

24:10-73.1

August 18, 1969

Legislative Notes on R.S. 24:10-73.1 *et seq.*
(Frozen desserts & dietary foods - regulate)

Similar bills were:

1968 - A944

Introduced June 24th by A. Smith.

Died in Assembly committee.

No statement.

L. 1969, Chapter 88 - A142

Introduced Jan. 14, 1969 by A.S. Smith.

No statement.

Bill was amended. (~~Copied~~)

to change effective date only.

No hearings or reports were located.

Checked (V.F. - N.J. - Food 1966-1969) without success.

J^d/fb

ASSEMBLY, No. 142

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Assemblyman A. S. SMITH

AN ACT governing the manufacture, sale and distribution of frozen desserts and special frozen dietary foods, providing for the inspection, sanitation and licensing of frozen dessert plants, providing for the promulgation of standards of identity and definitions of frozen desserts and special frozen dietary foods, and amending chapter 120 of the laws of 1964, and repealing sections 3, 4, 8 and 9 thereof.

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

1 1. Section 1 of chapter 120 of the laws of 1964 (C. 24:10-73.1)
2 is amended to read as follows:

3 1. The State Department of Health, hereinafter referred to as
4 the "department" shall from time to time after inquiry and
5 public hearing, adopt and promulgate rules and regulations estab-
6 lishing standards of identity and definitions for frozen desserts
7 special frozen dietary foods and the mixes used in the manufacture
8 thereof, *together with rules and regulations governing the pack-*
9 *aging and labeling and sanitation and other conditions relating to*
10 *the manufacture, processing, distribution and sale of frozen des-*
11 *serts*, as may be necessary for the protection of the public interest.
12 The department is hereby authorized to adopt, insofar as appli-
13 cable, the standards of identity and definitions from time to time
14 promulgated by the Secretary of Health, Education and Welfare
15 of the United States under the Federal Act defining and stand-
16 ardizing frozen desserts.

1 2. Section 2 of chapter 120 of the laws of 1964 (C. 24:10-73.2)
2 is amended to read as follows:

3 2. For the purpose of this act *and for any rules, regulations,*
4 *definitions, standards of identity or labeling requirements, pro-*

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

5 *mulgated pursuant thereto, the term "frozen desserts" shall [mean*
 6 *and] be deemed to include: ice cream, frozen custard, French ice*
 7 *cream, French custard ice cream, sherbet, fruit sherbet, ice milk,*
 8 *ice, water ice, quiescently frozen confection, quiescently frozen*
 9 *dairy confection, whipped cream confection, bisque tortoni, artifi-*
 10 *cially sweetened ice cream, or artificially sweetened ice milk [as*
 11 *defined in the definitions and standards of identity adopted and*
 12 *promulgated as rules and regulations in accordance with the au-*
 13 *thority granted in this act], special frozen dietary foods, mellorine*
 14 *frozen desserts as all such products are commonly known together*
 15 *with any such mix used in frozen desserts and any products which*
 16 *are similar in appearance, odor or taste to such products or are*
 17 *prepared or frozen as such products are customarily prepared or*
 18 *frozen whether made with dairy or nondairy products.*

1 3. Section 5 of chapter 120 of the laws of 1964 (C. 24:10-73.5) is
 2 amended to read as follows:

3 5. (a) "Frozen desserts plant" is hereby defined as any place,
 4 premises or establishment or any part thereof where frozen des-
 5 serts [or special frozen dietary foods] are assembled, manufac-
 6 tured, processed, frozen or converted in form, for distribution or
 7 sale, and shall include rooms or premises wherein utensils are
 8 washed, sanitized or kept. This definition shall be construed to
 9 include retail stores and mobile units but shall not include retail
 10 establishments other than mobile units mechanically converting
 11 frozen desserts into soft ice cream, shakes, sandwiches and sundaes
 12 unless they also operate subject to licensing requirements.

13 (b) "Cellar" is hereby defined as a room which is more than ½
 14 its height below the level of the curb or ground adjoining the
 15 building, excluding areaways.

