



CIRCULAR 202

MAY, 1949

Department of Health of the State of New Jersey

Law and Regulations Governing the Manufacture, Handling, Sale
and Distribution of Ice Cream, Sherbets and Ices.

Title 24, Chapter 2, Article 1, Revised Statutes

Title 24, Chapter 10, Article 7, Revised Statutes

Title 24, Chapter 17, Article 1, Revised Statutes

24:10-58. "Ice Cream" defined; standards. For the purpose of this article "ice cream" is defined as any frozen sweetened milk product which is agitated during the process of freezing and includes every frozen milk product which contains more than five per cent by weight of total milk solids or skim milk solids and which in any manner simulates the texture or characteristics of ice cream, no matter under what coined or trade name it may be sold.

Ice cream shall be made from a combination of one or more of the following ingredients, viz.: cream, milk, condensed milk, sweetened condensed milk, dried milk, skimmed milk, condensed skimmed milk, sweetened condensed skimmed milk or dried skimmed milk, and with or without one or more of the following ingredients: butter, water, sugar, flavor, stabilizer, harmless color which does not conceal damage or inferiority, any one or all of which ingredients shall be wholesome, edible material. The finished products shall contain not less than ten per cent of butter fat by weight except when fruits or nuts or both are used for flavoring when it shall contain not less than eight per cent of butter fat by weight.

24:10-59. "Custard ice cream"; "French ice cream"; "French custard; "frozen custard"; standards. For the purpose of this article "custard ice cream," "French ice cream," "French custard," and "frozen custard" shall conform to the definition and standards hereinbefore defined for "ice cream" no matter under what trade or coined name it may be sold or offered for sale and furthermore it shall contain not less than five dozen clean wholesome egg yolks or the equivalent of such egg yolks in any wholesome form for each ninety pounds of finished products, and without the addition of artificial coloring.

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24:10-60. "Sherbet" defined; standards. For the purpose of this article "sherbet" is defined as any frozen sweetened fruit flavored product containing five per cent or less by weight of total milk solids or skim milk solids, the process of manufacture of which is similar to the process of manufacture of ice cream, no matter under what trade or coined name it may be sold or offered for sale.

Sherbet shall be made from milk or milk products including ice cream mix with one or more of the following ingredients, viz.: sugar, water, stabilizer or harmless color which does not conceal damage or inferiority, and fruit or fruit flavoring material, and the finished product (except vanilla and chocolate flavors) shall contain not less than thirty-five hundredths of one per cent of harmless organic acid as determined by titration with standard alkali and calculated as lactic acid and derived in whole or in part from the fruit or fruit flavoring material or by the addition of citric, tartaric or lactic acid.

24:10-61. Sherbet to be distinctly marked. Sherbet when sold or offered for sale under any coined or trade name shall be plainly and distinctly marked as "a sherbet" in addition to the coined or trade name designated and in juxtaposition thereto.

24:10-62. "Ice" and "fruit ice" defined; standards. For the purpose of this article "ice" or "fruit ice" is defined as any frozen sweetened fruit flavored product, the process of manufacture of which is similar to the process of manufacture of ice cream no matter under what trade or coined name it may be sold or offered for sale.

It shall contain no milk solids whatsoever, and shall be made from one or more of the following ingredients, viz.: sugar, water, stabilizer, harmless color, which does not conceal damage or inferiority, fruit or fruit flavoring material and the finished product shall contain not less than thirty-five hundredths of one per cent of harmless organic acid as determined by titration with standard alkali and calculated as lactic acid and derived in whole or in part from the fruit or fruit flavoring material or by the addition of citric, tartaric or lactic acid.

24:10-63. "Imitation ice cream," "ice cream substitute," and "coated imitation ice cream" defined. For the purpose of this article "imitation ice cream," "ice cream substitute" or "coated imitation ice cream" is defined as any frozen sweetened product containing milk solids, manufactured in a manner similar to the process of manufacturing ice cream, and which contains less than the percentage of butter fat as adopted in section 24:10-58 of this title for ice cream and more than five per cent of total milk solids or skim milk solids.

