Legislative Commission on
Dairy Industry Development

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Subcommittee on Volunteer Firefighters

COMMITTEES
Aging
Banks
Higher Education
Local Governments

December 15, 2012

The Honorable Sheldon Silver
Speaker of the Assembly
Room 349, State Capitol
Albany, New York 12248

Dear Speaker Silver,

As Chairperson of the Assembly Standing Committee on Agriculture, I respectfully submit to you the 2012 Annual Report. I have also outlined the Committee's significant legislation as well as the Committee's priorities for the upcoming 2013 Session.

The Agricultural industry is of the utmost importance to New York State. Agricultural production returned almost \$4.7 billion to the farm economy in 2010. About 23 percent of the state's land area or 7 million acres are used by the 36,300 farms to produce a very diverse array of food products such as dairy, fruits, vegetables, and maple syrup.

Throughout the 2012 Legislative Session, the Committee remained dedicated to promoting legislation that would assist New York's farms, including legislation authorizing the financing the construction and improvement of wholesale regional farmers' markets; creating promotional opportunities for New York agribusiness; and, providing funding for critical farm programs and research. The Committee also advanced 2012 budget items targeted to the needs of agriculture and supported the distribution of \$15 million through the Agricultural and Community Recovery Fund (ACRF) in 2011-12 to aid the recovery of farms impacted by Hurricanes Irene and Lee.

The Committee also worked to ensure that penalties for violating the State's Kosher food laws were increased significantly.

Lastly, the Committee was successful in strengthening animal cruelty legislation in order to ensure the humane treatment of companion animals, including improving the standard of care for animals sold by pet dealers, prohibiting dangerous practices at pet grooming facilities, and outlawing the sale of animal fighting paraphernalia.

While these difficult economic times have created many challenges for the agriculture industry, there are many opportunities for growth in agriculture which the State must be ready and willing to take. As always, I appreciate the support of members of the Assembly from all parts of the State in restoring funding and advancing legislation to support the agricultural community. On behalf of New York's Agriculture Committee, I thank you for your leadership and continued encouragement and support in addressing these important issues.

Sincerely,

A handwritten signature in black ink that reads "Bill Magee". The signature is written in a cursive style with a long horizontal flourish at the end.

William Magee
Chairperson,
Committee on Agriculture

**2012 ANNUAL REPORT
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON AGRICULTURE**

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Robert Stern, Principal Analyst
Teri Kleinmann, Associate Counsel
Cindy Ceniviva, Program & Counsel Secretary

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I. Committee Jurisdiction

The Assembly Standing Committee on Agriculture is responsible for legislation that relates to the Agriculture and Markets Law, oversight of the New York State Department of Agriculture and Markets, and the Agriculture and Markets budget. The Agriculture Committee works closely with institutions of higher education, such as Cornell University, to promote agriculture research and development through programs such as the Quality Milk Program and Integrated Pest Management. The Agriculture Committee works to ensure the viability of New York's farms, promote the state's agricultural products, support agricultural economic development and protect our state's farmland resources.

As part of its legislative and oversight functions, the Agriculture Committee investigates issues related to food inspections and safety, farmland protection, farm product sales and marketing, agribusiness licensing and regulation, the humane treatment of domesticated animals, kosher laws, and animal diseases.

The Agriculture Committee also provides support and counsel for agriculturally-related legislation that is referred to other Assembly Committees such as the Committees on Labor, Economic Development, Environmental Conservation and Energy.

II. 2012 Committee Accomplishments

A. Agribusiness Development

New York State offers many advantages for food producers and processors, including proximity to farm fresh products and tax incentives. The Chairman of the Agriculture Committee places great importance on strengthening the state's leadership role in agriculture where food processors and producers seek to diversify operations in order to better compete in rapidly changing marketplaces with advancing technologies and with stricter environmental requirements.