16 (c) "Mobile unit" is hereby defined as any vehicle on which
 17 frozen desserts [or special frozen dietary foods] are manufac-
 18 tured, prepared, processed or converted in form and which is used
 19 in selling and dispensing such products to the consuming public.

20 (d) "Depot" is hereby defined as a building from which mobile
 21 units operate and where they are sanitized.

22 (e) "Station" is hereby defined as a building used for storage of
 23 frozen desserts [or special frozen dietary foods] manufactured
 24 elsewhere prior to distribution in wholesale quantities.

1 4. Section 6 of chapter 120 of the laws of 1964 (C. 24:10-73.6) is
 2 amended to read as follows:

3 6. No person by himself or by his agent, servant or employee
 4 shall sell, offer, or expose for sale or have in his possession with
 5 intent to sell frozen desserts[, or special frozen dietary foods,]

6 (including coated frozen desserts, and the coating thereof) which
 6A is adulterated within the meaning of this act~~],~~ or sell, offer or
 7 expose for sale or have in his possession with intent to sell, any
 8 imitation frozen dessert, frozen dessert substitute, coated imitation
 9 frozen desserts or imitation special frozen dietary food as defined
 10 in section 4 of this act~~].~~

1 5. Section 7 of chapter 120 of the laws of 1964 (C. 24:10-73.7)
 2 is amended to read as follows:

3 7. Frozen deserts ~~and special frozen dietary foods~~ shall be
 4 deemed to be adulterated within the meaning of this act:

5 (a) Except as provided in this act or in definitions and standards
 6 of identity adopted and promulgated as rules and regulations pur-
 7 suant to the authority granted in this act, if they contain any
 8 substance or compound that is deleterious to health.

9 (b) ~~If they contain any coloring substance deleterious to health,~~
 10 but this paragraph shall not be construed to prohibit the use of
 11 harmless coloring matter when not used for fraudulent purposes,
 12 provided such ingredient or ingredients are contained in the defi-
 13 nitions and standards of identity adopted and promulgated as rules
 14 and regulations in accordance with the authority granted in this
 15 act. ~~Deleted by amendment.~~

16 (c) ~~If they contain any deleterious flavoring matter.~~ Deleted
 17 by amendment.

18 (d) ~~If they contain any fats, oils, or paraffin other than milk~~
 19 fats added to or blended or compounded with them, (but the coat-
 20 ing or coated frozen desserts may contain cocoa butter or coconut
 21 oil, or both;) and chocolate flavored frozen dessert may contain
 22 cocoa butter; provided, however, that any product assembled, man-
 23 ufactured, processed, frozen or converted in form for distribution
 24 or sale, in accordance with the definitions and standards of identity
 25 adopted and promulgated as rules and regulations pursuant to
 26 the authority granted in this act shall not be in violation of this
 27 paragraph. ~~Deleted by amendment.~~

28 (e) ~~If it is an imitation frozen dessert, frozen dessert substi-~~
 29 tute, coated imitation frozen dessert or imitation special frozen
 30 dietary food as defined in section 4 of this act. ~~Deleted by amend-~~
 31 ment.

32 (f) If it is offered for sale from any container, compartment or
 33 cabinet which contains any article other than frozen desserts ~~or~~
 34 special frozen dietary foods.

35 (g) If it falls below the standards or any of them fixed for the
 36 particular product by the definitions and standards of identity
 37 adopted and promulgated as rules and regulations in accordance

38 with the authority granted in this act, or is falsely labeled or labeled
39 contrary to the provisions of this act or the provisions of such
40 rules and regulations.

1 6. Section 10 of chapter 120 of the laws of 1964 (C. 24:10-73.10)
2 is amended to read as follows:

3 10. Every person owning or operating a frozen dessert plant for
4 the assembly, manufacturing, processing, freezing or converting
5 in form of frozen desserts [, or special frozen dietary foods] for
6 sale or distribution within this State shall, before July 1 in each
7 year, apply to the department for a license to sell or distribute
8 such products within this State and register with the department
9 such information as may be required by the department to enable
10 it to carry out its responsibilities under this act.

