



# Senate

General Assembly

**File No. 103**

February Session, 2012

Substitute Senate Bill No. 57

*Senate, March 26, 2012*

The Committee on General Law reported through SEN. DOYLE of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE LICENSURE OF FOOD MANUFACTURING ESTABLISHMENTS.**

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

1 Section 1. Section 21a-151 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2012*):

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

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

11 (2) "Food manufacturing establishment" means a building or part of  
12 a building where packaged food is prepared, processed or packaged

13 for wholesale distribution for human consumption. Premises which  
14 are used solely for the retail sale or storage of prepackaged food and  
15 facilities, as described in sections 21a-24a and 22-6r, and chapters 417,  
16 419a, 422, 423, 430, 431 and 491, shall not be considered food  
17 manufacturing establishments.

18 (3) "Packaged food" means standard or random weight or volume  
19 packages of food commodities that are enclosed in a container or  
20 wrapped in any manner in advance of wholesale or retail sale, such  
21 that the commodities cannot be added or subtracted from the package  
22 or wrapping without breaking or tearing the wrapping, container or  
23 seals on the wrapping or container.

24 Sec. 2. Section 21a-152 of the general statutes is repealed and the  
25 following is substituted in lieu thereof (*Effective July 1, 2012*):

26 [(a) Each building or room occupied as a bakery shall be so situated  
27 as not to be exposed to contamination from its surroundings, shall be  
28 drained and plumbed in a manner conducive to a healthful and  
29 sanitary condition, shall be adequately lighted and shall have such air-  
30 shafts and windows or ventilating pipes, to insure ventilation, as the  
31 Commissioner of Consumer Protection directs. Each bakery shall be  
32 provided with a washroom and lavatory facilities apart from the bake-  
33 room and any room where the manufacture of food products is  
34 conducted and suitable locker space shall be provided for each  
35 employee. Lavatory facilities shall not be within, or communicate  
36 directly with, production areas of a bakery. All bakery rooms shall be  
37 of a height adequate for proper ventilation. The walls and ceilings of  
38 preparation areas shall be constructed of a smooth material which is  
39 impervious to water and which is easily cleaned. Floors and walls shall  
40 fit tightly to prevent the accumulation of filth. All bakeries shall be free  
41 of vermin. Doors, windows, transoms, skylights and other openings  
42 shall be tightly screened between May first and November first of each  
43 year. The furniture, utensils and floors of such rooms shall be kept in a  
44 sanitary condition and fly-tight metal or plastic refuse containers shall  
45 be provided and emptied each day. Bakery products shall not be

46 produced, prepared, packed or held under unsanitary conditions  
47 whereby they may be rendered unwholesome or otherwise injurious to  
48 health. The manufactured flour or meal food products shall be kept in  
49 clean, dry and airy rooms. Hot and cold running water under pressure  
50 shall be provided at a sink of sufficient size to be used for the washing  
51 of baking utensils. A sink suitable for washing hands shall be provided  
52 in the production area. Flour shall be stored on suitable racks at least  
53 six inches above the floor and all raw materials shall be protected in a  
54 sanitary manner at all times. Sleeping rooms shall be separated from  
55 the rooms where bakery products are manufactured or stored.]

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

59 (b) No person, firm or corporation shall operate a bakery or food  
60 manufacturing establishment with the intent of producing products for  
61 human consumption without having obtained from said commissioner  
62 a [bakery] license. Application for such license shall be made on forms,  
63 furnished by the commissioner, showing the name and address of such  
64 bakery [and] or food manufacturing establishment. Bakeries shall  
65 show the number of persons engaged in the production of bread and  
66 pastry products, excluding porters, dishwashers, drivers, sales  
67 personnel and other employees not directly engaged in such  
68 production. The commissioner shall cause an inspection to be made of  
69 the premises described in the application and, if conditions are found  
70 satisfactory, such license shall be issued. No person, firm or  
71 corporation operating a bakery, or any agent, servant or employee  
72 thereof, shall refuse, hinder or otherwise interfere with access by the  
73 commissioner or his authorized representative for the purpose of  
74 conducting an inspection. No person, firm or corporation shall sell or  
75 distribute bread, cakes, doughnuts, crullers, pies, cookies, crackers,  
76 spaghetti, macaroni or other food products, including frozen or canned  
77 baked goods made in whole or in part of flour or meal produced in  
78 any bakery located within or beyond the boundaries of this state, or  
79 shall sell or distribute food produced in a food manufacturing