1. Financing the Construction and Improvement or Wholesale Regional Farmers' Markets (Chapter 298 of the Laws of 2012/A.1025-A, Ortiz)

This law authorizes certain loans and grants to finance the construction, reconstruction, improvement, expansion or rehabilitation of wholesale regional farmers' markets that promote farm products in New York State. It is anticipated that providing financing for wholesale farmers' markets will help the farm economy by opening up valuable food service markets. Mid-size and small producers of food and agricultural products will be better able to sell their products directly to wholesale buyers in the cities where, to date, it has been difficult to do so because of the lack of adequate large wholesale farmers' markets.

2. Creating the Strategic Farm & Food Product Development Coordinating Council (A.8104, Magee)

This bill would require the Commissioner of Agriculture and Markets and the Commissioner of Economic Development to create the Strategic Farm and Food Product Development Coordinating Council. This Coordinating Council would identify farm and food products that are in high demand and have the potential for an increase in production; seek to promote relationships between farmers, processors, wholesalers, distributors, and state institutional entities; identify resources, including but not limited to state and federal financial assistance and technical assistance, and make such information available to interested producers and marketers of such products.

This bill passed the Assembly and is currently in the Senate Agriculture Committee.

3. Establishing the Shop: Pride of New York Program (A.9868, Magee)

This bill would create the Shop: Pride of New York program for wholesale and retail sellers offering for sale a threshold amount of New York-grown and/or processed food items in order to allow consumers to better locate New York food products and encourage businesses to locally source.

This bill passed the Assembly and is currently in the Senate Rules Committee.

**4. Establishing the Dine: Pride of New York Program
(A.9877, Magee)**

This bill would create the Dine: Pride of New York Program for restaurants using and serving New York State food and food products. The bill is aimed at promoting restaurants and other food service establishments that use a threshold amount of ingredients grown and/or processed in New York, and also make it easier for consumers to find restaurants that use New York products.

This bill passed the Assembly and is currently in the Senate Rules Committee.

**5. Establishing a Farm to Senior Program
(A.10308, Magee)**

This bill would create the Farm to Senior Program to promote the purchase of fresh, New York foods and food products by senior centers and other institutions for the aging under the jurisdiction of the Office for the Aging. The bill also directs the Office for the Aging to work with the Department of Agriculture and Markets to establish a promotional event to be known as New York Golden Harvest: Seniors Week to promote New York agriculture and foods to senior centers and other senior facilities.

This bill passed the Assembly and is currently in the Senate Rules Committee.

B. Agricultural Districts

Many of the agricultural lands in New York State are in jeopardy of being lost to nonagricultural development. Nonagricultural development extends into farm areas resulting in competition for limited land resources. This competition has resulted in New York State establishing agricultural districts. The agricultural districts conserve, protect and encourage the development and improvement of agricultural land for production of food and other agricultural products. New York State has 390 certified agricultural districts in 52 counties representing approximately 8 million acres.

1. Extending the Agricultural Assessment Program for Commercial Equine Operations (Chapter 344 of the Laws of 2012/A.9858, Magee)

This law extends the agricultural assessment program beyond two years for commercial equine operations, assuming the eligibility criteria for the program continues to be met by these businesses. This is a technical correction to a law passed in 2011 which limited the eligibility to this program to two years.

2. Improving the Administration of the Agriculture and Markets Law (Chapter 160 of the Laws of 2012/A.9960, Magee)

This law amends and clarifies the definition of “viable agricultural land”, a term which is used as a standard for adding land to an agricultural district and as the benchmark used by the Commissioner of Agriculture and Markets to certify an agricultural district under the Agriculture and Markets Law. The prior definition was thought to be too vague for those responsible for administering the program; this law conforms the definition of “viable agricultural land” to the definition of “farm operation” to provide a more workable standard for examining parcels for inclusion in an agricultural district. The law also streamlines the process to recertify agricultural assessments by permitting farm landowners to file a simpler application for recertification.

C. Animal Safety and Control

New York State residents care deeply for the health and safety of their pets and other animals. The Chairman prioritized legislation to strengthen animal welfare, to assist inspectors in implementing existing law, and to encourage responsible pet ownership.

