

# STATE OF NEW YORK

8388

2025-2026 Regular Sessions

## IN SENATE

June 6, 2025

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

AN ACT to amend the agriculture and markets law, in relation to retail food store, food service establishment and food warehouse licensing

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 500 of the agriculture and markets law, as amended  
2 by section 8 of part 11 of chapter 62 of the laws of 2003, subdivision 5  
3 as amended by section 9 of part V of chapter 58 of the laws of 2015, is  
4 amended to read as follows:

5 § [~~500. Special powers and duties of the department with respect to~~  
6 ~~retail food stores, food service establishments and food warehouses. 1.~~]

7 500-a. Definitions. For the purposes of this section, the following  
8 terms shall have the following meanings:

9 [~~(a)~~] 1. "Food service establishment" means any place where food is  
10 prepared and intended for individual portion service, and includes the  
11 site at which individual portions are provided, whether consumption  
12 occurs on or off the premises, or whether or not there is a charge for  
13 the food.

14 [~~(b)~~] 2. "Retail food store" means any establishment or section of an  
15 establishment where food and food products are offered to the consumer  
16 and intended for off-premises consumption. The term does not include  
17 establishments which handle only pre-packaged, non-potentially hazardous  
18 foods, roadside markets that offer only fresh fruits and fresh vegeta-  
19 bles for sale, food service establishments, or food and beverage vending  
20 machines.

21 [~~(c)~~] 3. "Zone" means an administratively determined geographic  
22 portion of the state to which inspectors are assigned by the department.

23 [~~(d)~~] 4. "Food warehouse" shall mean any food establishment in which  
24 food is held for commercial distribution.

25 [~~2. Each retail food store shall post a copy of the date and results~~  
26 ~~of its most recent sanitary inspection by the department in a conspicu-~~  
27 ~~ous location near each public entrance, as prescribed by the commission-~~

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

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1 ~~er. Such copies shall also be made available to the public upon~~  
2 ~~request.~~

3 ~~3. (a) The department shall assign at least one retail food specialist~~  
4 ~~to each inspection zone. Such specialists shall assist retail food~~  
5 ~~stores in remedying chronic deficiencies and shall ensure that effective~~  
6 ~~pest control and other sanitary measures are properly implemented.~~

7 ~~(b) Such specialists shall be given additional training to that~~  
8 ~~normally provided to sanitary inspectors to qualify them for their~~  
9 ~~duties under this section, with particular emphasis on the problems~~  
10 ~~unique to retail food stores and pest control measures.~~

11 ~~4. The department shall inspect each retail food store at least once~~  
12 ~~in every twelve month period. Any store that fails two consecutive~~  
13 ~~inspections shall be inspected at least once in every six month period~~  
14 ~~until it has passed two consecutive inspections. In the event that a~~  
15 ~~retail food store fails three consecutive inspections, the department~~  
16 ~~may, in its discretion, order such establishment to cease all retail~~  
17 ~~operation until it passes inspection or suspend or revoke any license~~  
18 ~~issued to such establishment pursuant to article twenty C of this chap-~~  
19 ~~ter.~~

20 ~~5. Licensure. No person shall maintain or operate a retail food store,~~  
21 ~~food service establishment or food warehouse unless such establishment~~  
22 ~~is licensed pursuant to the provisions of this article, provided, howev-~~  
23 ~~er, that establishments registered, permitted or licensed by the depart-~~  
24 ~~ment pursuant to other provisions of this chapter, under permit and~~  
25 ~~inspection by the state department of health or by a local health agency~~  
26 ~~which maintains a program certified and approved by the state commis-~~  
27 ~~sioner of health, or subject to inspection by the United States depart-~~  
28 ~~ment of agriculture pursuant to the federal meat, poultry or egg~~  
29 ~~inspection programs, shall be exempt from licensure under this article.~~  
30 ~~Application for licensure of a retail food store, food service estab-~~  
31 ~~lishment or food warehouse shall be made, upon a form prescribed by the~~  
32 ~~commissioner, on or before December first of every other year for the~~  
33 ~~registration period beginning January first following. Upon submission~~  
34 ~~of a completed application, together with the applicable licensing fee,~~  
35 ~~the commissioner shall issue a license to the retail food store, food~~  
36 ~~service establishment or food warehouse described in the application for~~  
37 ~~two years from the date of issuance. The license fee shall be two~~  
38 ~~hundred fifty dollars provided, however, that food warehouses shall pay~~  
39 ~~a license fee of four hundred dollars. Notwithstanding the preceding~~  
40 ~~sentence, the commissioner shall, upon submission of a completed appli-~~  
41 ~~cation for a new license by an applicant that is a chain store, as~~  
42 ~~defined by subdivision five of section two hundred fifty one z two of~~  
43 ~~this chapter, issue such license for a period ending on the same date as~~  
44 ~~the licenses of the other chain stores that are a part of the same~~  
45 ~~network.]~~

46 § 2. The agriculture and markets law is amended by adding a new  
47 section 500-b to read as follows:

48 § 500-b. Licensure. No person shall maintain or operate a retail food  
49 store, food service establishment or food warehouse unless such estab-  
50 lishment is licensed pursuant to the provisions of this article,  
51 provided, however, that establishments registered, permitted or licensed  
52 by the department pursuant to other provisions of this chapter, under  
53 permit and inspection by the state department of health or by a local  
54 health agency which maintains a program certified and approved by the  
55 state commissioner of health, or subject to inspection by the United  
56 States department of agriculture pursuant to the federal meat, poultry

1 or egg inspection programs, shall be exempt from licensure under this  
2 article.

3 1. Application for licensure of a retail food store, food service  
4 establishment or food warehouse shall be made, upon a form prescribed by  
5 the commissioner, on or before December first of every other year for  
6 the registration period beginning January first following.

