S T A T E O F N E W Y O R K

4302

2013-2014 Regular Sessions

I N S E N A T E

March 20, 2013

Introduced by Sen. RITCHIE -- (at request of the Department of Agriculture and Markets) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the issuance and expiration of food processing establishment licenses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 251-z-2 of the agriculture and markets law is amended by adding a new subdivision 5 to read as follows:

5. THE TERM "CHAIN STORE" MEANS A FOOD PROCESSING ESTABLISHMENT THAT IS PART OF A NETWORK OF SUBSIDIARIES, AFFILIATES, OR OTHER MEMBER STORES UNDER DIRECT OR INDIRECT CONTROL OF A CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER ORGANIZED ENTITY THAT, AS A GROUP, HAD ANNUAL GROSS SALES IN THE PREVIOUS CALENDAR YEAR OF THREE MILLION DOLLARS OR MORE.

S 2. Section 251-z-3 of the agriculture and markets law, as amended by section 1 of part N of chapter 58 of the laws of 2012, is amended to read as follows:

S 251-z-3. Licenses; fees. No person shall maintain or operate a food processing establishment unless licensed biennially by the commissioner. Application for a license to operate a food processing establishment shall be made, upon a form prescribed by the commissioner. [Renewal applications] A RENEWAL APPLICATION shall be submitted to the commissioner at least thirty days prior to the commencement of the next license period.

The applicant shall furnish evidence of his or her good character, experience and competency, that the establishment has adequate facilities and equipment for the business to be conducted, that the establishment is such that the cleanliness of the premises can be maintained, that the product produced therein will not become adulterated and, if the applicant is a retail food store, that the applicant has an individ-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ual in a position of management or control who has completed an approved food safety education program pursuant to section two hundred fifty-one-z-twelve of this article. The commissioner, if so satisfied, shall issue to the applicant, upon payment of the license fee of four hundred dollars, a license to operate the food processing establishment described in the application. NOTWITHSTANDING THE PRECEDING, AN APPLICANT THAT IS A CHAIN STORE SHALL PAY A LICENSE FEE OF ONE HUNDRED DOLLARS IF ITS LICENSE EXPIRES SIX MONTHS OR LESS FROM THE DATE ITS LICENSE PERIOD BEGAN, TWO HUNDRED DOLLARS IF ITS LICENSE EXPIRES BETWEEN SIX MONTHS AND ONE YEAR FROM THE DATE ITS LICENSE PERIOD BEGAN, THREE HUNDRED DOLLARS IF ITS LICENSE EXPIRES BETWEEN ONE YEAR AND EIGHTEEN MONTHS FROM THE DATE ITS LICENSE PERIOD BEGAN, OR FOUR HUNDRED DOLLARS IF ITS LICENSE EXPIRES BETWEEN EIGHTEEN MONTHS AND TWO YEARS FROM THE DATE ITS LICENSE PERIOD BEGAN. However, the license fee shall be nine hundred dollars for a food processing establishment determined by the commissioner, pursuant to duly promulgated regulations, to require more intensive regulatory oversight due to the volume of the products produced, the potentially hazardous nature of the product produced or the multiple number of processing operations conducted in the establishment. [The license application for retail food stores shall be accompanied by documentation in a form approved by the commissioner which demonstrates that the food safety education program requirement has been met. The] A license shall take effect on the [date of issuance and continue for two years from such date.] FIRST DAY THE COMMISSIONER DETERMINES THAT THE APPLICANT PROCESSED FOOD WITHOUT A LICENSE THEREFOR OR ON THE DAY THE LICENSE IS ISSUED, WHICHEVER DAY IS EARLIEST. A RENEWED LICENSE SHALL TAKE EFFECT ON THE NEXT DAY AFTER THE DAY THAT THE PREVIOUS LICENSE PERIOD ENDED. EACH LICENSE AND RENEWED LICENSE SHALL CONTINUE FOR TWO YEARS FROM THE DAY THAT IT WAS FIRST EFFECTIVE. NOTWITHSTANDING THE PRECEDING, A LICENSE ISSUED TO AN APPLICANT THAT IS A CHAIN STORE SHALL EXPIRE ON THE DATE SET FORTH ON THE APPLICATION FORM PRESCRIBED BY THE COMMISSIONER FOR SUCH APPLICANT.

S 3. The opening paragraph of section 251-z-5 of the agriculture and markets law, as added by chapter 863 of the laws of 1972, is amended and a new subdivision 9 is added to read as follows:

The commissioner may [decline to grant a new license, may decline to renew a license, may] suspend or revoke a license already granted after due notice and opportunity for hearing, AND MAY DECLINE TO GRANT A NEW LICENSE OR RENEW A LICENSE ALREADY GRANTED, whenever he finds that:

(9) THE APPLICANT OR LICENSEE HAS FAILED TO PAY THE LICENSE FEE REQUIRED PURSUANT TO THIS ARTICLE FOR A PREVIOUS LICENSE PERIOD, OR HAS FAILED TO PAY A PENALTY IMPOSED FOR A VIOLATION OF THE PROVISIONS OF THIS ARTICLE OR RULES AND REGULATIONS PROMULGATED PURSUANT THERETO.

S 4. This act shall take effect immediately.