
THE GENERAL ASSEMBLY OF PENNSYLVANIA

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, FEBRUARY 13, 1995

AN ACT

1 Providing for the regulation of the production and handling of
2 ice; licensing ice plants; imposing duties on the Department
3 of Environmental Resources; and providing for civil
4 penalties.

5 The General Assembly declares that only ice protected from
6 contamination should be offered for sale, sold and used in this
7 Commonwealth. Contaminated ice is a danger to the health, safety
8 and welfare of the citizens of this Commonwealth but may exist
9 in the absence of legislation designed to ensure that ice
10 offered for sale to and used by Pennsylvanians is protected from
11 contamination while being manufactured, processed, packaged and
12 stored. It is the intent of the General Assembly to hereinafter
13 set forth such legislation.

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12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as the Manufactured
16 Ice Law.

17 Section 2. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Contamination." Includes, but is not limited to, exposure
22 to or contact with litter; waste; broken glass or refuse;
23 rodents; insects; micro-organisms; dust or dirt; dripping,
24 seeping or leaking water or condensate; harmful chemicals;
25 paint; grease; or other foreign matter.

26 "Department." The Department of Environmental Resources of
27 the Commonwealth.

28 "Easily cleanable." Readily accessible for removal of dirt,
29 or of such material and finish and so fabricated that residue
30 may be completely removed by normal cleaning methods.

1 "Employee." A person working in an ice plant or ice
2 production area in a commercial establishment who transports ice
3 or ice containers, who comes in contact with ice equipment, or
4 who engages in ice manufacture, processing, packaging, storage
5 or distribution.

6 "Equipment." Grinders, crushers, chippers, ice makers,
7 shavers, scorers, saws, cubers, can fillers, drop tubes,
8 needles, core sucking devices, conveyors and similar items used
9 in ice plants.

10 "Ice." The product, in any form, obtained as a result of
11 freezing water by mechanical or artificial means.

12 "Ice contact surface." A surface, including a water line,
13 that is touched by a product or ingredient during processing.
14 The term includes those surfaces from which water may drain,
15 drip or splash back.

16 "Ice plant." Any commercial place, premises or establishment
17 where ice is manufactured, processed or packaged and offered for
18 sale for human consumption.

19 "Local agency." A governmental unit other than a unit of the
20 Commonwealth. The term includes, but is not limited to, a
21 county, city, borough, incorporated town, township or municipal
22 authority.

23 "Person." An individual, or a firm, partnership, company,
24 corporation, trustee, association, or other public or private
25 entity.

26 "Processing." Grinding, crushing, flaking, cubing or any
27 other operation which changes the physical characteristics of
28 ice, or packaging ice for human consumption.

29 "Producer." Any person who owns or operates an ice plant.

30 "Product area." Where ice or its ingredients or packaging

1 materials are handled or stored, and any area related to the
2 manufacturing, packaging, handling or storage of ice intended
3 for sale for human consumption.

4 "Secretary." The Secretary of Environmental Resources of the
5 Commonwealth.

6 "Single-service article." An article, including packaging
7 material, which is intended by the manufacturer, and generally
8 recognized by the public, as being for one usage only, and is
9 then to be discarded.

10 "Utensil." A multiuse can, bucket, tub, pail, cover,
11 container, tong, pick, shovel, scoop or similar item used in the
12 manufacture, handling, processing and transport of ice.

13 Section 3. Ice plant and production area.

14 The grounds of an ice plant shall be free from conditions
15 which may result in the contamination of ice. Plant buildings,
16 structures and product areas for ice manufacture shall be
17 suitable in size, construction and design to facilitate
18 maintenance and sanitary operations. Ice manufacturing,
19 processing, packaging and storage operations shall be conducted
20 in an enclosed building maintained in a sanitary condition. The
21 building shall protect the ice, ingredients, equipment and
22 utensils from contamination. Ice contact surfaces, including
23 storage bins, conveyors, packaging equipment and hand utensils,
24 shall be kept clean and in good repair. Ice contact surfaces
25 shall be cleaned, using acceptable cleansers and cleaning
26 methods, as often as necessary to insure that no contamination
27 of the product occurs.

28 Section 4. Equipment and utensils.

29 Equipment and utensils used in ice plants or ice production
30 areas shall be of easily cleanable construction, shall be kept

1 clean and in good repair, and shall be handled and stored in a
2 sanitary manner. Materials used as ice-contact surfaces shall be
3 smooth, nontoxic, corrosion resistant and nonabsorbent. Single-
4 service articles, including packaging, shall be stored,
5 dispensed and handled in a sanitary manner and shall be used
6 only once.

7 Section 5. Handling and labeling of ice.

8 (a) Freedom from contamination.--Ice shall be protected from
9 contamination while being manufactured, processed, packaged and
10 stored.

11 (b) Labeling requirements.--Packaged ice products shall be
12 labeled clearly to show the product name, manufacturer, location
13 of processing plant, recall code and package weight. The label
14 shall bear the manufacturer's license number issued by the
15 department.

16 (c) Records of product origination.--The producer shall be
17 required to keep records of the source, address, license number
18 and quantity of all ice received for processing.