7 2. Upon submission of a completed application, together with the  
8 applicable licensing fee, the commissioner may issue a license to the  
9 retail food store, food service establishment or food warehouse  
10 described in the application for two years from the date of issuance  
11 pursuant to the provisions of this article.

12 3. The license fee shall be two hundred fifty dollars provided, howev-  
13 er, that food warehouses shall pay a license fee of four hundred  
14 dollars.

15 4. Notwithstanding the preceding sentence, the commissioner shall,  
16 upon submission of a completed application for a new license by an  
17 applicant that is a chain store, as defined by subdivision five of  
18 section two hundred fifty-one-z-two of this chapter, issue such license  
19 for a period ending on the same date as the licenses of the other chain  
20 stores that are a part of the same network.

21 § 3. The agriculture and markets law is amended by adding 7 new  
22 sections, 500-c, 500-d, 500-e, 500-f, 500-g, 500-h and 500-i to read as  
23 follows:

24 § 500-c. Granting, suspending or revoking licenses. The commissioner  
25 may decline to grant a new license, may decline to renew a license, may  
26 suspend or revoke a license already granted after due notice and oppor-  
27 tunity for hearing whenever such commissioner finds that:

28 1. Any statement contained in an application for license is or was  
29 false or misleading;

30 2. The establishment does not have facilities or equipment sufficient  
31 to maintain adequate sanitation for the activities conducted;

32 3. The establishment is not maintained in a clean and sanitary condi-  
33 tion or is not operated in a sanitary or proper manner;

34 4. The maintenance and operation of the establishment is such that the  
35 product offered for sale or stored therein is or may be adulterated;

36 5. The establishment has failed or refused to produce any records or  
37 provide any information demanded by the commissioner reasonably related  
38 to the administration and enforcement of this article;

39 6. The applicant or licensee, or an officer, director, partner, holder  
40 of ten percent of the voting stock, or any other person exercising any  
41 position of management or control has failed to comply with any of the  
42 provisions of this chapter or rules and regulations promulgated pursuant  
43 thereto; or

44 7. Any person including the applicant or licensee, or an officer,  
45 director, partner or any stockholder, exercising any position of manage-  
46 ment or control has been convicted of a felony in any court of the  
47 United States or any state or territory.

48 § 500-d. Review. The action of the commissioner in refusing to grant  
49 or reissue a license, or in suspending or revoking a license, shall be  
50 subject to review in the manner provided by article seventy-eight of the  
51 civil practice law and rules. The decision of the commissioner shall be  
52 final unless within thirty days from the date of service thereof on the  
53 applicant or licensee, a proceeding is instituted to review such action.

54 § 500-e. Power of commissioner to investigate. The commissioner and  
55 such commissioner's duly authorized representatives in the performance  
56 of their licensing and inspection duties under this article shall have

1 access to and may enter at all reasonable hours all places where food or  
2 food products are being offered for sale or stored, or where food or  
3 food products are being bought, sold or handled for retail or wholesale.

4 § 500-f. Sanitary inspections. 1. The department shall assign at least  
5 one retail food specialist to each inspection zone. Such specialists  
6 shall assist retail food stores, food service establishments, and food  
7 warehouses in remedying chronic deficiencies and shall ensure that  
8 effective pest control and other sanitary measures are properly imple-  
9 mented.

10 2. Such specialists shall be given additional training to that normal-  
11 ly provided to sanitary inspectors to qualify them for their duties  
12 under this section, with particular emphasis on the problems unique to  
13 retail food stores, food service establishments, and food warehouses and  
14 pest control measures.

15 3. The department shall inspect each retail food store at least once  
16 in every twelve-month period. Any store that fails two consecutive  
17 inspections shall be inspected at least once in every six-month period  
18 until it has passed two consecutive inspections.

19 4. In addition to any and all remedies provided in this article, in  
20 the event that a retail food store fails three consecutive inspections,  
21 the department may, in its discretion, order such establishment to cease  
22 all retail or wholesale operation until it passes inspection or suspend  
23 or revoke any license issued to such establishment.

24 5. Each retail food store and food service establishment shall post a  
25 copy of the date and results of its most recent sanitary inspection by  
26 the department in a conspicuous location near each public entrance, as  
27 prescribed by the commissioner. Such copies shall also be made avail-  
28 able to the public upon request.

29 § 500-g. Penalties. No operator of a retail food store, food service  
30 establishment, or food warehouse shall fail to conform to any require-  
31 ment of or violate any provision of this article or of the rules and  
32 regulations promulgated thereunder. Each day's operation of a retail  
33 food store, a food service establishment or a food warehouse without a  
34 license shall constitute a separate violation of this article, punisha-  
35 ble by the penalties described in article three of this chapter, in  
36 addition to the remedies provided in this article.

37 § 500-h. Remedies. The commissioner may institute such action at law  
38 or in equity as may be necessary to enforce compliance with any  
39 provision of this article or of any rule or regulation applicable there-  
40 to or promulgated thereunder. In addition to any other remedy prescribed  
41 in article three of this chapter, or otherwise, such commissioner may  
42 apply for relief by injunction without alleging or proving that an  
43 adequate remedy at law does not exist. Such application may be made to  
44 the supreme court in any district or county, as provided by the civil  
45 practice law and rules, or to the supreme court in the third judicial  
46 district.

47 § 500-i. Severability. If any provision of this article or the appli-  
48 cation thereof to any person or circumstances is held invalid, such  
49 invalidity shall not affect other provisions or applications of the  
50 article which can be given effect without the invalid provision or  
51 application, and to this end the provisions of this article are declared  
52 to be severable.

53 § 4. This act shall take effect on the one hundred twentieth day after  
54 it shall have become a law.