

24:12-8 to 24:12-14

LEGISLATIVE HISTORY CHECKLIST

NJSA: 24:12-8 to 24:12-14

(Bottled water-- require periodic testing)

LAWS OF: 1987

CHAPTER: 227

Bill No: A3222

Sponsor(s): Singer and others

Date Introduced: October 2, 1986

Committee: Assembly: Environmental Quality

Senate: Energy and Environment

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: December 18, 1986

Senate: March 26, 1987

Date of Approval: July 30, 1987

Following statements are attached if available:

Sponsor statement: Yes Attached: Assembly amendments, adopted 12-15-86 (with statement).

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

See newspaper clipping-- attached:

"New law tightens the rules on bottled water," 7-31-87 Star Ledger.

Vertical stamp: RECEIVED... LEGISLATIVE... 12-15-86

227

87

7-30-87

[THIRD OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3222

STATE OF NEW JERSEY

INTRODUCED OCTOBER 2, 1986

By Assemblymen SINGER, DOYLE, Assemblywoman Donovan, Assemblymen Hendrickson, Gargiulo, Moran, Bennett, Baer and Smith

AN ACT concerning bottled water and supplementing ***and amending*** chapter 12 of Title 24 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. *** (New section) *** As used in this act:

2 "Bottled water" means all **noncarbonated** water which is sealed
3 in bottles, packages or other containers and offered for sale for
4 human consumption, including bottled mineral **or spring** water.

5 "Local health authority" means the local board of health of any
6 municipality or the board, body or officers in a municipality law-
7 fully exercising any of the powers of the local board of health
8 under the laws governing the municipality, and includes any con-
9 solidated board of health or county board of health created and
10 established pursuant to law.

11 **["Maximum contaminant level" means the maximum permissi-*
12 *ble level of a contaminant in water.]**

13 "Plant" means **[the]* *a** building or facility, or parts thereof,
14 used for or in conjunction with the manufacturing **[, storage,*
15 *processing,]* *and* bottling*[, packaging, labeling or handling]**
15A of bottled water.

16 "Product water" means processed water used by a plant for
17 bottled drinking water.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted December 11, 1986.

**—Assembly amendments adopted December 15, 1986.

***—Senate committee amendments adopted February 19, 1987.

18 "Source water" means water from a spring, artesian well, drilled
 19 well, public water system, public community water system or any
 20 other source which is used for or in connection with bottled water.

1 2. *2. (New section) a.* Bottled water which is manufac-
 2 tured, distributed or sold within this State **[shall comply]**, *in*
 3 *addition to complying* with the standards governing the manufac-
 4 turing, storage and distribution of bottled water promulgated by the
 5 Department of Health **[and]** *pursuant to R. S. 24:2-1,* shall
 6 **[not exceed any maximum contaminant level established by the**
 7 **Commissioner of Environmental Protection for any substance**
 8 **identified pursuant to subsection a. or b. of section 2 of P. L. 1983,**
 9 **c. 443 (C. 58:12A-13), as that section supplements]** *comply with*
 10 *the regulations concerning drinking water quality standards*
 11 *adopted by the Department of Environmental Protection pursuant*
 12 *to* the "Safe Drinking Water Act," P. L. 1977, c. 224 (C. 58:12A-1
 13 et seq.) *and shall not be sold more than two years after the date*
 14 *on which it is sealed in its bottle, package, or container.*

15 *b.* All bottles, packages, or containers of bottled water sold,
 16 offered for sale, or bottled in this State shall bear a clear and
 17 prominent label indicating the specific location at which the water
 18 was obtained, including the address of a water purveyor, artesian
 19 or driven well, spring, or other point of origin. This label shall
 20 also classify the bottled water as demineralized water, distilled
 21 water, purified water, drinking water, light mineral water, mineral
 22 water, or spring water and shall contain an expiration date of two
 23 years from the date on which the water was bottled.***