19 (d) Recall.--In lieu of a recall code, an ice plant shall
20 develop a recall procedure both for portions of the marketed
21 product and for complete withdrawal of the plant's entire
22 product on the market. Recall procedures shall be approved by
23 the department.

24 Section 6. Water supply, treatment and testing.

25 (a) Water quality standards.--Ice intended for human
26 consumption shall meet the bacteriological, chemical and
27 physical standards of State and local laws, ordinances and
28 regulations. In addition, the United States Environmental
29 Protection Agency drinking water standards and regulations of
30 the Federal Food and Drug Administration shall apply. Water used

1 in ice manufacturing plants shall be of safe and sanitary
2 quality and drawn from public water supply systems regulated
3 under the act of May 1, 1984 (P.L.206, No.43), known as the
4 Pennsylvania Safe Drinking Water Act, or private water supply
5 systems which are of a quality that meet all drinking water
6 standards under that act. Both the water used in the
7 manufacturing process and the ice produced shall at all times
8 meet the drinking water standards established under the
9 Pennsylvania Safe Drinking Water Act.

10 (b) Testing.--

11 (1) A person who manufactures ice shall be required to
12 conduct and record bacteriological, chemical and physical
13 testing to insure that water from a private water supply
14 system used in the manufacture of ice intended for sale for
15 human consumption complies with standards and methods as
16 established by the department.

17 (2) A person who manufactures ice shall be required to
18 conduct and record bacteriological, chemical and physical
19 testing to insure that ice manufactured for human consumption
20 or for the refrigeration of food products complies with
21 standards and methods as established by the department.

22 (3) Ice plants shall maintain on file, on the premises
23 occupied by the ice plant, copies of all records for a period
24 of time established by the department in regulation.

25 (4) All testing shall be conducted by a laboratory
26 certified under the Pennsylvania Safe Drinking Water Act and
27 in accordance with 25 Pa. Code Ch. 109 (relating to safe
28 drinking water).

29 (c) Water supply construction, design and operation.--Water
30 supplies used in ice plants must meet the requirements of a

1 public water system, in accordance with 25 Pa. Code, Ch. 109.

2 Section 7. Transportation.

3 While being transported or delivered, ice shall be protected
4 from contamination. The ice compartment of vehicles used to
5 transport or deliver ice shall be of cleanable material and
6 construction, and shall be kept clean and in good repair.

7 Section 8. Registration and licensing of ice plants.

8 (a) Registration deadline.--Ice plants in this Commonwealth
9 shall be annually registered and licensed on or before September
10 1 with the department and shall pay the following fees:

11 (1) A registration fee of \$50 per manufacturing
12 location.

13 (2) A license fee of \$2 per ton of capacity.

14 (b) Registration statement.--The producer's registration
15 statement shall be signed and verified, shall be made on a
16 registration form furnished by the department, and shall contain
17 the following information:

18 (1) The name under which the business is conducted.

19 (2) The address of the place of business in this
20 Commonwealth being registered.

21 (3) If a sole proprietorship, the name of the
22 proprietor; if a partnership, the names of all partners; if a
23 corporation, the date and place of incorporation and name and
24 address of its registered agent in this Commonwealth; and if
25 another type of association, the names of its principals.

26 (4) The names of those individuals in an actual
27 administrative capacity which, in the case of a sole
28 proprietorship, shall be the managing proprietor; in a
29 partnership, the managing partner; in a corporation, the
30 officers and directors; and in another association, those in

1 a managerial capacity.

2 (5) The number and capacity of ice manufacturing or
3 processing machines which manufacture or process ice for
4 sale.

5 (c) Two or more ice plants.--If a person operates more than
6 one ice plant, he shall register each establishment separately
7 by listing the name and address of each establishment on the
8 registration statement.

9 (d) Inspections.--

10 (1) The department is authorized to make inspections or
11 to require an ice plant to make self inspections, conduct
12 tests and take samples as is deemed necessary, in accordance
13 with regulations the department establishes.

14 (2) The department is authorized to require any ice
15 plant to establish and maintain records, make reports and
16 furnish information the department prescribes as being
17 reasonably necessary to demonstrate that the plant is
18 complying with the requirements of this act and with the
19 terms and conditions of its license.

20 (3) The department and its agents shall have the right
21 to enter any premises subject to this act upon presentation
22 of appropriate credentials at any reasonable time in order to
23 determine compliance with this act, and to that end may test,
24 inspect or sample any feature of an ice plant and inspect,
25 copy or photograph any monitoring equipment or other feature
26 of an ice plant or records required to be kept under
27 provisions of this act.

28 (4) Upon being refused entry or access, an agent or
29 employee of the department may apply for a search warrant to
30 a Commonwealth official authorized to issue a search warrant

1 for the purposes of authorizing entry for inspecting or
2 examining a property, building, premises, place, book, record
3 or other physical evidence; conducting tests, or taking
4 samples. The warrant shall be issued upon probable cause. It
5 shall be sufficient probable cause to show any of the
6 following:

7 (i) The inspection, examination, test or sampling is
8 pursuant to a general administrative plan to determine
9 compliance with this act.