11 At the same time application for a license and registration is
12 filed the applicant shall pay to the department an annual license
13 fee as follows: for each manufacturer of frozen desserts [or spe-
14 cial frozen dietary foods] producing or distributing annually
15 within this State not in excess of 10,000 gallons of those products,
16 \$10.00; in excess of 10,000 gallons and not in excess of 25,000 gal-
17 lons of those products, \$20.00; in excess of 25,000 gallons and not
18 in excess of 50,000 gallons of those products, \$50.00; in excess of
19 50,000 gallons and not in excess of 100,000 gallons of those products,
20 \$100.00; in excess of 100,000 gallons of those products, \$200.00.

1 7. Section 14 of chapter 120 of the laws of 1964 (C. 24:10-73.14)
2 is amended to read as follows:

3 14. (a) It shall be illegal for any person to sell or distribute
4 any frozen dessert [, or special frozen dietary food] in this State
5 unless such products have been manufactured in a frozen dessert
6 plant, the owner or operator of which is licensed under the provi-
7 sions of this act to sell or distribute such products in this State.

8 (b) It shall be unlawful for any person to use, or cause to allow
9 to be used, any equipment, cabinet, can, or other container or
10 refrigerating device, belonging to one frozen dessert manufac-
11 turer, for the purpose of preserving or holding any frozen dessert
12 [or special frozen dietary foods,] or any type of frozen foods, sold
13 or furnished to him by any person not owning said equipment,
14 or for any person knowingly to supply or place or deposit any
15 frozen dessert [, or any special frozen dietary food,] of one frozen
16 dessert manufacturer or distributor, in any equipment, cabinet,
17 can, or other container, belonging to another frozen dessert manu-
18 facturer or distributor. It is unlawful for any person other than
19 the owner to remove, erase, obliterate, cover or conceal, any manu-
20 facturer's or owner's name, insignia, device, or distinguishing

21 mark, which may appear or be placed on any ice cream equipment,
22 cabinet, can or other container.

22A (c) **It shall be unlawful for any person personally or by or**
22B **through an agent, servant or employee to sell, offer for sale, expose**
22C **for sale or have in possession with the intent to sell, special frozen**
22D **dietary food packaged in containers of greater than one quart**
22E **capacity, or ice milk packaged in containers of greater than ½ gal-**
22F **lon capacity, if the ice milk or any of its ingredients contains added**
22G **color or any ingredient added for the purpose of imparting a char-**
22H **acterizing flavor.] Deleted by amendment.**

22I (d) **It shall be unlawful for any person, personally or by or**
22J **through an agent, servant or employee to sell, offer for sale, expose**
23 **for sale or have in possession with intent to sell, any special frozen**
24 **dietary food unless its label bears such information concerning its**
25 **vitamin, mineral and other dietary properties as the department**
26 **determines to be and by regulations prescribes as necessary in**
27 **order to fully inform purchasers as to its value for such uses and**
28 **unless such label contains also the words, "Use this product only**
29 **after consultation with a physician" or such other similar warning**
30 **as the department may accept. Provided, further, however, that**
31 **neither the label nor the package shall in any way represent that**
32 **the special frozen dietary food contained therein is a dessert. In**
33 **order to implement these provisions it is further provided that**
34 **any label proposed for use on containers of special frozen dietary**
35 **foods be submitted and be acceptable to the department prior to**
36 **use and that the department shall, a reasonable number of times**
37 **each year, upon request, be furnished with assays of special frozen**
38 **dietary foods made in laboratories acceptable to the department.]**
39 *Deleted by amendment.*

1 8. Sections 3, 4, 8 and 9 of chapter 120 of the laws of 1964 are
2 hereby repealed.