1 3. *3. (New section)* The owner or operator of each plant shall
 2 undertake periodic testing of the bottled water to determine the
 3 presence of hazardous contaminants as identified pursuant to
 4 section 2 of P. L. 1983, c. 443 (C. 58:12A-13). The tests for
 5 hazardous contaminants shall be conducted in accordance with
 6 *sampling and* testing methods and techniques established by the
 7 Commissioner of Environmental Protection, *the testing to be*
 8 *conducted* by a laboratory certified for this purpose by the com-
 9 missioner. The initial tests for substances identified in subsection
 10 a. of section 2 of P. L. 1983, c. 443 (C. 58:12A-13) shall be conducted
 11 not later than one year after the effective date of this act and
 12 subsequent tests shall be conducted semiannually thereafter, unless
 13 the Commissioner of Health shall determine, on a case-by-case
 14 basis, that a greater or lesser frequency of testing is necessary or
 14A sufficient to ensure the public health and safety.

15 The initial tests for substances for which maximum contaminant
 16 levels have been established pursuant to subsection b. of section

17 ***[13]*** *2* of P. L. 1983, c. 443 (C. 58:12A-13) shall be conducted
 18 not later than one year after the effective date of this act and sub-
 19 sequent tests shall be conducted annually thereafter, unless the Com-
 20 missioner of Health shall determine, on a case-by-case basis, that
 21 greater or lesser frequency of testing is necessary or sufficient to
 22 ensure the public health and safety.

1 4. *** (New section) *** Any plant owner or operator ***[**whose water
 2 is submitted for a potability test required by this act**]*** shall
 3 forward to the Department of Health a copy of all ***[**test results**]***
 4 **results of tests required to be conducted pursuant to this act**. The
 5 certified laboratory conducting the potability tests may, upon
 6 written approval by the department, submit the test results on
 7 behalf of the plant owner or operator. The department is authorized
 8 to conduct or cause to be conducted spot checks to assure compliance
 9 with this act and the accuracy and integrity of the reported results.

1 5. *** (New section) *** The Commissioner of Health shall within six
 2 months of the effective date of this act and in accordance with the
 3 "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
 4 et seq.), adopt and implement adequate procedures***[.]*** *and*
 5 promulgate rules and regulations ***[**and issue such orders as are**]***
 6 necessary to ***[**carry out**]*** *implement* the ***[**intent and purpose**]***
 7 **provisions** of this act. The rules***[.]*** *and* regulations ***[**and
 8 procedures**]*** shall include but need not be limited to **provisions*
 9 *concerning**: (1) monitoring, sampling and inspection procedures
 10 for source and product and bottled water; (2) the maintenance and
 11 retention of records of information from monitoring and sampling
 12 activities; (3) the submission **to the Department of Health** of
 13 monitoring and sampling reports; and (4) the provision of other
 14 information as the Commissioner of Health may require ***[**to assist
 15 in the establishment of regulations under this act, or **]*** to deter-
 16 mine compliance or noncompliance with this act or with the rules
 17 and regulations promulgated pursuant ***[**to this act**]*** *thereto,
 18 or to otherwise implement the provisions of this act*.

1 6. *** (New section) *** The Commissioner of Health is authorized
 1A to:

2 a. Enter into agreements, contracts, or cooperative arrange-
 3 ments, under such terms and conditions as the commissioner deems
 4 appropriate, with the Department of Environmental Protection
 5 and other State ***[**agency**]*** *agencies*, federal agencies, munici-
 6 palities, counties, educational institutions, local health authorities,
 7 or other organizations or individuals; and

8 b. Establish and collect fees, in accordance with a fee schedule
 9 adopted as a rule or regulation, for conducting inspections and

10 laboratory analyses and certifications as may be necessary, and to
 11 delegate the authority to collect fees pursuant to this ***[section]***
 12 **subsection** to the appropriate local health authority consistent
 13 with a delegation of any authority to administer the provisions of
 14 this act.

1 7. ***(New section)*** a. The Commissioner of Health, upon
 2 receipt of information that a contaminant which is present in
 3 bottled water may present an imminent and substantial endanger-
 4 ment to the public health and safety, may take any action deemed
 5 necessary to protect the public health and safety. The actions may
 6 include, but ***[shall]*** **need** not be limited to: (1) issuing such
 7 orders as may be necessary to protect ***[the health of persons who**
 8 **are or may be]*** consumers of the bottled water; and (2) com-
 9 mencing a civil action for appropriate relief, including a restraining
 10 order or permanent or temporary injunction.

