

LEGISLATIVE HISTORY CHECKLIST

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(Frozen desserts--definition)

NJSA: 24:10-73.5

LAWS OF: 1997 CHAPTER: 337

BILL NO: S1056

SPONSOR(S): Palaia

DATE INTRODUCED: May 2, 1996

COMMITTEE: ASSEMBLY: Consumer Affairs

SENATE: Health

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
First reprint enacted superscript numbers

DATE OF PASSAGE: ASSEMBLY: December 18, 1997

SENATE: May 22, 1997

DATE OF APPROVAL: January 12, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:
REPORTS: No

HEARINGS: No

P.L. 1997, CHAPTER 337, *approved January 12, 1998*
Senate, No. 1056 (*First Reprint*)

1 AN ACT concerning frozen desserts licenses and ¹[supplementing]
2 amending¹ P.L.1964, c.120 ¹[(C.24:10-73.1 et seq.)]¹.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 ¹[1. Notwithstanding the licensing requirements established
8 pursuant to P.L.1964, c.120 (C.24:10-73.1 et seq.), a person owning
9 or operating a frozen desserts plant for the assembly, manufacturing,
10 processing, freezing or converting in form of frozen desserts for sale
11 or distribution within his county, shall be exempt from Department of
12 Health frozen desserts licensing requirements if the frozen desserts
13 plant passes the required county or municipal sanitary inspection
14 pursuant to N.J.A.C.8:24-1.1 et seq. and the person obtains an annual
15 retail food establishment mercantile license from the county or
16 municipality in which the plant is located.]¹

17

18 ¹1. Section 5 of P.L.1964, c.120 (C. 24:10-73.5) is amended to
19 read as follows:

20 5. (a) "Frozen desserts plant" is hereby defined as any place,
21 premises or establishment or any part thereof where frozen desserts
22 are assembled, manufactured, processed, frozen or converted in form,
23 for wholesale distribution or sale, and shall include rooms or premises
24 wherein utensils are washed, sanitized or kept. [This definition shall
25 be construed to include retail stores and mobile units but shall not
26 include retail establishments other than mobile units mechanically
27 converting frozen desserts into soft ice cream, shakes, sandwiches and
28 sundaes unless they also operate subject to licensing requirements.]

29 (b) ["Cellar" is hereby defined as a room which is more than 1/2
30 its height below the level of the curb or ground adjoining the building,
31 excluding areaways.](Deleted by amendment, P.L. , c.)

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 23, 1997.

1 (c) "Mobile unit" is hereby defined as any vehicle on which frozen
2 desserts are manufactured, prepared, processed or converted in form
3 and which is used in selling and dispensing such products to the
4 consuming public.

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

7 (e) ["Station" is hereby defined as a building used for storage of
8 frozen desserts manufactured elsewhere prior to distribution in
9 wholesale quantities.](Deleted by amendment, P.L. , c.)

10 (f) "Wholesale" means any place engaged in the production,
11 preparation, processing, manufacture, packing, storage or handling of
12 food for sale or distribution to a person other than the ultimate
13 consumer.¹

14 (cf: P.L.1969, c.88, s.3)

15

16 ¹2. Section 10 of P.L.1964, c.120 (C. 24:10-73.10) is amended to
17 read as follows:

18 10. Every person owning or operating a frozen dessert plant for the
19 assembly, manufacturing, processing, freezing or converting in form
20 of frozen desserts for wholesale sale or distribution or a mobile unit
21 within this State shall, before July 1 in each year, apply to the
22 department for a license to sell or distribute such products within this
23 State and register with the department such information as may be
24 required by the department to enable it to carry out its responsibilities
25 under this act.

26 At the same time application for a license and registration is filed
27 the applicant shall pay to the department an annual license fee [as
28 follows: for each manufacturer of frozen desserts producing or
29 distributing annually within this State not in excess of 10,000 gallons
30 of those products, \$20.00; in excess of 10,000 gallons and not in
31 excess of 25,000 gallons of those products, \$40.00; in excess of
32 25,000 gallons and not in excess of 50,000 gallons of those products,
33 \$100.00; in excess of 50,000 gallons and not in excess of 100,000
34 gallons of those products, \$200.00; in excess of 100,000 gallons of
35 those products, \$400.00]. The fee schedule shall be adopted by
36 regulation pursuant to the "Administrative Procedure Act," P.L.1968,
37 c.410 (C.52:14B-1 et seq.) and shall be reasonable for services
38 performed in the licensing and inspection of a frozen dessert plant or
39 mobile unit, except that the license fee shall not exceed \$500.¹

40 (cf: P.L.1983, c.275, s.9)

41

42 ¹[2.] 3.¹ This act shall take effect immediately.