1. Enhancing the Standard of Care for Animals at Pet Dealers (Chapter 110 of the Laws of 2012/A.697-D, Paulin)

This law raises the standard of care of companion animals at pet dealers in order to improve their health and quality of life and increase the likelihood that consumers will receive healthy animals from pet dealers. This law requires that pet dealers designate an attending veterinarian to care for the animals and requires that veterinarian to establish a written program of veterinary care that includes regular visits to the dealer's premises, including daily observation of the animals by the veterinarian or his or her designee; requires appropriate facilities, personnel, equipment and services to comply with this law; requires that care be given to control injury and spread of disease among animals; requires that adequate guidance be given to personnel involved in the care of animals; and, requires that dogs be given an opportunity for daily exercise and positive human contact.

2. Clarifying the Laws Regarding Dog License Fees (Chapter 446 of the Laws of 2012/A.7140-B, Magee)

This law makes technical corrections to Chapter 59 of the Laws of 2010 which established a new system for the licensing of dogs in the State. This law also clarifies various provisions that will provide clear guidance to local governments regarding implementation of dog licensing laws.

3. Banning Cage Dryers at Grooming Facilities (Chapter 119 of the Laws of 2012/A.7502-B, Paulin)

This law prohibits the use of cage or box dryers that contain a heating element with the heating element turned on for the purpose of drying a companion animal at a grooming facility. Such devices are able to function without a person manually holding a dryer, and have caused numerous incidents of injury to and death of animals, where, for example, a timer on a dryer malfunctions and an animal is left in a cage with a dryer in operation for an excessive period of time.

4. Outlawing Animal Fighting Paraphernalia (Chapter 144/A.9552-A, McEneny)

This law prohibits any person from owning, possessing, selling, transferring or manufacturing animal fighting paraphernalia with the intent to engage in animal fighting or further or promote animal fighting. A first violation of this law is a Class B misdemeanor; two convictions within five years is a misdemeanor, carrying a fine of up to \$1000 and/or up to one year in jail.

**5. Protecting Cats & Dogs from Abusive Treatment
(A.77-B, Paulin)**

This bill would require that a hearing be held if a pet dealer licensee fails three consecutive inspections or fails three inspections within a three-year period. Also, the Commissioner of Agriculture and Markets would be allowed to take additional actions as deemed necessary.

This bill passed the Assembly and is currently in the Senate Agriculture Committee.

**6. Reimbursing Shelters for Costs in Cruelty Cases
(A.259, Paulin)**

This bill would help cover the costs associated with caring for animals that have been seized due to abuse. It requires that within a reasonable time following the seizure of an animal to determine if the animal owner should be ordered to post reimbursement for the animal's care. It authorizes the court to order animal abusers to post security to shelters, humane societies, and animal cruelty prevention societies for all reasonable expenses of the abused animal and requires the court to set a hearing date within ten business days after receiving the order for the posting of security.

This bill passed the Assembly and is currently in the Senate Agriculture Committee.

**7. Banning Devocalization of Dogs and Cats
(A.3431-D, Zebrowski)**

This bill would prohibit the devocalization of dogs and cats unless it is medically necessary to correct a physical condition that requires the procedure. The devocalization of animals is an invasive procedure that involves the surgical removal of a dog's or cat's vocal cords. The procedure often leads to serious and long-term respiratory and throat ailments.

This bill passed the Assembly and is currently in the Senate Rules Committee.

D. Other Legislation

1. Increasing Penalties for Packaging, Sale or Certification of Kosher Foods Chapter 304 of the Laws of 2012/A.6439 (Rosenthal)

This law would increase the penalty for a first violation of failing to adhere to the law regarding the certification and sale of kosher food from \$1,000 to \$2,500, and for a second violation, from \$5,000 to \$7,500.

2. Extending the Laws Regulating Live Poultry Markets Chapter 25 of the Laws of 2012/A.9158 (Clark)

This law would extend until August 5, 2016, the law prohibiting the licensing of live poultry markets in cities with a population of one million or more which establishments are located within 1500 feet of a residence, for the purpose of maintaining public health and safety.

