

4302

2013-2014 Regular Sessions

I N   S E N A T E

March 20, 2013

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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:

1     Section 1. Section 251-z-2 of the agriculture and markets law is  
2     amended by adding a new subdivision 5 to read as follows:  
3     5. THE TERM "CHAIN STORE" MEANS A FOOD PROCESSING ESTABLISHMENT THAT  
4     IS PART OF A NETWORK OF SUBSIDIARIES, AFFILIATES, OR OTHER MEMBER STORES  
5     UNDER DIRECT OR INDIRECT CONTROL OF A CORPORATION, PARTNERSHIP, LIMITED  
6     LIABILITY COMPANY, OR OTHER ORGANIZED ENTITY THAT, AS A GROUP, HAD ANNU-  
7     AL GROSS SALES IN THE PREVIOUS CALENDAR YEAR OF THREE MILLION DOLLARS OR  
8     MORE.  
9     S 2. Section 251-z-3 of the agriculture and markets law, as amended by  
10    section 1 of part N of chapter 58 of the laws of 2012, is amended to  
11    read as follows:  
12    S 251-z-3. Licenses; fees. No person shall maintain or operate a food  
13    processing establishment unless licensed biennially by the commissioner.  
14    Application for a license to operate a food processing establishment  
15    shall be made, upon a form prescribed by the commissioner. [Renewal  
16    applications] A RENEWAL APPLICATION shall be submitted to the commis-  
17    sioner at least thirty days prior to the commencement of the next  
18    license period.  
19    The applicant shall furnish evidence of his or her good character,  
20    experience and competency, that the establishment has adequate facili-  
21    ties and equipment for the business to be conducted, that the establish-  
22    ment is such that the cleanliness of the premises can be maintained,  
23    that the product produced therein will not become adulterated and, if  
24    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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1 ual in a position of management or control who has completed an approved  
2 food safety education program pursuant to section two hundred fifty-one-  
3 z-twelve of this article. The commissioner, if so satisfied, shall issue  
4 to the applicant, upon payment of the license fee of four hundred  
5 dollars, a license to operate the food processing establishment  
6 described in the application. NOTWITHSTANDING THE PRECEDING, AN APPLI-  
7 CANT THAT IS A CHAIN STORE SHALL PAY A LICENSE FEE OF ONE HUNDRED  
8 DOLLARS IF ITS LICENSE EXPIRES SIX MONTHS OR LESS FROM THE DATE ITS  
9 LICENSE PERIOD BEGAN, TWO HUNDRED DOLLARS IF ITS LICENSE EXPIRES BETWEEN  
10 SIX MONTHS AND ONE YEAR FROM THE DATE ITS LICENSE PERIOD BEGAN, THREE  
11 HUNDRED DOLLARS IF ITS LICENSE EXPIRES BETWEEN ONE YEAR AND EIGHTEEN  
12 MONTHS FROM THE DATE ITS LICENSE PERIOD BEGAN, OR FOUR HUNDRED DOLLARS  
13 IF ITS LICENSE EXPIRES BETWEEN EIGHTEEN MONTHS AND TWO YEARS FROM THE  
14 DATE ITS LICENSE PERIOD BEGAN. However, the license fee shall be nine  
15 hundred dollars for a food processing establishment determined by the  
16 commissioner, pursuant to duly promulgated regulations, to require more  
17 intensive regulatory oversight due to the volume of the products  
18 produced, the potentially hazardous nature of the product produced or  
19 the multiple number of processing operations conducted in the establish-  
20 ment. [The license application for retail food stores shall be accompa-  
21 nied by documentation in a form approved by the commissioner which  
22 demonstrates that the food safety education program requirement has been  
23 met. The] A license shall take effect on the [date of issuance and  
24 continue for two years from such date.] FIRST DAY THE COMMISSIONER  
25 DETERMINES THAT THE APPLICANT PROCESSED FOOD WITHOUT A LICENSE THEREFOR  
26 OR ON THE DAY THE LICENSE IS ISSUED, WHICHEVER DAY IS EARLIEST. A  
27 RENEWED LICENSE SHALL TAKE EFFECT ON THE NEXT DAY AFTER THE DAY THAT THE  
28 PREVIOUS LICENSE PERIOD ENDED. EACH LICENSE AND RENEWED LICENSE SHALL  
29 CONTINUE FOR TWO YEARS FROM THE DAY THAT IT WAS FIRST EFFECTIVE.  
30 NOTWITHSTANDING THE PRECEDING, A LICENSE ISSUED TO AN APPLICANT THAT IS  
31 A CHAIN STORE SHALL EXPIRE ON THE DATE SET FORTH ON THE APPLICATION FORM  
32 PRESCRIBED BY THE COMMISSIONER FOR SUCH APPLICANT.

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

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

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

44 S 4. This act shall take effect immediately.