11 ***[If any person violates any of the provisions of this act or any**
 12 **rule, regulation or order promulgated or issued pursuant to the**
 13 **provisions of this act, the]*** **The** Department of Health may
 14 institute a civil action in a court of competent jurisdiction for in-
 15 junctive or any other appropriate relief to prohibit and prevent
 16 ***[the]*** **a** violation **of the provisions of this act or any rule or*
 17 *regulation adopted, or order issued, pursuant thereto**, and the
 18 court may proceed in the action in a summary manner.

19 b. ***[Notwithstanding the provisions of R. S. 24:1-4 to the con-**
 20 **trary, any]*** **Any** person who ***[distributes or]*** sells or manu-
 21 factures ***[for distribution or sale]*** or who has in his ***[pos-**
 22 **session]*** **possession** with intent to ***[distribute or]*** sell **in this*
 23 *State** any bottled water in violation of this act or any rule, regu-
 24 lation or order ***[promulgated]*** **adopted or issued** pursuant to
 25 this act, shall be liable to a civil administrative penalty of not more
 26 than \$5,000.00 for the first offense, nor more than \$10,000.00 for the
 27 second offense, and up to \$25,000.00 for the third and each sub-
 28 sequent offense. ****A person selling bottled water at retail shall be*
 28A *liable for these civil administrative penalties only upon a failure to*
 28B *obey an order issued by the Department of Health to remove any*
 28C *bottled water manufactured, sold, or offered for sale in violation*
 28D *of this act.**** If the violation is of a continuing nature, each day
 29 during which it continues subsequent to receipt of an order to cease
 30 the violation shall constitute an additional, separate and distinct
 31 offense. No civil administrative penalty shall be levied, except sub-
 32 sequent to the notification of violation by certified mail or personal
 33 service. The notice shall include a reference to the section of the
 34 law, rule, regulation, order or permit condition violated; a concise

35 statement of the facts alleged to constitute the violation; a state-
 36 ment of the amount of the civil penalties to be imposed; and a
 37 statement of the person's right to a hearing. The person shall have
 38 20 days from receipt of the notice within which to deliver to the
 39 ***[commissioner]*** *Commissioner of Health* a written request for
 40 a hearing. Subsequent to the hearing and upon a finding that a
 41 violation has occurred, the Commissioner of Health may issue a
 42 final order after assessing the amount of the fine specified in the
 42A notice. If no hearing is requested, the notice shall become a final
 42B order upon expiration of the 20-day period. Payment of the
 43 penalty is due when a final order is issued or when the notice be-
 44 comes a final order. The authority to levy a civil administrative
 45 penalty is in addition to all other enforcement provisions of this
 46 act, and the payment of a civil administrative penalty shall not be
 47 deemed to effect the availability of any other enforcement provi-
 47A sion in connection with the violations for which the penalty is levied.

48 c. The Department of Health is authorized to compromise and
 49 settle any claim for a penalty under this section in such amount
 50 in the discretion of the department as may appear appropriate
 51 and equitable under the circumstances, including the posting of a
 52 performance bond by the violator.

53 d. Any person who violates this act, or an administrative order
 54 issued pursuant to subsection b. of this section, or a court order
 55 issued pursuant to subsection a. of this section, or who fails to
 56 pay a civil administrative penalty in full pursuant to subsection b.
 57 or c. of this section shall be subject, upon order of the court, to a
 58 civil penalty not to exceed \$10,000.00 per day of the violation, and
 59 each day's continuance of the violation constitutes a separate and
 60 distinct violation. ****A person selling bottled water at retail shall*
 61 *be subject to a civil penalty only upon a failure to obey an order*
 62 *issued by the Department of Health to remove any bottled water*
 63 *manufactured, sold, or offered for sale in violation of this act.****
 64 Any penalty imposed under this subsection may be recovered with
 65 costs in a summary proceeding pursuant to "the penalty enforce-
 66 ment law" (N. J. S. 2A:58-1 et seq.). The Superior Court shall
 67 have jurisdiction to enforce "the penalty enforcement law."