1 *9. This act shall take effect July 1, 1970 or upon the effective
2 date of any regulation authorized to be issued to supersede any
3 section or part of a section amended or repealed by this act, which-
4 ever occurs first.]*

1 *9. Sections 1, 2 and 3 of this act shall take effect immediately;
2 the remainder of this act shall take effect 6 months after enactment.*

ASSEMBLY, No. 142

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1969 SESSION

By Assemblyman A. S. SMITH

AN ACT governing the manufacture, sale and distribution of frozen desserts and special frozen dietary foods, providing for the inspection, sanitation and licensing of frozen dessert plants, providing for the promulgation of standards of identity and definitions of frozen desserts and special frozen dietary foods, and amending chapter 120 of the laws of 1964, and repealing sections 3, 4, 8 and 9 thereof.

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

1 1. Section 1 of chapter 120 of the laws of 1964 (C. 24:10-73.1)
2 is amended to read as follows:

3 1. The State Department of Health, hereinafter referred to as
4 the "department" shall from time to time after inquiry and
5 public hearing, adopt and promulgate rules and regulations estab-
6 lishing standards of identity and definitions for frozen desserts
7 special frozen dietary foods and the mixes used in the manufacture
8 thereof, *together with rules and regulations governing the pack-*
9 *aging and labeling and sanitation and other conditions relating to*
10 *the manufacture, processing, distribution and sale of frozen des-*
11 *serts, as may be necessary for the protection of the public interest.*
12 The department is hereby authorized to adopt, insofar as appli-
13 cable, the standards of identity and definitions from time to time
14 promulgated by the Secretary of Health, Education and Welfare
15 of the United States under the Federal Act defining and stand-
16 arding frozen desserts.

1 2. Section 2 of chapter 120 of the laws of 1964 (C. 24:10-73.2)
2 is amended to read as follows:

3 2. For the purpose of this act *and for any rules, regulations,*
4 *definitions, standards of identity or labeling requirements, pro-*

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

5 *mulgated pursuant thereto, the term "frozen desserts" shall [mean*
 6 *and] be deemed to include: ice cream, frozen custard, French ice*
 7 *cream, French custard ice cream, sherbet, fruit sherbet, ice milk,*
 8 *ice, water ice, quiescently frozen confection, quiescently frozen*
 9 *dairy confection, whipped cream confection, bisque tortoni, artifi-*
 10 *cially sweetened ice cream, or artificially sweetened ice milk [as*
 11 *defined in the definitions and standards of identity adopted and*
 12 *promulgated as rules and regulations in accordance with the au-*
 13 *thority granted in this act], special frozen dietary foods, mellorine*
 14 *frozen desserts as all such products are commonly known together*
 15 *with any such mix used in frozen desserts and any products which*
 16 *are similar in appearance, odor or taste to such products or are*
 17 *prepared or frozen as such products are customarily prepared or*
 18 *frozen whether made with dairy or nondairy products.*

1 3. Section 5 of chapter 120 of the laws of 1964 (C. 24:10-73.5) is
 2 amended to read as follows:

3 5. (a) "Frozen desserts plant" is hereby defined as any place,
 4 premises or establishment or any part thereof where frozen des-
 5 serts [or special frozen dietary foods] are assembled, manufac-
 6 tured, processed, frozen or converted in form, for distribution or
 7 sale, and shall include rooms or premises wherein utensils are
 8 washed, sanitized or kept. This definition shall be construed to
 9 include retail stores and mobile units but shall not include retail
 10 establishments other than mobile units mechanically converting
 11 frozen desserts into soft ice cream, shakes, sandwiches and sundaes
 12 unless they also operate subject to licensing requirements.

13 (b) "Cellar" is hereby defined as a room which is more than ½
 14 its height below the level of the curb or ground adjoining the
 15 building, excluding areaways.

16 (c) "Mobile unit" is hereby defined as any vehicle on which
 17 frozen desserts [or special frozen dietary foods] are manufac-
 18 tured, prepared, processed or converted in form and which is used
 19 in selling and dispensing such products to the consuming public.

20 (d) "Depot" is hereby defined as a building from which mobile
 21 units operate and where they are sanitized.