3. Allowing Farmers to Administer Rabies Vaccine A.1383 (McEneny)

This bill would allow any livestock owner to purchase killed rabies vaccine for the sole purpose of vaccinating livestock owned by him or her. Current law requires that only veterinarians administer the rabies vaccine; this bill would arguably reduce the cost of vaccinating livestock by eliminating the fee for a veterinarian and allow farmers to respond more quickly to rabies outbreaks.

This bill passed the Assembly and is currently in the Senate Agriculture Committee.

4. Protecting Owners of Propane Tanks A.4055 (Magee)

This bill would prohibit the filling, emptying or use of a liquefied petroleum gas container by anyone except the owner of the container or someone designated by the owner. The argument made for the bill is to protect consumers who have propane tanks on their property and who purchase propane or other services from dealers other than the owner of the tank.

This bill was passed by the Assembly and Senate but was vetoed by the Governor (Veto Message 136). The Veto Message indicated that the bill would limit choices for consumers with propane tanks on their property, namely, limiting their ability to purchase propane from someone of their choosing. The Veto Message also stated that this situation would be better addressed through private agreements.

5. Creating an Advisory Board on Food Safety A.6812 (Cook)

This bill would create an advisory board within the Department of Agriculture and Markets whose function it would be to advise the Department on ways to increase food safety precautions and inspection programs and recommend changes to administration and staffing levels of food safety enforcement activities. The proposed board would consist of nine voting members and four ex officio members. This bill passed the Assembly and is currently in the Senate Agriculture Committee.

6. Promoting Community Gardens
A.7479-A (Cook)

This bill would expand the powers of the Office of Community Gardens within the Department of Agriculture and Markets to better promote community gardens. Among the new types of activities that the office of Community Gardens would be permitted to engage are assisting groups who want to form community gardens; help better coordinate activities with school garden programs, food pantries and soup kitchens that provide food for the poor; and encourage better communication and sharing of resources between community garden groups and other programs, such as the "New York Kids Week Program" and farm-to-school programs.

This bill passed the Assembly and is currently in the Senate Finance Committee.

E. Hearings

On December 11th 2012, the Committee held a hearing to review and examine policies and programs that assist new farmers. The U.S. Secretary of Agriculture has set a goal of recruiting 100,000 new farmers across the country to replace those that are retiring. Trends in the marketplace, such as the recent growth in yogurt and other dairy processors, and increased demand for locally grown foods and beverages from consumers, foodservice businesses and institutions, highlight the importance of assisting new farmers starting out.

The Committee heard testimony from the Commissioner of Agriculture and Markets, farmers, and representatives of programs working to assist new farmers, and farm families making the transition from one generation to another.

F. Agriculture Budget 2012-2013

The 2012-2013 Enacted Budget represents the first overall increase to agriculture support programs in four years. Total agricultural funding is \$14.9 million in the 2012-2013 Budget compared to \$11.6 million in the 2011-2012 Budget. The Assembly supported adding \$3 million for the Grow NY Program. The Grow NY Program funds grants to municipalities who then support qualifying agricultural businesses to grow their business or increase demand for locally produced agricultural products. The goal of the program is to expand the State's agricultural industry and create jobs at the local level. In addition, the Legislature restored nearly \$2 million in additional funding to the final budget for existing programs, including \$820,000 for the Farm Viability Institute.

The Executive proposal to authorize an assessment on milk production for dairy market orders to fund activities for assisting dairy farmers was rejected by the Legislature. The 2012-2013 Enacted Budget contains the Assembly's priorities and demonstrates the Assembly's commitment to the State's large and diverse agricultural industry. The highlights follow below.