80 establishment located within the boundaries of this state unless such  
81 bakery or food manufacturing establishment has obtained a license  
82 from said commissioner. Facilities licensed pursuant to chapter 417 as  
83 food vendors and frozen dessert vendors, and all facilities licensed  
84 pursuant to chapters 419a and 430 shall be exempt from such licensing  
85 requirement. The commissioner may promulgate regulations excepting  
86 out-of-state manufacturers of products, commonly known as cookies,  
87 crackers, brown bread or plum puddings in hermetically sealed  
88 containers and other similar products, from the license provisions of  
89 this section. Such license shall be valid for one year and a fee therefor  
90 shall be collected as follows: From a person, firm or corporation  
91 owning or conducting a bakery in which there are four persons or  
92 fewer engaged in the production of bread and pastry products, twenty  
93 dollars; in which there are not fewer than five nor more than nine  
94 persons so engaged, forty dollars; in which there are not fewer than ten  
95 nor more than twenty-four persons so engaged, one hundred dollars;  
96 in which there are not fewer than twenty-five nor more than ninety-  
97 nine persons so engaged, two hundred dollars; in which there are  
98 more than one hundred persons so engaged, two hundred fifty dollars.  
99 The fee for a food manufacturer license shall be twenty dollars  
100 annually.

101 (c) A bakery or food manufacturer license may be revoked by said  
102 commissioner for violation of this chapter after a hearing conducted in  
103 accordance with chapter 54. In addition, a bakery or food  
104 manufacturer license may be summarily suspended pending a hearing  
105 if said commissioner has reason to believe that the public health, safety  
106 or welfare imperatively requires emergency action. Within ten days  
107 following the suspension order said commissioner shall cause to be  
108 held a hearing which shall be conducted in accordance with the  
109 provisions of said chapter 54. Following said hearing said  
110 commissioner shall dissolve such suspension or order revocation of the  
111 bakery or food manufacturer license. Any person, firm or corporation  
112 whose license has been revoked may make application for a new  
113 license and said commissioner shall act on such application within  
114 thirty days of receipt. The costs of any inspections necessary to

115 determine whether or not an applicant, whose license has been  
116 revoked, is entitled to have a new license granted shall be borne by the  
117 applicant at such rates as the commissioner may determine. Said  
118 commissioner may refuse to grant any bakery or food manufacturer  
119 license if he or she finds that the applicant has evidenced a pattern of  
120 noncompliance with the provisions of this chapter. Prima facie  
121 evidence of a pattern of noncompliance shall be established if said  
122 commissioner shows that the applicant has had two or more bakery or  
123 food manufacturer licenses revoked.

124 (d) All vehicles used in the transportation of bakery products shall  
125 be kept in a sanitary condition and shall have the name and address of  
126 the bakery, owner, operator or distributor legibly printed on both  
127 sides. Each compartment in which unwrapped bakery products are  
128 transported shall be enclosed in a manner approved by the  
129 commissioner.

130 (e) The provisions of this section shall not prevent local health  
131 authorities from enforcing orders or regulations concerning the  
132 sanitary condition of bakeries or food manufacturing establishments.

