



General Assembly

January Session, 2011

Raised Bill No. 6355

LCO No. 3313

03313_____GL_

Referred to Committee on General Law

Introduced by:

(GL)

**AN ACT CONCERNING UNIVERSAL PRODUCT CODING AND THE
LICENSURE OF FOOD MANUFACTURING ESTABLISHMENTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 21a-79 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *July 1, 2011*):

4 (b) (1) (A) Any person, firm, partnership, association or corporation
5 that utilizes universal product coding in totaling a retail customer's
6 purchases shall mark or cause to be marked each consumer
7 commodity that bears a Universal Product Code with its retail price.

8 (B) Any person, firm, partnership, association or corporation that
9 utilizes an electronic pricing system in totaling a retail consumer's
10 purchases shall provide each consumer with an item-by-item digital
11 display, plainly visible to the consumer as each universal pricing code
12 is scanned, of the price of each consumer commodity or carbonated
13 soft drink container, or both, selected for purchase by such consumer
14 prior to accepting payment from such consumer for such commodity
15 or container. The provisions of this subparagraph do not apply to any

16 person, firm, partnership, association or corporation operating in a
17 retail sales area of not more than ten thousand square feet.

18 (2) The provisions of subparagraph (A) of subdivision (1) of this
19 subsection shall not apply if: (A) The Commissioner of Consumer
20 Protection, by regulation, allows for the utilization of electronic shelf
21 labeling systems; (B) a retailer is granted approval to utilize an
22 electronic shelf labeling system by the commissioner; (C) the retailer
23 has demonstrated to the satisfaction of the commissioner that such
24 electronic shelf labeling system is supported by an electronic pricing
25 system that utilizes universal product coding in totaling a retail
26 customer's purchases; and (D) the retailer has received approval for
27 such an electronic pricing system by the commissioner.

28 (3) The provisions of subparagraph (A) of subdivision (1) of this
29 subsection shall not apply if: (A) The retailer has met the conditions of
30 subdivision (2) of this subsection; and (B) the retailer has received
31 permission by the commissioner to suspend implementation of the
32 electronic pricing system for a period not to exceed thirty days in order
33 to allow the retailer or an agent acting on behalf of the retailer to reset,
34 remodel, repair or otherwise modify such system at the retail
35 establishment.

36 (4) The provisions of subparagraph (A) of subdivision (1) of this
37 subsection shall not apply if: (A) The retailer applies and is approved
38 for an exemption by the Commissioner of Consumer Protection, (B) the
39 retailer demonstrates to the satisfaction of the commissioner that the
40 retailer has achieved price scanner accuracy of at least ninety-eight per
41 cent, as determined by the latest version of the National Institute of
42 Standards and Technology Handbook 130, "Examination Procedures
43 for Price Verification, as adopted by The National Conference on
44 Weights and Measures", (C) the retailer pays an [application] annual
45 fee, to be used to offset annual inspection costs, of three hundred
46 fifteen dollars if the premises consists of less than twenty thousand
47 square feet of retail space and six hundred twenty-five dollars if the

48 premises consists of twenty thousand square feet or more of retail
49 space, (D) the retailer makes available a consumer price test scanner
50 approved by the commissioner and located prominently in an easily
51 accessible location for each twelve thousand square feet of retail floor
52 space, or fraction thereof, and (E) price accuracy inspections resulting
53 in less than ninety-eight per cent price scanner accuracy are
54 reinspected without penalty and the retailer pays a two-hundred-fifty-
55 dollar reinspection fee.

56 (5) Notwithstanding any provision of this subsection, consumer
57 commodities that are offered for sale and that are located on an end
58 cap display within the retail sales area are not subject to the
59 requirements specified under this subsection, provided any
60 information that would have been available to a consumer pursuant to
61 this section is clearly and conspicuously posted on or adjacent to such
62 end cap. For purposes of this subdivision, "end cap display" means the
63 location in the retail sales area that is at the immediate end of an aisle.

64 (6) Consumer commodities that are advertised in a publicly
65 circulated printed form as being offered for sale at a reduced price for
66 a minimum seven-day period need not be individually marked at such
67 reduced retail price, provided such consumer commodities are
68 individually marked with their regular retail price and a conspicuous
69 sign is adjacent to such consumer commodities, which sign discloses:
70 (A) The reduced retail price and its unit price; and (B) a statement that
71 the item will be electronically priced at the reduced price by the
72 cashier.