Agriculture and Markets (Local Assistance):

Agribusiness Child Development Program	\$ 6,521,000	
Cornell Veterinary Diagnostic Lab – Animal Health	\$ 3,750,000	
Grow NY (Ag Economic Development)	\$ 3,000,000	*
Farm Viability Institute	\$ 1,221,000	*
Cornell Veterinary Diagnostic Lab – Quality Milk	\$ 1,174,000	
Pro Dairy Program	\$ 822,000	
Wine and Grape Foundation	\$ 713,000	
Northern New York Agricultural Development	\$ 500,000	*
Integrated Pest Management	\$ 500,000	
Farm Family Assistance	\$ 484,000	*
Cornell Veterinary Diagnostic Lab – Johnes Disease	\$ 480,000	
Cornell Veterinary Diagnostic Lab – Cattle Health	\$ 360,000	
Promotion of Agricultural Arts (Fairs)	\$ 340,000	
Cornell Veterinary Diagnostic Lab – Avian Disease	\$ 252,000	
NYS Apple Association	\$ 206,000	
Future Farmers	\$ 192,000	
Eastern Equine Encephalitis Program	\$ 150,000	*
Cornell Veterinary Diagnostic Lab – Rabies	\$ 150,000	*
Dairy Excellence	\$ 150,000	
Geneva Seed Inspection Program	\$ 128,000	
NYS Maple Producers Association	\$ 100,000	*
Tractor Rollover Protection Program	\$ 100,000	*
Long Island Rabies	\$ 100,000	*
Ag in the Classroom	\$ 80,000	*
Ag Educators Association	\$ 66,000	

*Program funding, or partial program funding, was added by the Legislature to the Executive budget proposal.

III. 2013 Outlook

In 2012, the Committee continued its work to expand markets for New York agricultural products, improve the important benefits provided by Agricultural Districts, enhance consumer safety, and protect our pets and other animals. This year, the Chair of the Committee represented the Assembly at two summits: one addressing the needs of the expanding yogurt industry; and, the other focused on the State's burgeoning marketplace for craft beer, wine and distilled spirits. Increased consumer demand for New York agricultural products could lead to the need for expansion of production and farms. The Agriculture Committee looks forward to capitalizing on the opportunities for growth in these two sectors in the coming year.

Policy and programs for 2013 may include: increased development of markets, especially in NYC, for New York farm products; promoting farm viability and profitability; protecting farmland; providing continuing support for those affected by natural disasters; and, assisting farmers who want to expand or begin farming. The Committee looks forward to identifying barriers and potential policy solutions for these issues by working with our partners in the agricultural community, consumers, food businesses, academia and other interested parties.

**APPENDIX A
SUMMARY OF ACTIONS ON ALL BILLS
REFERRED TO THE COMMITTEE ON AGRICULTURE
DURING THE 2012 LEGISLATIVE SESSION**

Final Action	Assembly Bills	Senate Bills	Total Bills
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee (Favorable)	5		5
To Ways & Means	10		10
To Codes	14		14
To Rules	0		0
To Judiciary	0		0
Total	29		29
<u>Bills Having Committee Reference Changed</u>			
To Consumer Affairs _____	1		1
To _____			
To _____			
Total	1		1
<u>Senate Bills Substituted or Recalled</u>			
Substituted		2	2
Recalled		1	1
Total		3	3
<u>Bills Defeated in Committee</u>	0	0	0
<u>Bills Held for Consideration with a Roll-Call Vote</u>	22	0	22
<u>Bills Never Reported, Held in Committee</u>	109	11	120
<u>Bills Having Enacting Clauses Stricken</u>	4	0	4
<u>Motions to Discharge Lost</u>	0	0	0
TOTAL BILLS IN COMMITTEE	165	14	179
TOTAL NUMBER OF COMMITTEE MEETINGS HELD	5		