133 (f) Any person who desires to obtain a license under the provisions  
134 of this chapter shall first obtain and present to the commissioner a  
135 certificate of approval of the location for which such license is desired.  
136 The certificate of approval shall be obtained from the zoning  
137 commission, planning and zoning commission or local authority of the  
138 town, city or borough in which the facility is located or is proposed to  
139 be located. A certificate of approval shall not be required in the case of  
140 the transfer of the last issued license from one person to another or in  
141 the case of a renewal of a license by the holder of the license. The  
142 commissioner shall not issue any license under the provisions of this  
143 chapter for which a certificate of approval is required until such  
144 certificate of approval is obtained by the license applicant.

145 Sec. 3. Section 21a-157 of the general statutes is repealed and the  
146 following is substituted in lieu thereof (*Effective July 1, 2012*):

147 No employer shall knowingly permit to work in his or her bakery or  
148 food manufacturing establishment any person who is affected with  
149 [pulmonary tuberculosis or a scrofulous or venereal disease or with a  
150 communicable skin affection or with diphtheria, dysentery,  
151 paratyphoid fever, poliomyelitis, scarlet fever, smallpox, streptococcus  
152 sore throat, typhoid fever, tuberculosis, gonorrhoea or syphilis] any  
153 pathogen that is contained in The Center for Disease Control's "List of  
154 Infectious and Communicable Diseases which are Transmitted  
155 Through the Food Supply", as amended from time to time, except in  
156 those cases in which the director of health has given written  
157 authorization stating that the public health is not endangered, and  
158 each employer shall maintain himself or herself and his or her  
159 employees in a clean and sanitary condition, with clean, washable  
160 outer clothing, while engaged in the manufacture, handling or sale of  
161 food products. The commissioner or his or her authorized agents may  
162 order any person employed in a bakery or food manufacturing  
163 establishment to be examined by a licensed physician if he or she has  
164 reason to believe that such employee has [any disease enumerated  
165 above] a condition that may transmit a food-borne illness. No person  
166 shall be allowed to smoke in a bakery or food manufacturing  
167 establishment while in the performance of his or her duty.

168 Sec. 4. Section 21a-158 of the general statutes is repealed and the  
169 following is substituted in lieu thereof (*Effective July 1, 2012*):

170 The owner, agent or lessee of any property used as a bakery or food  
171 manufacturing establishment shall, within thirty days after the service  
172 of notice upon him or her of an order issued by the Commissioner of  
173 Consumer Protection, comply therewith or cease to use or allow the  
174 use of such premises as a bakery or food manufacturing establishment.  
175 Such notice shall be in writing and may be served upon such owner,  
176 agent or lessee, either personally or by mail, and a notice by registered  
177 or certified letter, mailed to the last-known address of such owner,  
178 agent or lessee, shall be sufficient service.

179 Sec. 5. Section 21a-159 of the general statutes is repealed and the

180 following is substituted in lieu thereof (*Effective July 1, 2012*):

181 (a) Any person who violates any provision of this chapter, or any  
 182 regulation made thereunder, or fails to comply with an order of the  
 183 Commissioner of Consumer Protection, shall be fined not more than  
 184 fifty dollars for the first offense, shall be fined not more than one  
 185 hundred dollars or imprisoned not more than ten days for the second  
 186 offense and shall be fined not more than two hundred dollars and  
 187 imprisoned not more than thirty days for each subsequent offense.

188 (b) The commissioner may apply to the Superior Court for and such  
 189 court may, upon hearing and for cause shown, grant a temporary or  
 190 permanent injunction enjoining any person from operating a bakery or  
 191 food manufacturing establishment without a license issued in  
 192 accordance with this chapter, irrespective of whether or not there  
 193 exists an adequate remedy at law. The commissioner also may apply to  
 194 the Superior Court for, and such court shall have jurisdiction to grant,  
 195 a temporary restraining order pending a hearing. Such application for  
 196 injunctive or other appropriate relief shall be brought by the Attorney  
 197 General.

