

1890

2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. KLEIN, DILAN, ONORATO, SAMPSON -- 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 requiring the registration of food warehouses

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

1 Section 1. Declaration of policy and purpose. The legislature finds
2 there is a need to assure food security by requiring the registration of
3 food establishments located within the state and requiring the operators
4 of such establishments to take preventative measures to minimize the
5 risk of food under their control being subjected to tampering or criminal or terrorist actions.

6 S 2. The article heading of article 20-C of the agriculture and
7 markets law, as added by chapter 863 of the laws of 1972, is amended to
8 read as follows:

9
10 LICENSING AND REGISTRATION OF FOOD PROCESSING
11 AND STORAGE ESTABLISHMENTS

12 S 3. Section 251-z-2 of the agriculture and markets law is amended by
13 adding two new subdivisions 5 and 6 to read as follows:

14 5. THE TERM "FOOD ESTABLISHMENT" SHALL MEAN ANY FACILITY WITHIN THIS
15 STATE IN WHICH FOOD IS STORED, PACKED, LABELED OR RELABELED, TRANSPORTED,
16 SOLD, OFFERED OR EXPOSED FOR SALE, OR SERVED.

17 6. THE TERM "FOOD WAREHOUSE" SHALL MEAN ANY FOOD ESTABLISHMENT IN
18 WHICH FOOD IS HELD FOR COMMERCIAL DISTRIBUTION.

19 S 4. The agriculture and markets law is amended by adding a new
20 section 251-z-3-a to read as follows:

21 S 251-Z-3-A. REGISTRATION. 1. NO PERSON SHALL MAINTAIN OR OPERATE A
22 FOOD ESTABLISHMENT UNLESS SUCH ESTABLISHMENT IS REGISTERED PURSUANT TO
23 THE PROVISIONS OF THIS SECTION, PROVIDED, HOWEVER, THAT ESTABLISHMENTS
24 REGISTERED, PERMITTED OR LICENSED BY THE DEPARTMENT PURSUANT TO OTHER

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

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1 PROVISIONS OF THIS CHAPTER, UNDER PERMIT AND INSPECTION BY THE STATE
2 DEPARTMENT OF HEALTH OR BY A LOCAL HEALTH AGENCY WHICH MAINTAINS A
3 PROGRAM CERTIFIED AND APPROVED BY THE STATE COMMISSIONER OF HEALTH, OR
4 SUBJECT TO INSPECTION BY THE UNITED STATES DEPARTMENT OF AGRICULTURE
5 PURSUANT TO THE FEDERAL MEAT, POULTRY OR EGG INSPECTION PROGRAMS, SHALL
6 BE EXEMPT FROM REGISTRATION UNDER THIS ARTICLE. APPLICATION FOR REGIS-
7 TRATION OF A FOOD ESTABLISHMENT SHALL BE MADE, UPON A FORM PRESCRIBED BY
8 THE COMMISSIONER ON OR BEFORE DECEMBER FIRST OF EVERY OTHER YEAR FOR THE
9 REGISTRATION PERIOD BEGINNING THE FIRST OF JANUARY OF THE FOLLOWING
10 YEAR. UPON SUBMISSION OF A COMPLETED APPLICATION, TOGETHER WITH AN
11 APPLICABLE REGISTRATION FEE, THE COMMISSIONER SHALL REGISTER THE FOOD
12 ESTABLISHMENT DESCRIBED IN THE APPLICATION FOR TWO YEARS FROM THE APPLI-
13 CABLE REGISTRATION COMMENCEMENT PERIOD SET FORTH IN THIS SECTION. THE
14 REGISTRATION FEE FOR FOOD WAREHOUSES SHALL BE TWO HUNDRED DOLLARS. THE
15 COMMISSIONER SHALL PRORATE THE REGISTRATION FEE FOR ANY PERSON REGISTER-
16 ING AFTER THE COMMENCEMENT OF THE REGISTRATION PERIOD.

17 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
18 COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO DEPOSIT ALL MONEY
19 RECEIVED PURSUANT TO THIS SECTION IN AN ACCOUNT WITHIN THE MISCELLANEOUS
20 SPECIAL REVENUE FUND.

21 S 5. Section 251-z-4 of the agriculture and markets law, as added by
22 chapter 863 of the laws of 1972, is amended to read as follows:

23 S 251-z-4. Exemptions. In addition to the exemptions specified in
24 subdivision three of section two hundred fifty-one-z-two OF THIS
25 ARTICLE, the commissioner may, if he OR SHE determines that the
26 protection of the consumers of the state as a whole will not be impaired
27 by such action, provide by regulation for exemption from licensing of
28 small food processing establishments AND SMALL FOOD ESTABLISHMENTS when
29 he OR SHE finds that such exemptions would avoid unnecessary regulation
30 and assist in the administration of this article without impairing its
31 purposes. Regulations defining such exemptions may classify exempted
32 establishments with respect to the volume and types of food handled, the
33 types of processing involved, THE TYPES OF FOOD STORED, or with respect
34 to any other factor or combination thereof which bear a reasonable
35 relation to the purposes of this article. Such exemptions may be condi-
36 tioned upon requirements relating to sanitation, record keeping and
37 reporting as the commissioner may require.

38 S 6. Section 251-z-13 of the agriculture and markets law, as renum-
39 bered by chapter 665 of the laws of 2005, is renumbered section 251-z-14
40 and a new section 251-z-13 is added to read as follows:

41 S 251-Z-13. FOOD ESTABLISHMENT PREVENTATIVE MEASURES. EACH OPERATOR OF
42 A FOOD ESTABLISHMENT SHALL TAKE SUCH PREVENTATIVE MEASURES AS THE
43 COMMISSIONER MAY REQUIRE, PURSUANT TO PROMULGATED RULES AND REGULATIONS,
44 TO MINIMIZE THE RISK OF FOOD UNDER SUCH OPERATOR'S CONTROL BEING
45 SUBJECTED TO TAMPERING OR CRIMINAL OR TERRORIST ACTIONS.

46 S 7. Section 251-z-9 of the agriculture and markets law, as amended by
47 chapter 665 of the laws of 2005, is amended to read as follows:

48 S 251-z-9. Rules and regulations. The commissioner is hereby author-
49 ized, after public hearing, to adopt, amend, promulgate and issue rules
50 and regulations, including, but not limited to regulations prescribing
51 good manufacturing practices, GOOD STORAGE PRACTICES and requiring
52 records relating to processing OR STORAGE data and food distribution
53 patterns, ESTABLISHING PREVENTATIVE MEASURES TO MINIMIZE THE RISK OF
54 FOOD BEING SUBJECTED TO TAMPERING OR CRIMINAL OR TERRORIST ACTIONS, food
55 safety education programs and requirements, and such other regulations
56 as he or she may deem necessary to supplement and give full force and

1 effect to the provisions of this article. A proposal to adopt applicable
2 federal regulations pursuant to the federal food, drug and cosmetic act,
3 relating to commercially processed OR STORED foods for human consumption
4 may be adopted without public hearing.
5 S 8. This act shall take effect on the one hundred eightieth day after
6 it shall have become a law. Effective immediately, the addition, amend-
7 ment and/or repeal of any rule or regulation necessary for the implemen-
8 tation of this act on its effective date is authorized to be made on or
9 before such effective date.