1 **8. R. S. 24:12-5 is amended to read as follows:

2 24:12-5. No person engaged in the business of bottling water for
 3 drinking purposes, or of bottling any nonalcoholic drink within this
 4 State for sale at wholesale, shall sell or deliver any such water or
 5 nonalcoholic drink without first obtaining a license from the State
 6 department authorizing him to engage in the business of bottling
 7 water for drinking purposes or of bottling any nonalcoholic drink.

8 A fee of \$50.00 shall be charged for any license so issued, *except*
9 *that this fee shall not be charged to a person who pays a fee*
10 *pursuant to section 6 of P. L. , c. (C.) (now*
11 *before the Legislature as this bill).***

1 **[8.]** **9.** This act shall take effect immediately.

WATER SUPPLY

Requires periodic testing of bottled water.

STATEMENT

The current Department of Health regulations governing bottled water do not require testing for contaminant levels established by the Commissioner of Environmental Protection for substances identified pursuant to the "Safe Drinking Water Act," P. L. 1977, c. 224 (C. 58:12A-1 et seq.) as supplemented by P. L. 1983, c. 443 (C. 58:12A-12 et seq.). The act itself does not require the testing of bottled water for the presence of and levels of these contaminants. Thus there is a gap in the law concerning water quality standards for bottled water and water from public community water systems, the latter being governed by more stringent regulations. This bill would provide a firm statutory foundation for regulations governing the safe and sanitary quality of bottled water which is manufactured, distributed or sold within this State; require that bottled water be tested for the presence and levels of contaminants identified pursuant to the "Safe Drinking Water Act;" make it a violation for bottled water to contain contaminants above the maximum contaminant levels established by the Commissioner of Environmental Protection and bring enforcement authority and penalties for violations of bottled water quality standards in line with those established for violation of the "Safe Drinking Water Act" which governs public community water systems.

WATER SUPPLY

Requires periodic testing of bottled water.

ASSEMBLY COMMITTEE ON ENVIRONMENTAL QUALITY

STATEMENT TO

ASSEMBLY, No. 3222

STATE OF NEW JERSEY

DATED: DECEMBER 11, 1986

The Assembly Committee on Environmental Quality favorably reports Assembly Bill No. 3222 with Assembly committee amendments.

As amended by the committee, this bill would require bottled water manufactured or sold in this State to meet the water quality standards adopted by the Department of Environmental Protection pursuant to the "Safe Drinking Water Act," P. L. 1977, c. 224 (C. 58:12A-1 et seq.). Under the "Safe Drinking Water Act" the department has established maximum contaminant levels for the presence of bacterial and chemical contaminants in drinking water. Bottled water which exceeds the maximum contaminant levels established by the department could not be sold in this State.

This bill would further require manufacturers of bottled water to have their bottled water tested by a laboratory certified by the Department of Environmental Protection according to a schedule developed by the Department of Health. The Department of Health is authorized to conduct spot tests to validate the integrity of the reported test results. In addition, this bill would provide that bottled water may not be sold more than two years after its is bottled.

This bill also authorizes the Department of Health to adopt rules and regulations concerning the monitoring and sampling of bottled water and the source of the bottled water, the maintenance of records of sampling and testing by bottlers, and the submission to the Department of Health of sampling, monitoring, and testing reports. The Department of Health is also authorized to adopt a fee schedule for conducting inspections and laboratory analyses. The department is also authorized to delegate the enforcement of the bottled water program to local health agencies.

This bill also provides penalties for a violation of the provisions of this bill which are similar to those provided for a violation of "Safe Drinking Water Act." Any person violating the provisions of this bill

would be subject to a civil administrative penalty of up to \$5,000.00 for a first offense, and up to \$10,000.00 for a second offense, and up to \$25,000.00 for a third and each subsequent offense. Any person who violates the provisions of this bill, or who violates a civil administrative order or a court order issued pursuant to this bill, or who fails to pay a civil administrative penalty imposed pursuant to this bill, shall be liable to a civil penalty of up to \$10,000.00 per day of the violation.