10 (ii) The agent or employee has reason to believe
11 that a violation of this act has occurred or may occur.

12 (iii) The agent or employee has been refused access
13 to the property, building, premises, place, book, record
14 or physical evidence, or has been prevented from
15 conducting tests or taking samples.

16 (iv) The object of the investigation is subject to
17 regulation under this act.

18 (e) Issuance of license.--

19 (1) The department shall license an ice plant which
20 meets the requirements of this act and any regulations
21 promulgated hereunder.

22 (2) It is unlawful for a person to operate an ice plant
23 without first having received a written license from the
24 department. Applications for a license shall be submitted to
25 the department on a form and in a manner prescribed by the
26 department. Each location shall be licensed separately. A
27 license to operate an ice plant shall be valid for a period
28 of 12 months.

29 (3) A license shall be renewed annually as long as the
30 ice plant is in compliance with this act. An application for

1 renewal shall be made no later than 30 days prior to the
2 expiration of the existing license. A license shall not be
3 transferred to a new producer without written approval by the
4 department showing the ice plant is in compliance with this
5 act.

6 (f) Compliance.--Ice producers shall comply with the minimum
7 standards specified in this act.

8 (g) License revocation.--The department may, after providing
9 notice and an opportunity for hearing, refuse to license an ice
10 plant, or may revoke or suspend the license for violations of
11 the requirements in this law or for interference with the
12 department in the performance of its duty under this act.

13 (h) Civil penalties.--If a person violates this act or a
14 rule or order adopted or license issued under this act, the
15 department may assess a civil penalty against that person as
16 follows:

17 (1) The penalty may be in an amount not to exceed
18 \$10,000 per day for a person who violates this act or a rule,
19 order or license issued under this act.

20 (2) Each day a violation continues may be considered a
21 separate violation for purposes of penalty assessment.

22 (3) In determining the amount of the penalty, the
23 department shall consider:

24 (i) The seriousness of the violation, including, but
25 not limited to, the nature, circumstances, extent and
26 gravity of the prohibited acts and the hazard or
27 potential hazard created to the health or safety of the
28 public.

29 (ii) The history of previous violations.

30 (iii) The amount necessary to deter future

1 violations.

2 (iv) Efforts to correct the violations.

3 (v) Any other matters that justice may require to be
4 considered.

5 Section 9. Out-of-State producers.

6 An out-of-State ice producer shall submit adequate proof of
7 approval of an ice plant by the out-of-State agency having
8 jurisdiction over ice plants, pursuant to standards
9 substantially the same as those contained in this act or must
10 receive a license to operate an ice plant from the department
11 before ice manufactured or processed by the out-of-State ice
12 plant may be offered for sale or use in this Commonwealth.

13 Section 10. Use of fees and penalties.

14 All fines; assessments; civil penalties; and permit, license
15 and registration fees collected under this act shall be paid
16 into the State Treasury and placed in a restricted account to be
17 known as the Environmental Health Fund, hereby established. The
18 fund shall be administered by the department to pay
19 administrative expenses necessary to carry out this and other
20 acts related to environmental health administered by the
21 department. All moneys paid into the fund are hereby allocated
22 to the department to carry out the purposes of this act and
23 other acts related to environmental health.

24 Section 11. Recalls and public notification.

25 (a) Power of department to recall.--The department may order
26 a recall of ice, prohibit the sale of ice, or undertake any
27 other action necessary to protect the public health and carry
28 out the provisions of this act.

29 (b) Duty of licensee.--The licensee of an ice plant shall,
30 as soon as practicable, give public notification whenever the

1 ice manufactured is not in compliance with this act or the
2 regulations adopted thereunder.

3 (1) Newspaper notice shall be given by the licensee by
4 publication in a newspaper of general circulation as long as
5 the violation continues.

6 (2) The department may prescribe alternative notice
7 requirements for violation of other regulations adopted under
8 this act.

9 Section 12. Delegation.

10 The department is authorized to enter into agreements,
11 contracts or cooperative arrangements under such terms and
12 conditions as may be deemed appropriate with other Federal
13 agencies, State agencies, local agencies, including agreements
14 with local health departments, or agencies in other states to
15 delegate one or more of its regulatory functions to issue
16 licenses, inspect, monitor and enforce this act. The department
17 shall monitor and supervise activities conducted pursuant to
18 such an agreement for consistency with this act and the rules
19 and regulations of the department.

20 Section 13. Small ice producers.

21 In any place regulated under the act of May 23, 1945
22 (P.L.926, No.369), referred to as the Public Eating and Drinking
23 Place Law, where ice is manufactured on site by an ice machine
24 and served to the public, the department shall not require
25 separate licensing under this act for that purpose. Ice which is
26 not manufactured for use within the place, however, shall meet
27 the requirements of this act.

28 Section 14. Rules and regulations.

29 The Environmental Quality Board may, in the manner provided
30 by law, promulgate the rules and regulations necessary to carry

1 out this act.

2 Section 15. Effective date.

3 This act shall take effect in one year.