24:10-64. "Ice cream plant" defined; exceptions. For the purpose of this article an "ice cream plant" shall mean any place, premises or establishment where ice cream, sherbet, fruit ice, ice or similar frozen products are manufactured, prepared or processed for distribution or sale, but the term shall not be construed to include such establishments as hotel kitchens where ice cream, sherbet or ice is produced and consumed only on the premises.

24:10-65. Sale of adulterated products and imitation ice cream prohibited. No person by himself or by his agent, servant or employee shall sell, offer or expose for sale or have in his possession with intent to sell, ice cream, custard ice cream, French ice cream, French custard, frozen custard, sherbet, ice or fruit ice, including coated ice cream and the coating thereof,

which is adulterated within the meaning of this article, or sell, offer or expose for sale or have in his possession with intent to sell, any imitation ice cream, ice cream substitute or coated imitation ice cream as defined in section 24:10-63 of this title.

24:10-66. When products deemed adulterated. Ice cream, custard ice cream, French ice cream, French custard, frozen custard, sherbet, ice and fruit ice shall be deemed to be adulterated within the meaning of this article:

First. If it contains boric acid, formaldehyde, saccharin or any other added substance or compound that is deleterious to health.

Second. If it contains salts of copper, iron, ochres or any coloring substance deleterious to health, but this paragraph shall not be construed to prohibit the use of harmless coloring matter when not used for fraudulent purposes.

Third. If it contains any deleterious flavoring matter or flavoring matter not true to name.

Fourth. If it contains any fats, oils, or paraffin other than milk fats added to or blended or compounded with it, but the coating of coated ice cream may contain cocoa butter or coconut oil or both; chocolate ice cream may contain cocoa butter.

Fifth. If it is an imitation ice cream, ice cream substitute or coated imitation ice cream as defined in section 24:10-63 of this title.

Sixth. If it is offered for sale from any container, compartment or cabinet which contains any article other than ice cream, custard ice cream, French ice cream, French custard, frozen custard, sherbet, ice or fruit ice.

Seventh. If it falls below the standards of any of them fixed for the particular product by the definition thereof contained in this article or is falsely labeled or labeled contrary to the provisions of this article.

24:10-67. Sanitary requirements for ice cream plants. Every ice cream plant shall be maintained and operated with strict regard for the purity and wholesomeness of the ice cream, sherbet and ice produced therein. The entire establishment and its appertaining premises including fixtures, furnishings, machinery, apparatus, implements, utensils, receptacles and all equipment used in the production, keeping, storing, handling or distribution shall be maintained and operated in a clean sanitary manner.

All equipment and utensils used in the production of ice cream, custard ice cream, French ice cream, French custard, frozen custard, sherbet, ice and fruit ice shall be cleaned by washing with a solution of at least one per cent alkali, scrubbed inside and out with suitable brushes, then rinsed with warm water, then scalded with hot water or steam. If any other method is used, such method shall result in the same degree of cleanliness as the method described.

The clothing, habits and conduct of the employees shall be conducive to and promote cleanliness and sanitation.

There shall be proper suitable and adequate toilets and lavatories and equipment for cleansing, constructed, maintained, and operated in a clean and sanitary manner.

24:10-68. Licensing of operators of ice cream plants to sell or distribute; registration of products; annual license fee. Every person operating a plant for the manufacture of ice cream, sherbet, ices or fruit ices intended for sale and distribution within this state shall, before the first day of July in each year, apply to the state department for a license to sell or distribute such products within this state and register with the department each brand or product produced or manufactured or sold in or from such plant.