12/15/86/sl

EA 0008

SR-EA0045
TR-EP0045

ASSEMBLY Amendments

ADOPTED

to

DEC 15 1986

ASSEMBLY Bill No. A-3222
With Assembly Committee amendments
adopted 12/11/86

Amend:

Page	Sec.	Line	
1	Title	1	After "supplementing" insert "and amending"
1	1	1	After "1." insert "(New section)"
2	2	1	After "2." insert "(New section)"
2	3	1	After "3." insert "(New section)"
2	4	1	After "4." insert "(New section)"
2	5	1	After "5." insert "(New section)"
2	6	1	After "6." insert "(New section)"
2	7	1	After "7." insert "(New section)"
4	7	After	Insert new section "8," as follows:
		64	"8. R.S. 24:12-5 is amended to read as follows:

0
05
W.D.

24:12-5. No person engaged in the business of bottling water for drinking purposes, or of bottling any nonalcoholic drink with- in this State for sale at wholesale, shall sell or deliver any such water or nonalcoholic drink without first obtaining a license from the State department authorizing him to engage in the business of bottling water for drinking purposes or of bottling any non- alcoholic drink. A fee of \$50.00 shall be charged for any license so issued, except that this fee shall not be charged to a

person who pays a fee pursuant to section 6 of P.L.

c. (C.) (now pending before the Legislature as this bi

P.L. 19 85 443
C. 26
Through P.L. 86 26
Initials JPM

4

8

1 Omit "8." insert "9."

STATEMENT

This amendment provides that the fee imposed pursuant to this bill for conducting inspections and laboratory analyses and certifications is in lieu of the license fee of \$50.00 collected in order to engage in the business of bottling water for drinking purposes.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3222

with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 19, 1987

The Senate Energy and Environment Committee favorably reports Assembly Bill No. 3222 with Senate committee amendments.

As amended by the committee, Assembly Bill No. 3222 would require bottled water manufactured or sold in this State to meet the water quality standards adopted by the Department of Environmental Protection pursuant to the "Safe Drinking Water Act," P. L. 1977, c. 224 (C. 58:12A-1 et seq.). Under the "Safe Drinking Water Act" the department has established maximum contaminant levels for the presence of bacterial and chemical contaminants in drinking water. Bottled water which exceeds the maximum contaminant levels established by the department could not be sold in this State.

This bill would further require manufacturers of bottled water to have their bottled water tested by a laboratory certified by the Department of Environmental Protection according to a schedule developed by the Department of Health. The Department of Health is authorized to conduct spot tests to validate the integrity of the reported test results. This bill also requires manufacturers of bottled water to label each bottle, package, or container with a two-year expiration date, and provides that bottled water may not be sold more than two years after it is bottled. In addition, this bill requires bottled water to be labeled with the address of the source of the water, and classified as either demineralized water, distilled water, purified water, drinking water, light mineral water, mineral water, or spring water.

This bill also authorizes the Department of Health to adopt rules and regulations concerning the monitoring and sampling of bottled water and the source of the bottled water, the maintenance of records and sampling and testing by bottlers, and the submission to the Department of Health of sampling, monitoring, and testing reports. The Department of Health is also authorized to adopt a fee schedule for conducting inspections and laboratory analyses. The department is also authorized to delegate the enforcement of the bottled water program to local health agencies.

This bill also provides penalties for a violation of the provisions of this bill which are similar to those provided for a violation of "Safe Drinking Water Act." Any person violating the provisions of this bill, and who fails to obey an order issued by the Department of Health to remove or destroy any bottled water manufacturer, sold, or offered for sale in violation of this act, would be subject to a civil administrative penalty of up to \$5,000.00 for a first offense, up to \$10,000.00 for a second offense, and up to \$25,000.00 for a third and each subsequent offense. Any person who violates the provisions of this bill, or who violates a civil administrative order or a court order issued pursuant to this bill, or who fails to pay a civil administrative penalty imposed pursuant to this bill, shall be liable to a civil penalty of up to \$10,000.00 per day of the violation. A person selling bottled water at retail would be liable for a civil penalty or civil administrative penalty only after a failure to obey an order issued by the Department of Health to remove any bottled water manufacturer, sold, or offered for sale in violation of this act.

This bill, as amended by committee, is identical to Senate Bill No. 2776.