43

44

45

46 Amends definition of frozen desserts plant to exclude retail stores.

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SENATE, No. 1056

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Senator PALAIA

1 AN ACT concerning frozen desserts licenses and supplementing
2 P.L.1964, c.120 (C.24:10-73.1 et seq.).

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Notwithstanding the licensing requirements established pursuant
8 to P.L.1964, c.120 (C.24:10-73.1 et seq.), a person owning or
9 operating a frozen desserts plant for the assembly, manufacturing,
10 processing, freezing or converting in form of frozen desserts for sale
11 or distribution within his county, shall be exempt from Department of
12 Health frozen desserts licensing requirements if the frozen desserts
13 plant passes the required county or municipal sanitary inspection
14 pursuant to N.J.A.C.8:24-1.1 et seq. and the person obtains an annual
15 retail food establishment mercantile license from the county or
16 municipality in which the plant is located.

17
18 2. This act shall take effect immediately.

21 STATEMENT

22
23 This bill eliminates duplicate frozen desserts licensing and sanitary
24 inspection requirements by the State and the county or municipality.
25 A retail establishment which sells frozen desserts and obtains a
26 mercantile license from its county or municipality would not be subject
27 to either State frozen desserts licensing or State inspections if the
28 county or municipality performs an annual inspection pursuant to
29 Chapter XII of the State Sanitary Code (N.J.A.C.8:24-1.1 et seq.).

30
31
32
33
34 Eliminates duplicate licensing and inspection requirements for frozen
35 desserts retail establishments.

[Passed Both Houses]

[First Reprint]

SENATE, No. 1056

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Senator PALAIA

1 AN ACT concerning frozen desserts licenses and ¹[supplementing]
2 amending¹ P.L.1964, c.120 ¹[(C.24:10-73.1 et seq.)]¹.

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5 of New Jersey:

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8 pursuant to P.L.1964, c.120 (C.24:10-73.1 et seq.), a person owning
9 or operating a frozen desserts plant for the assembly, manufacturing,
10 processing, freezing or converting in form of frozen desserts for sale
11 or distribution within his county, shall be exempt from Department of
12 Health frozen desserts licensing requirements if the frozen desserts
13 plant passes the required county or municipal sanitary inspection
14 pursuant to N.J.A.C.8:24-1.1 et seq. and the person obtains an annual
15 retail food establishment mercantile license from the county or
16 municipality in which the plant is located.]¹

17

18 ¹1. Section 5 of P.L.1964, c.120 (C. 24:10-73.5) is amended to
19 read as follows:

20 5. (a) "Frozen desserts plant" is hereby defined as any place,
21 premises or establishment or any part thereof where frozen desserts
22 are assembled, manufactured, processed, frozen or converted in form,
23 for wholesale distribution or sale, and shall include rooms or premises
24 wherein utensils are washed, sanitized or kept. **[This definition shall**
25 **be construed to include retail stores and mobile units but shall not**
26 **include retail establishments other than mobile units mechanically**
27 **converting frozen desserts into soft ice cream, shakes, sandwiches and**
28 **sundaes unless they also operate subject to licensing requirements.]**

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SHH committee amendments adopted January 23, 1997.

1 (b) ["Cellar" is hereby defined as a room which is more than 1/2
2 its height below the level of the curb or ground adjoining the building,
3 excluding areaways.](Deleted by amendment, P.L. ., c.)

4 (c) "Mobile unit" is hereby defined as any vehicle on which frozen
5 desserts are manufactured, prepared, processed or converted in form
6 and which is used in selling and dispensing such products to the
7 consuming public.

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

10 (e) ["Station" is hereby defined as a building used for storage of
11 frozen desserts manufactured elsewhere prior to distribution in
12 wholesale quantities.](Deleted by amendment, P.L. ., c.)

13 (f) "Wholesale" means any place engaged in the production,
14 preparation, processing, manufacture, packing, storage or handling of
15 food for sale or distribution to a person other than the ultimate
16 consumer.¹

17 (cf: P.L.1969, c.88, s.3)

18

19 ¹2. Section 10 of P.L.1964, c.120 (C. 24:10-73.10) is amended to
20 read as follows:

21 10. Every person owning or operating a frozen dessert plant for the
22 assembly, manufacturing, processing, freezing or converting in form
23 of frozen desserts for wholesale sale or distribution or a mobile unit
24 within this State shall, before July 1 in each year, apply to the
25 department for a license to sell or distribute such products within this
26 State and register with the department such information as may be
27 required by the department to enable it to carry out its responsibilities
28 under this act.