22 (e) "Station" is hereby defined as a building used for storage of
 23 frozen desserts [or special frozen dietary foods] manufactured
 24 elsewhere prior to distribution in wholesale quantities.

1 4. Section 6 of chapter 120 of the laws of 1964 (C. 24:10-73.6) is
 2 amended to read as follows:

3 6. No person by himself or by his agent, servant or employee
 4 shall sell, offer, or expose for sale or have in his possession with
 5 intent to sell frozen desserts[, or special frozen dietary foods,]

6 (including coated frozen desserts, and the coating thereof) which
 6A is adulterated within the meaning of this act~~],~~ or sell, offer or
 7 expose for sale or have in his possession with intent to sell, any
 8 imitation frozen dessert, frozen dessert substitute, coated imitation
 9 frozen desserts or imitation special frozen dietary food as defined
 10 in section 4 of this act~~].~~

1 5. Section 7 of chapter 120 of the laws of 1964 (C. 24:10-73.7)
 2 is amended to read as follows:

3 7. Frozen deserts ~~[and special frozen dietary foods]~~ shall be
 4 deemed to be adulterated within the meaning of this act:

5 (a) Except as provided in this act or in definitions and standards
 6 of identity adopted and promulgated as rules and regulations pur-
 7 suant to the authority granted in this act, if they contain any
 8 substance or compound that is deleterious to health.

9 (b) ~~[If they contain any coloring substance deleterious to health,~~
 10 but this paragraph shall not be construed to prohibit the use of
 11 harmless coloring matter when not used for fraudulent purposes,
 12 provided such ingredient or ingredients are contained in the defi-
 13 nitions and standards of identity adopted and promulgated as rules
 14 and regulations in accordance with the authority granted in this
 15 act.] Deleted by amendment.

16 (c) ~~[If they contain any deleterious flavoring matter.] Deleted~~
 17 *by amendment.*

18 (d) ~~[If they contain any fats, oils, or paraffin other than milk~~
 19 fats added to or blended or compounded with them, (but the coat-
 20 ing or coated frozen desserts may contain cocoa butter or coconut
 21 oil, or both;) and chocolate flavored frozen dessert may contain
 22 cocoa butter; provided, however, that any product assembled, man-
 23 ufactured, processed, frozen or converted in form for distribution
 24 or sale, in accordance with the definitions and standards of identity
 25 adopted and promulgated as rules and regulations pursuant to
 26 the authority granted in this act shall not be in violation of this
 27 paragraph.] Deleted by amendment.

28 (e) ~~[If it is an imitation frozen dessert, frozen dessert substi-~~
 29 tute, coated imitation frozen dessert or imitation special frozen
 30 dietary food as defined in section 4 of this act.] Deleted by amend-
 31 *ment.*

32 (f) If it is offered for sale from any container, compartment or
 33 cabinet which contains any article other than frozen desserts ~~[or~~
 34 special frozen dietary foods~~].~~

35 (g) If it falls below the standards or any of them fixed for the
 36 particular product by the definitions and standards of identity
 37 adopted and promulgated as rules and regulations in accordance

38 with the authority granted in this act, or is falsely labeled or labeled
39 contrary to the provisions of this act or the provisions of such
40 rules and regulations.

1 6. Section 10 of chapter 120 of the laws of 1964 (C. 24:10-73.10)
2 is amended to read as follows:

3 10. Every person owning or operating a frozen dessert plant for
4 the assembly, manufacturing, processing, freezing or converting
5 in form of frozen desserts [, or special frozen dietary foods] for
6 sale or distribution within this State shall, before July 1 in each
7 year, apply to the department for a license to sell or distribute
8 such products within this State and register with the department
9 such information as may be required by the department to enable
10 it to carry out its responsibilities under this act.