73 (7) If a consumer commodity is offered for sale and its electronic
74 price is higher than the posted price, then one item of such consumer
75 commodity, up to a value of twenty dollars, shall be given to the
76 consumer at no cost. A conspicuous sign shall adequately disclose to
77 the consumer that in the event the electronic price is higher than the
78 posted retail price, one item of such consumer commodity shall be
79 given to the customer at no cost.

80 Sec. 2. Section 21a-151 of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective July 1, 2011*):

82 For the purposes of this chapter: [, "bakery"]

83 (1) "Bakery" means a building or part of a building wherein is
84 carried on the production of bread, cakes, doughnuts, crullers, pies,
85 cookies, crackers, spaghetti, macaroni or other food products made
86 either wholly or in part of flour or meal and including all frozen or
87 canned baked goods. All restaurants, hotels, private institutions, home
88 bakeries, establishments operating doughnut-frying equipment and
89 other similar places, offering their products for sale, shall be included.

90 (2) "Food manufacturing establishment" means a building or part of
91 a building where packaged food is prepared, processed, packaged for
92 wholesale or stored for wholesale distribution for human
93 consumption. Premises which are used solely for the retail sale of
94 prepackaged food and facilities, as described in sections 21a-24a and
95 22-6r, shall not be considered food manufacturing establishments.

96 (3) "Packaged food" means standard or random weight or volume
97 packages of food commodities that are enclosed in a container or
98 wrapped in any manner in advance of wholesale or retail sale, such
99 that the commodities cannot be added or subtracted from the package
100 or wrapping without breaking or tearing the wrapping, container or
101 seals on the wrapping or container.

102 Sec. 3. Section 21a-152 of the general statutes is repealed and the
103 following is substituted in lieu thereof (*Effective July 1, 2011*):

104 [(a) Each building or room occupied as a bakery shall be so situated
105 as not to be exposed to contamination from its surroundings, shall be
106 drained and plumbed in a manner conducive to a healthful and
107 sanitary condition, shall be adequately lighted and shall have such air-
108 shafts and windows or ventilating pipes, to insure ventilation, as the
109 Commissioner of Consumer Protection directs. Each bakery shall be

110 provided with a washroom and lavatory facilities apart from the bake-
111 room and any room where the manufacture of food products is
112 conducted and suitable locker space shall be provided for each
113 employee. Lavatory facilities shall not be within, or communicate
114 directly with, production areas of a bakery. All bakery rooms shall be
115 of a height adequate for proper ventilation. The walls and ceilings of
116 preparation areas shall be constructed of a smooth material which is
117 impervious to water and which is easily cleaned. Floors and walls shall
118 fit tightly to prevent the accumulation of filth. All bakeries shall be free
119 of vermin. Doors, windows, transoms, skylights and other openings
120 shall be tightly screened between May first and November first of each
121 year. The furniture, utensils and floors of such rooms shall be kept in a
122 sanitary condition and fly-tight metal or plastic refuse containers shall
123 be provided and emptied each day. Bakery products shall not be
124 produced, prepared, packed or held under unsanitary conditions
125 whereby they may be rendered unwholesome or otherwise injurious to
126 health. The manufactured flour or meal food products shall be kept in
127 clean, dry and airy rooms. Hot and cold running water under pressure
128 shall be provided at a sink of sufficient size to be used for the washing
129 of baking utensils. A sink suitable for washing hands shall be provided
130 in the production area. Flour shall be stored on suitable racks at least
131 six inches above the floor and all raw materials shall be protected in a
132 sanitary manner at all times. Sleeping rooms shall be separated from
133 the rooms where bakery products are manufactured or stored.]

134 (a) Each food manufacturing establishment shall be designed,
135 constructed and operated as the Commissioner of Consumer
136 Protection directs pursuant to this chapter and chapter 418.