**APPENDIX B
NEW YORK STATE ASSEMBLY
AGRICULTURE COMMITTEE CHAPTERS**

Assembly Bill #	Sponsor	Description
A.697-D	Paulin	This law raises the standard of care for companion animals at pet dealers. The law requires pet dealers to designate an attending veterinarian to establish a written program of veterinary care, which must include daily observation of animals, positive human contact and daily exercise for dogs, and a program to control injury and the spread of disease. Chapter 110 of the Laws of 2012
A.1025-A	Ortiz	This law would authorize certain loans and grants to finance the construction, reconstruction, improvement, and expansion of wholesale regional farmers' markets that promote farm products in New York State. Chapter 298 of the Laws of 2012
A.6439	Rosenthal	This law increases the penalty for a first violation of failing to adhere to the law regarding the certification and sale of kosher food from \$1000 to \$2500, and for a second violation, from \$5,000 to \$7,500. Chapter 304 of the Laws of 2012
A.7140-B	Magee	This law makes technical corrections to Chapter 59 of the Laws of 2010 regarding dog license fees. Chapter 446 of the Laws of 2012
A.7502-B	Paulin	This law bans the use of cage or box dryers that contain a heating element with the heating element turned on for the purpose of drying a companion animal at a grooming facility. Chapter 119 of the Laws of 2012
A.9158	Clark	This law extends until 8/5/16 the law prohibiting the licensing of live poultry markets in New York City which markets are located within 1500 feet of a residence for the purpose of maintaining public health and safety. Chapter 25 of the Laws of 2012
A.9552-A	McEneny	This law prohibits any person from owning, possessing, selling, transferring or manufacturing animal fighting paraphernalia with the intent to engage in, further or promote animal fighting. Chapter 144 of the Laws of 2012
A.9858	Magee	This law extends the agricultural assessment program beyond two years for commercial equine operations assuming eligibility criteria are met. Chapter 344 of the Laws of 2012
A.9960	Magee	This law clarifies the definition of "viable agricultural land"; a term used as a standard for adding land to an agricultural district, and also streamlines the process to recertify agricultural assessments. Chapter 160 of the Laws of 2012

**APPENDIX C
NEW YORK STATE ASSEMBLY
AGRICULTURE COMMITTEE
BILLS PASSED BY THE ASSEMBLY**

Assembly Bill #	Sponsor	Description
A.77-B	Paulin	This bill would require that a hearing be held if a pet dealer fails three consecutive inspections or fails three inspections within a three year period.
A.259	Paulin	This bill would help recover the costs associated with caring for animals that have been seized due to abuse by authorizing the court to order animal abusers to post security to shelters, humane societies for all reasonable expenses associated with caring for the abused animal.
A.1383	McEneny	This bill would allow any livestock owner to purchase killed rabies vaccine for the sole purpose of vaccinating livestock owned by him or her, which currently can only be done by veterinarians.
A.3431-D	Zebrowski	This bill would prohibit the devocalization of dogs and cats unless it is medically necessary to correct a physical condition that requires the procedure. This procedure often leads to serious long-term respiratory and throat ailments.
A.4055	Magee	This bill would prohibit the filling, emptying or use of a liquefied petroleum gas container by anyone except the owner of the container or someone designated by the owner. The bill passed the Assembly and Senate but was vetoed by the Governor (Veto Message 136).
A.5825	Gunther	This bill would extend the current requirement that purchasers of property within an Agricultural District be provided with notification about farming activities to purchasers of property within 500 feet of such Districts.
A.6812	Cook	This bill would create an advisory board within the Dept. of Agriculture and Markets whose function would to advise the Department on ways to increase food safety precautions and inspection programs.
A.7479	Cook	This bill would expand the powers of the Office of Community Gardens within the Dept. of Agriculture and Markets to better promote community gardens.
A.8104	Magee	This bill would create the Strategic Farm and Food Product Development Coordinating Council which would identify farm and food products that are in high demand and have the potential for an increase in production and promote relationships between farmers, processors, wholesalers, distributors and state institutional entities.
A.8329-A	Magee	This bill would clarify that exhibitions or entertainments on fair grounds are exempt from license fees imposed by localities.

A.9868	Magee	This bill would create the Shop: Pride of New York program for wholesale and retail sellers offering for sale a threshold amount of New York-grown products and/or processed food items in order to allow consumers to easier locate New York food products and encourage businesses to locally source.
A.9877	Magee	This bill would create the Dine: Pride of New York Program for restaurants using and serving New York State food and food products for the purpose of promoting restaurants and other food service establishments that use a threshold amount of ingredients grown and/or processed in New York and to make it easier for consumers to find restaurants that use New York-grown foods and food products.
A.10308	Magee	This bill would create the Farm to Senior Program to promote the purchase of fresh, New York foods and food products by senior citizen centers and other institutions for the aging under the jurisdiction of the Office for the Aging.