11 At the same time application for a license and registration is
12 filed the applicant shall pay to the department an annual license
13 fee as follows: for each manufacturer of frozen desserts [or spe-
14 cial frozen dietary foods] producing or distributing annually
15 within this State not in excess of 10,000 gallons of those products,
16 \$10.00; in excess of 10,000 gallons and not in excess of 25,000 gal-
17 lons of those products, \$20.00; in excess of 25,000 gallons and not
18 in excess of 50,000 gallons of those products, \$50.00; in excess of
19 50,000 gallons and not in excess of 100,000 gallons of those products,
20 \$100.00; in excess of 100,000 gallons of those products, \$200.00.

1 7. Section 14 of chapter 120 of the laws of 1964 (C. 24:10-73.14)
2 is amended to read as follows:

3 14. (a) It shall be illegal for any person to sell or distribute
4 any frozen dessert [, or special frozen dietary food] in this State
5 unless such products have been manufactured in a frozen dessert
6 plant, the owner or operator of which is licensed under the provi-
7 sions of this act to sell or distribute such products in this State.

8 (b) It shall be unlawful for any person to use, or cause to allow
9 to be used, any equipment, cabinet, can, or other container or
10 refrigerating device, belonging to one frozen dessert manufac-
11 turer, for the purpose of preserving or holding any frozen dessert
12 [or special frozen dietary foods,] or any type of frozen foods, sold
13 or furnished to him by any person not owning said equipment,
14 or for any person knowingly to supply or place or deposit any
15 frozen dessert [, or any special frozen dietary food,] of one frozen
16 dessert manufacturer or distributor, in any equipment, cabinet,
17 can, or other container, belonging to another frozen dessert manu-
18 facturer or distributor. It is unlawful for any person other than
19 the owner to remove, erase, obliterate, cover or conceal, any manu-
20 facturer's or owner's name, insignia, device, or distinguishing

21 mark, which may appear or be placed on any ice cream equipment,
22 cabinet, can or other container.

22A (c) **It shall be unlawful for any person personally or by or**
22B **through an agent, servant or employee to sell, offer for sale, expose**
22C **for sale or have in possession with the intent to sell, special frozen**
22D **dietary food packaged in containers of greater than one quart**
22E **capacity, or ice milk packaged in containers of greater than ½ gal-**
22F **lon capacity, if the ice milk or any of its ingredients contains added**
22G **color or any ingredient added for the purpose of imparting a char-**
22H **acterizing flavor.] Deleted by amendment.**

22I (d) **It shall be unlawful for any person, personally or by or**
22J **through an agent, servant or employee to sell, offer for sale, expose**
23 **for sale or have in possession with intent to sell, any special frozen**
24 **dietary food unless its label bears such information concerning its**
25 **vitamin, mineral and other dietary properties as the department**
26 **determines to be and by regulations prescribes as necessary in**
27 **order to fully inform purchasers as to its value for such uses and**
28 **unless such label contains also the words, "Use this product only**
29 **after consultation with a physician" or such other similar warning**
30 **as the department may accept. Provided, further, however, that**
31 **neither the label nor the package shall in any way represent that**
32 **the special frozen dietary food contained therein is a dessert. In**
33 **order to implement these provisions it is further provided that**
34 **any label proposed for use on containers of special frozen dietary**
35 **foods be submitted and be acceptable to the department prior to**
36 **use and that the department shall, a reasonable number of times**
37 **each year, upon request, be furnished with assays of special frozen**
38 **dietary foods made in laboratories acceptable to the department.]**
39 *Deleted by amendment.*

1 8. Sections 3, 4, 8 and 9 of chapter 120 of the laws of 1964 are
2 hereby repealed.

1 9. This act shall take effect July 1, 1970 or upon the effective
2 date of any regulation authorized to be issued to supersede any
3 section or part of a section amended or repealed by this act, which-
4 ever occurs first.

ASSEMBLY COMMITTEE AMENDMENT TO

ASSEMBLY, No. 142

STATE OF NEW JERSEY

ADOPTED MARCH 17, 1969

Amend page 5, section 9, lines 1 to 4, omit and insert:

“9. Sections 1, 2 and 3 of this act shall take effect immediately; the remainder of this act shall take effect 6 months after enactment.”.