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

205 Sec. 6. Section 21a-153 of the general statutes is repealed. (*Effective*  
 206 *July 1, 2012*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2012</i>	21a-151
Sec. 2	<i>July 1, 2012</i>	21a-152
Sec. 3	<i>July 1, 2012</i>	21a-157

Sec. 4	<i>July 1, 2012</i>	21a-158
Sec. 5	<i>July 1, 2012</i>	21a-159
Sec. 6	<i>July 1, 2012</i>	Repealer section

**GL**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Consumer Protection, Dept.	GF - Revenue Gain	8,000	8,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill is anticipated to result in a revenue gain to the state of approximately \$8,000 per year due to new registrations and civil penalties. However, there is no cost to the Department of Consumer Protection in carrying out the provisions of the bill as they already inspect such facilities.

The bill establishes a new \$20 license for food manufacturing establishments. Based on an estimated 300 such establishments a revenue gain of \$6,000 per year would occur. Additionally section 5 establishes a civil penalty for violations of any provisions contained in the bill. An estimated 20 violations are anticipated to occur per year resulting in a revenue gain of \$2,000 based on a typical \$100 penalty.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of registrants and violations.

**OLR BILL ANALYSIS****sSB 57*****AN ACT CONCERNING THE LICENSURE OF FOOD MANUFACTURING ESTABLISHMENTS.*****SUMMARY:**

This bill creates a new food manufacturing establishment license. It places requirements substantially similar to those for an existing bakery on these new licenses. It adds a penalty for bakeries that violate bakery laws and extends them to food manufacturer establishments. It also removes certain bakery sanitation condition requirements.

It requires each establishment to be designed, constructed, and operated as the Department of Consumer Protection (DCP) commissioner directs under the Uniform Food, Drug, and Cosmetic Act and laws regulating bakeries.

The bill specifies that it does not prevent local health authorities from enforcing orders or regulations concerning the establishment's sanitary conditions.

EFFECTIVE DATE: July 1, 2012

**FOOD MANUFACTURER ESTABLISHMENT**

Under the bill, a food manufacturing establishment is a building or part of one where packaged food is prepared, processed, or packaged for wholesale distribution for human consumption. It exempts facilities that are solely used for the retail sale or storage of prepackaged food; certified farmers' markets; facilities that produce acidified food products, jams and jellies, nonalcoholic beverages, milk or milk products, and foods under the laws concerning pure food and drugs (e.g. kosher food and butter); the Agriculture Department, farm

product grading and marketing, and state shellfisheries.

### ***License***

The bill requires any person, firm, or corporation that operates a food manufacturing establishment with the intent of producing products for human consumption to receive a DCP license. It also prohibits selling or distributing food produced in an establishment located in the state unless it is licensed.

Under the bill, the DCP commissioner must provide the forms that show the name and address of the establishment. He must direct an inspection of the premises and if conditions are satisfactory, issue a license. The license is valid for one year and costs \$20 annually.

### ***Local Zoning***

The bill requires anyone who wants either a bakery or food manufacturing establishment license to first obtain and present to the commissioner a certificate of approval for the location desired. The certificate must be obtained from the zoning commission, planning and zoning commission, or local authority of the town, city, or borough where the facility is located or proposed to be located. The certificate is not required when the last issued license is being transferred from one person to another or when a license is renewed by the license holder. The commissioner must not issue any license for which a certificate is required until the applicant obtains the certificate.

### ***License Revocation, Suspension, and Denial***

Under the bill, a license may be revoked for violating the law's existing bakery requirements, after a hearing by the commissioner. All hearings must be held in accordance with the Uniform Administrative Procedure Act.

The license may also be summarily suspended pending a hearing if the commissioner has reason to believe that the public health, safety, or welfare requires emergency action. Within 10 days of the suspension order, the commissioner must hold a hearing. After the hearing, the commissioner must dissolve the suspension or order license

revocation. Anyone whose license has been revoked may reapply and the commissioner must act on it within 30 days of receipt. The applicant who had his or her license revoked must pay, based on the commissioner's determination, any inspection costs needed to determine whether a new license should be granted.