137 (b) No person, firm or corporation shall operate a bakery or food
138 manufacturing establishment with the intent of producing products for
139 human consumption without having obtained from said commissioner
140 a [bakery] license. Application for such license shall be made on forms,
141 furnished by the commissioner, showing the name and address of such
142 bakery [and] or food manufacturing establishment. Bakeries shall

143 show the number of persons engaged in the production of bread and
144 pastry products, excluding porters, dishwashers, drivers, sales
145 personnel and other employees not directly engaged in such
146 production. The commissioner shall cause an inspection to be made of
147 the premises described in the application and, if conditions are found
148 satisfactory, such license shall be issued. No person, firm or
149 corporation operating a bakery, or any agent, servant or employee
150 thereof, shall refuse, hinder or otherwise interfere with access by the
151 commissioner or his authorized representative for the purpose of
152 conducting an inspection. No person, firm or corporation shall sell or
153 distribute bread, cakes, doughnuts, crullers, pies, cookies, crackers,
154 spaghetti, macaroni or other food products, including frozen or canned
155 baked goods made in whole or in part of flour or meal produced in
156 any bakery located within or beyond the boundaries of this state, or
157 shall sell or distribute food produced in a food manufacturing
158 establishment located within the boundaries of this state unless such
159 bakery or food manufacturing establishment has obtained a license
160 from said commissioner. Facilities licensed pursuant to chapter 417 as
161 food vendors and frozen dessert vendors, and all facilities licensed
162 pursuant to chapters 419a and 430 shall be exempt from such licensing
163 requirement. The commissioner may promulgate regulations excepting
164 out-of-state manufacturers of products, commonly known as cookies,
165 crackers, brown bread or plum puddings in hermetically sealed
166 containers and other similar products, from the license provisions of
167 this section. Such license shall be valid for one year and a fee therefor
168 shall be collected as follows: From a person, firm or corporation
169 owning or conducting a bakery in which there are four persons or
170 fewer engaged in the production of bread and pastry products, twenty
171 dollars; in which there are not fewer than five nor more than nine
172 persons so engaged, forty dollars; in which there are not fewer than ten
173 nor more than twenty-four persons so engaged, one hundred dollars;
174 in which there are not fewer than twenty-five nor more than ninety-
175 nine persons so engaged, two hundred dollars; in which there are
176 more than one hundred persons so engaged, two hundred fifty dollars.

177 The fee for a food manufacturer license shall be twenty dollars
178 annually.

179 (c) A bakery or food manufacturer license may be revoked by said
180 commissioner for violation of this chapter after a hearing conducted in
181 accordance with chapter 54. In addition, a bakery or food
182 manufacturer license may be summarily suspended pending a hearing
183 if said commissioner has reason to believe that the public health, safety
184 or welfare imperatively requires emergency action. Within ten days
185 following the suspension order said commissioner shall cause to be
186 held a hearing which shall be conducted in accordance with the
187 provisions of said chapter 54. Following said hearing said
188 commissioner shall dissolve such suspension or order revocation of the
189 bakery or food manufacturer license. Any person, firm or corporation
190 whose license has been revoked may make application for a new
191 license and said commissioner shall act on such application within
192 thirty days of receipt. The costs of any inspections necessary to
193 determine whether or not an applicant, whose license has been
194 revoked, is entitled to have a new license granted shall be borne by the
195 applicant at such rates as the commissioner may determine. Said
196 commissioner may refuse to grant any bakery or food manufacturer
197 license if he or she finds that the applicant has evidenced a pattern of
198 noncompliance with the provisions of this chapter. Prima facie
199 evidence of a pattern of noncompliance shall be established if said
200 commissioner shows that the applicant has had two or more bakery or
201 food manufacturer licenses revoked.

202 (d) All vehicles used in the transportation of bakery products shall
203 be kept in a sanitary condition and shall have the name and address of
204 the bakery, owner, operator or distributor legibly printed on both
205 sides. Each compartment in which unwrapped bakery products are
206 transported shall be enclosed in a manner approved by the
207 commissioner.

208 (e) The provisions of this section shall not prevent local health

209 authorities from enforcing orders or regulations concerning the
210 sanitary condition of bakeries or food manufacturing establishments.

211 (f) Any person who desires to obtain a license under the provisions
212 of this chapter shall first obtain and present to the commissioner a
213 certificate of approval of the location for which such license is desired.
214 The certificate of approval shall be obtained from the zoning
215 commission, planning and zoning commission or local authority of the
216 town, city or borough in which the facility is located or is proposed to
217 be located. A certificate of approval shall not be required in the case of
218 the transfer of the last issued license from one person to another or in
219 the case of a renewal of a license by the holder of the license. The
220 commissioner shall not issue any license under the provisions of this
221 chapter for which a certificate of approval is required until such
222 certificate of approval is obtained by the license applicant.