29 At the same time application for a license and registration is filed
30 the applicant shall pay to the department an annual license fee [as
31 follows: for each manufacturer of frozen desserts producing or
32 distributing annually within this State not in excess of 10,000 gallons
33 of those products, \$20.00; in excess of 10,000 gallons and not in
34 excess of 25,000 gallons of those products, \$40.00; in excess of
35 25,000 gallons and not in excess of 50,000 gallons of those products,
36 \$100.00; in excess of 50,000 gallons and not in excess of 100,000
37 gallons of those products, \$200.00; in excess of 100,000 gallons of
38 those products, \$400.00]. The fee schedule shall be adopted by
39 regulation pursuant to the "Administrative Procedure Act." P.L.1968,
40 c.410 (C.52:14B-1 et seq.) and shall be reasonable for services
41 performed in the licensing and inspection of a frozen dessert plant or
42 mobile unit, except that the license fee shall not exceed \$500.¹

43 (cf: P.L.1983, c.275, s.9)

44

45 ¹[2.] 3.¹ This act shall take effect immediately.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1056

STATE OF NEW JERSEY

DATED: AUGUST 14, 1997

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Senate Bill No. 1056 (1R).

This bill deletes the duplicate requirement that retail establishments that prepare frozen desserts for sale at the establishment obtain a State license, as well as a county or municipal retail establishment license. The bill revises the definition of "frozen desserts plant" to exclude retail stores and provides, instead, that the term shall apply to an establishment where frozen desserts are assembled, manufactured, processed, frozen or converted in form, for wholesale distribution or sale. The bill retains the State licensing requirement for mobile units, which are vehicles on which frozen desserts are manufactured, prepared, processed or converted in form and sold and dispensed to the consuming public.

The bill also deletes the dollar amounts specified in current law for licensing fees and provides, instead, that the Commissioner of Health and Senior Services shall adopt a reasonable fee schedule, by regulation, that will reflect the services performed in the licensing and inspection of a frozen desserts plant or mobile unit, but that the licensing fee shall not exceed \$500.

The term "frozen desserts" is defined in N.J.A.C.8:21-7.1 to include: ice cream, frozen custard, ice milk, sherbet, water ice, mellorine, goat's milk ice cream, goat's milk ice milk, frozen yogurt, frozen lowfat yogurt or lowfat frozen yogurt, frozen nonfat yogurt or nonfat frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, frozen dietary dairy dessert, dietary frozen dessert or lowfat frozen dairy dessert, whipped cream confection, bisque tortoni, nonfruit sherbet, nonfruit water ice, manufactured dessert mixes, lactose reduced ice cream, lactose reduced ice milk, frozen pudding, freezer made shake and freezer made milk shake, lowfat parevine, parevine, Lo-Mel, as all such products are commonly known, together with any such mix used in frozen desserts and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or nondairy products.

SENATE HEALTH COMMITTEE

STATEMENT TO

SENATE, No. 1056

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 23, 1997

The Senate Health Committee reports favorably Senate Bill No. 1056 with committee amendments.

As amended by committee, this bill revises the definition of "frozen desserts plant" to exclude retail stores and provide, instead, that the term shall apply to an establishment where frozen desserts are assembled, manufactured, processed, frozen or converted in form, for wholesale distribution or sale. The bill deletes the duplicate requirement that retail establishments that prepare frozen desserts for sale at the establishment obtain a State license, as well as a county or municipal retail establishment license. The bill retains the State licensing requirement for mobile units, which are vehicles on which frozen desserts are manufactured, prepared, processed or converted in form and sold and dispensed to the consuming public.

The bill also deletes the specific dollar amounts for licensing fees and provides, instead, that the Commissioner of Health and Senior Services shall adopt a reasonable fee schedule, by regulation, that will reflect the services performed in the licensing and inspection of a frozen desserts plant or mobile unit, but that the licensing fee shall not exceed \$500.

The term "frozen desserts" is defined in N.J.A.C.8:21-7.1 to include: ice cream, frozen custard, ice milk, sherbet, water ice, mellorine, goat's milk ice cream, goat's milk ice milk, frozen yogurt, frozen lowfat yogurt or lowfat frozen yogurt, frozen nonfat yogurt or nonfat frozen yogurt, quiescently frozen confection, quiescently frozen dairy confection, frozen dietary dairy dessert, dietary frozen dessert or lowfat frozen dairy dessert, whipped cream confection, bisque tortoni, nonfruit sherbet, nonfruit water ice, manufactured dessert mixes, lactose reduced ice cream, lactose reduced ice milk, frozen pudding, freezer made shake and freezer made milk shake, lowfat parevine, parevine, Lo-Mel, as all such products are commonly known, together with any such mix used in frozen desserts and any products which are similar in appearance, odor or taste to such products or are prepared or frozen as such products are customarily prepared or frozen whether made with dairy or nondairy products.

The committee amended the bill to delete the exemption from P.L.1964, c.120 (C.24:10-73.1 et seq.) of certain frozen desserts plants which only sell or distribute their products on a retail basis in the county in which they are located, and to provide, instead, that the term frozen desserts plant shall only apply to wholesale distributions or sales. Amendments also revise the licensing fee provisions in that law to grant the Department of Health and Senior Services greater discretion in establishing the amount of the fee.