The commissioner may refuse to grant a license if he or she finds the applicant has a pattern of noncompliance. In an administrative hearing, prima facie evidence of a pattern of noncompliance is established if the commissioner shows the applicant has had two license revocations.

### ***Cleanliness***

Under current law, bakeries are prohibited from knowingly allowing anyone with pulmonary tuberculosis, scrofulous or venereal disease, communicable skin affection, diphtheria, dysentery, paratyphoid fever, poliomyelitis, scarlet fever, smallpox, streptococcus sore throat, typhoid fever, tuberculosis, gonorrhoea, or syphilis from working, unless the health director gives written authorization stating that public health is not endangered. For both bakeries and food manufacturing establishments, the bill substitutes pathogens contained in the Center for Disease Control's (CDC) "List of Infectious and Communicable Diseases which are Transmitted Through the Food Supply," in place of these listed diseases. The CDC list has pathogens (i.e. virus or bacteria) that often or occasionally are transmitted by food contaminated by infected persons, rather than specific diseases.

As with bakeries under existing law, the bill (1) requires food manufacturing establishment employers to maintain themselves and their employees in a clean and sanitary condition and (2) prohibits anyone from smoking when working.

Under the bill, the commissioner or his authorized agents may order any person employed by a bakery or establishment to be examined by a licensed physician if there is reason to believe an employee has a condition that may transmit a food-borne illness. Current law

conditions the examination on the reasonable belief the bakery employee has one of the previously listed diseases.

***DCP Notice***

The bill requires establishments to comply within 30 days of receiving notice of DCP orders or cease to use the facility. The notice must be in writing and may be served on the owner, agent, or lessee, either personally or by mail. Mailing a notice by registered or certified letter to the last-known address is sufficient service.

***Penalties***

Under the bill, anyone who violates any provision of the bill or bakery regulations, or fails to comply with an order from the commissioner, must be fined at least \$50 for the first offense, up to \$100 or up to 10 days imprisonment for the second offense, and up to \$200 or up to 30 days imprisonment for subsequent offenses.

Under the bill, as with the bakeries under current law, the commissioner may apply to Superior Court for a temporary or permanent injunction enjoining anyone from operating a food manufacturing establishment without a DCP license, regardless of whether there is an adequate remedy at law. He may also apply to the Superior Court for, and the court has jurisdiction to grant, a temporary restraining order pending a hearing. The Attorney General must apply for such injunctive or other appropriate relief.

The bill allows the commissioner, after providing notice and conducting a hearing, to issue a warning citation or impose a civil penalty on both bakeries and food manufacturing establishments. He may issue civil penalties of up to \$100 for the first offense and up to \$500 for each subsequent offense on anyone who violates any bakery provision or regulations.

**BAKERY*****Sanitary Conditions***

The bill removes the requirement that each building or room used

as a bakery be situated so that it is not exposed to contamination from its surroundings; be drained and plumbed in a healthful and sanitary manner; be adequately lit; have airshafts, windows, or ventilating pipes, and ensure ventilation, as the commissioner directs.

Under the bill, bakeries are no longer required to provide a washroom and lavatory facility away from the bake room or other room that manufactures food. It also removes requirements (1) that all the rooms be a height adequate for proper ventilation; (2) on the type of material the walls and ceilings are made of; (3) that doors and other openings be tightly screened in the summer; (4) that furniture, utensils, and floors be kept in a sanitary condition; and (5) on animal control.

The bill also eliminates certain requirements on sanitary conditions for producing baking products by specifying how certain products are to be used and stored. Finally, it removes the requirement that sleeping rooms be separate from the baking rooms.

***Underground Rooms***

The bill allows bakeries to use rooms that are either wholly or partly underground to be used as bakeries, which is prohibited under current law.

**COMMITTEE ACTION**

General Law Committee

Joint Favorable Substitute

Yea 17    Nay 0    (03/13/2012)