223 Sec. 4. Section 21a-157 of the general statutes is repealed and the
224 following is substituted in lieu thereof (*Effective July 1, 2011*):

225 No employer shall knowingly permit to work in his or her bakery or
226 food manufacturing establishment by any person who is affected with
227 [pulmonary tuberculosis or a scrofulous or venereal disease or with a
228 communicable skin affection or with diphtheria, dysentery,
229 paratyphoid fever, poliomyelitis, scarlet fever, smallpox, streptococcus
230 sore throat, typhoid fever, tuberculosis, gonorrhoea or syphilis] a
231 communicable disease, except in those cases in which the director of
232 health has given written authorization stating that the public health is
233 not endangered, and each employer shall maintain himself or herself
234 and his or her employees in a clean and sanitary condition, with clean,
235 washable outer clothing, while engaged in the manufacture, handling
236 or sale of food products. The commissioner or his or her authorized
237 agents may order any person employed in a bakery or food
238 manufacturing establishment to be examined by a licensed physician if
239 he or she has reason to believe that such employee has [any disease
240 enumerated above] a communicable disease. No person shall be

241 allowed to smoke in a bakery or food manufacturing establishment
242 while in the performance of his or her duty.

243 Sec. 5. Section 21a-158 of the general statutes is repealed and the
244 following is substituted in lieu thereof (*Effective July 1, 2011*):

245 The owner, agent or lessee of any property used as a bakery or food
246 manufacturing establishment shall, within thirty days after the service
247 of notice upon him or her of an order issued by the Commissioner of
248 Consumer Protection, comply therewith or cease to use or allow the
249 use of such premises as a bakery or food manufacturing establishment.
250 Such notice shall be in writing and may be served upon such owner,
251 agent or lessee, either personally or by mail, and a notice by registered
252 or certified letter, mailed to the last-known address of such owner,
253 agent or lessee, shall be sufficient service.

254 Sec. 6. Section 21a-159 of the general statutes is repealed and the
255 following is substituted in lieu thereof (*Effective July 1, 2011*):

256 (a) Any person who violates any provision of this chapter, or any
257 regulation made thereunder, or fails to comply with an order of the
258 Commissioner of Consumer Protection, shall be fined not more than
259 fifty dollars for the first offense, shall be fined not more than one
260 hundred dollars or imprisoned not more than ten days for the second
261 offense and shall be fined not more than two hundred dollars and
262 imprisoned not more than thirty days for each subsequent offense.

263 (b) The commissioner may apply to the Superior Court for and such
264 court may, upon hearing and for cause shown, grant a temporary or
265 permanent injunction enjoining any person from operating a bakery or
266 food manufacturing establishment without a license issued in
267 accordance with this chapter, irrespective of whether or not there
268 exists an adequate remedy at law. The commissioner also may apply to
269 the Superior Court for, and such court shall have jurisdiction to grant,
270 a temporary restraining order pending a hearing. Such application for
271 injunctive or other appropriate relief shall be brought by the Attorney

272 General.

273 (c) The Commissioner of Consumer Protection, after providing
274 notice and conducting a hearing in accordance with the provisions of
275 chapter 54, may issue a warning citation or impose a civil penalty of
276 not more than one hundred dollars for the first offense and not more
277 than five hundred dollars for each subsequent offense on any person
278 who violates any provision of this chapter or any regulation adopted
279 pursuant to section 21a-156.

280 Sec. 7. Section 21a-153 of the general statutes is repealed. (Effective
281 July 1, 2011)

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2011	21a-79(b)
Sec. 2	July 1, 2011	21a-151
Sec. 3	July 1, 2011	21a-152
Sec. 4	July 1, 2011	21a-157
Sec. 5	July 1, 2011	21a-158
Sec. 6	July 1, 2011	21a-159
Sec. 7	July 1, 2011	Repealer section

Statement of Purpose:

To change the one-time universal product coding retailer inspection and exemption fee to an annual fee and to require the licensure and oversight of food manufacturing establishments.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]