

SENATE NO. 145



AN ACT FURTHER REGULATING THE SALE AND DISTRIBUTION OF BOTTLED WATER AND CERTAIN OTHER NON-ALCOHOLIC BEVERAGES

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 94 of the General Laws is hereby amended by striking out sections 10A, 10B
2 and 10C, as appearing in the 2004 Official Edition, and inserting in place thereof the following
3 three sections:-
4 Section 10A. No person shall engage in the business of manufacturing or bottling water for human
5 consumption without a permit to do so from the department of public health, and no person shall
6 sell or exchange, deliver, advertise, or offer for sale or exchange, or attempt to deliver, or have in
7 his possession with intent to do so, any such water unless the manufacturer and bottler thereof is the
8 holder of a permit issued under the authority of section 10B and then in full force. The superior
9 court shall have jurisdiction to enjoin any violation of this section or to take such other action as
10 equity and justice may require.

11 Section 10B. The department of public health may grant permits to any person engaged in the
12 business of manufacturing or bottling of water, and said department may grant permits to the
13 owners of plants for the manufacture or bottling of such water located without the commonwealth
14 to sell such water within the commonwealth. Such permits shall apply only to one such plant and
15 shall be valid throughout the commonwealth. Each permit shall expire two years from the date of
16 issue. The fee for each permit and for each biennial renewal thereof shall be determined annually by
17 the commissioner of administration under the provision of section 3B of chapter seven.

18 Section 10C. Subject to the requirements of chapter 30A, the department may refuse to issue or
19 renew, suspend or revoke a permit described in section 10B if (1) any statement in the permit
20 application or in any other documentation submitted to the department is determined to be false or
21 misleading; (2) the applicant or permittee has been convicted of a crime relating to the manufacture,
22 bottling, storage, distribution or sale of water, or relating to the processing, storage, distribution or
23 sale of food; (3) the applicant or permittee has failed to comply with any applicable provision of
24 this chapter or any applicable rule or regulation; or (4) the applicant or permittee refuses to admit
25 representatives of the department at any reasonable time for purposes of inspection. The
26 commissioner may, without a prior hearing, suspend a permit if he finds that such permittee is
27 operating his business in a manner which is endangering or may cause imminent danger to the
28 public health. In every case of suspension of a permit without a prior hearing, the permittee shall be
29 promptly afforded an opportunity for such hearing.

30 SECTION 2. Chapter 94 is hereby further amended by striking out section 10D 1/2 and inserting in
31 place thereof the following section:-

32 Section 10D 1/2. All persons permitted to manufacture, bottle or sell water for human consumption
33 under section 10A or 10B shall, at least annually, cause to be tested by a laboratory certified as

34 provided herein, the water contained in their finished products. If the water source or sources from
35 which such products are derived is located within the commonwealth, the laboratory performing
36 such tests shall be certified by the department of environmental protection to perform such tests for
37 water quality purposes. If the water source or sources from which such products are derived is
38 located without the commonwealth, the laboratory performing such tests shall be certified to
39 perform such tests for water quality testing purposes by the appropriate agency within that state or
40 jurisdiction wherein such laboratory is located. The testing for finished products shall include those
41 physical, chemical, microbiological and radiological test parameters required by the department of
42 environmental protection for the testing of public water supplies. The department of public health in
43 consultation with the department of environmental protection may, from time to time, require by
44 rule and regulation such additional tests as it deems necessary for the protection of the public
45 health.

46 The department of public health shall require any person manufacturing, bottling or selling such
47 products to test for physical, chemical and microbiological parameters at least annually, or more
48 frequently as provided by regulations of the department. Said department shall require that
49 radiological testing of the finished products be performed at least once every four years, or more
50 frequently as provided by regulations of the department. Test results shall be submitted to the
51 department annually, on a date specified by the department. Said department shall make available to
52 the public, upon request, any test results so submitted upon payment of a reasonable fee.

53 SECTION 3. Section 10E of chapter 94 is hereby amended by striking out in lines 1 and 2, the
54 words:- "and the local boards of health".

55 SECTION 4. Section 10E of chapter 94 is hereby further amended by inserting after the words "ten
56 E 1/2." in line 3 the following sentence:-

57 Such rules and regulations may provide administrative penalties for the violation of any provision
58 of sections 10A to 10E 1/2, inclusive, or of any rule or regulation promulgated hereunder, not to
59 exceed \$500 for any single violation. Each day that a violation continues shall constitute a separate
60 violation.

61 SECTION 5. Chapter 94 is hereby further amended by striking out section 10E 1/2 and 10F and
62 inserting in place thereof the following two sections:-

63 Section 10E 1/2. The department of public health shall establish rules and regulations for water
64 standards and labeling requirements for finished bottled water products which meet, at a minimum,
65 the labeling requirements and quality standards for such products set by the Federal Food and Drug
66 Administration.

67 Section 10F. Whoever violates any provision of sections 10A to 10E 1/2, inclusive, or of any rule or
68 regulation made thereunder, shall be punished for the first offense by a fine of not more than \$500,
69 and for a subsequent offense by a fine of not less than \$500 nor more than \$1000.