At the same time such application for a license and registration is filed, the applicant shall pay to the department an annual license fee as follows: For each ice cream manufacturer producing or distributing annually within this state not in excess of ten thousand gallons, five dollars; in excess of ten thousand gallons and not in excess of twenty-five thousand gallons, ten dollars; in excess of twenty-five thousand gallons and not in excess of fifty thousand gallons, twenty-five dollars; in excess of fifty thousand gallons and not in excess of one hundred thousand gallons, fifty dollars; in excess of one hundred thousand gallons, one hundred dollars.

24:10-69. Form of application; affidavit. The application for a license and registration shall be made on a form to be supplied by the state department. The application shall have attached thereto the affidavit of the person or some member or officer of the association, partnership, or corporation applying therefor, stating that the facts set forth therein are true and correct.

24:10-70. Issuance of license; expiration. Upon approval of the application for a license and registration and of the sanitary conditions of the ice cream plant and upon payment of the required license fee, the state department shall issue to each applicant a license or certificate of registration which shall expire June thirtieth of each year.

24:10-71. Revocation of license; renewal; suspension of license. Upon evidence duly ascertained by the state department, or furnished to the department by any local board of health, that the licensee licensed under the provisions of this article is violating any of the rules, regulations or statutes as hereinbefore provided, the state department shall, upon hearing and proof of allegation, revoke the license of such licensee.

No such license shall be renewed or restored until the department is satisfied that all of the provisions of this article are strictly complied with.

The state department, when in its judgment the protection of the public health warrants, may before hearing, suspend such license pending the hearing in which event it shall be unlawful for the licensee whose license is thus suspended to engage in the business for which the license was granted during such period of suspension.

24:10-72. Illegal sale and distribution of products. It shall be illegal for any person to sell or distribute any ice cream, sherbet, ices or fruit ices in this state unless such products have been manufactured in a plant, the owner or operator of which is licensed under the provisions of this article to sell or distribute such products in this state.

24:10-73. Use of license moneys for enforcement. The state department may, for the purpose of providing funds to defray the cost of the enforcement of this article, use so much of the moneys received for licenses as stated in section 24:10-68 of this title, as is necessary for such enforcement.

24:17-1. Penalties. Any person who shall violate any provision of this subtitle, or any rule or regulation of the state department made pursuant thereto, or who shall refuse to comply with any lawful order or direction of the department, shall be liable to the following penalties, unless otherwise specifically provided:

- a. For each first offense a penalty of fifty dollars;
- b. For each second offense a penalty of one hundred dollars.
- c. For each third and every subsequent offense a penalty of two hundred dollars.

Regulations Governing the Preparation and Handling of Ice Cream, Frozen Custards, Sherbets and Ices

Adopted September 15, 1936, under Authority contained in Chapter 231, Laws of 1909. Title 24, Chapter 2, Article 1, Revised Statutes.

1. No person affected with any communicable disease, or any venereal disease, and no person who is a "carrier" of a communicable disease, or who shall care for any person so affected, shall handle or prepare ice cream, frozen custards, sherbets or ices.

2. Every person while preparing ice cream, frozen custards, sherbets or ices shall be clean of person, wear clean, washable outer clothing, which shall be used for that purpose only; such operator shall avoid contact with any substance that may contaminate the ice cream, frozen custards, sherbets or ices.

3. Ice cream, custards, sherbets and ices shall be handled and packed in a manner whereby they will be protected at all times from contamination. The hands of employees shall not come in direct contact with these products. In cases where such products are wrapped by hand, the wrapper shall be placed over the product before handling.

4. No part of any room or rooms in which ice cream, frozen custards, sherbets or ices are prepared and handled shall be used as a dwelling, nor shall any such room or rooms be directly connected with laundries or sleeping rooms.

5. Milk, cream and milk products shall have been pasteurized before use in preparation of ice cream, frozen custards and sherbets.

6. Places where ice cream, frozen custards, sherbets or ices are manufactured shall be of sufficient size as to allow ample space for the placement of machinery. Machinery and equipment shall be so placed that the floor and walls can be properly cleaned. Sufficient floor room shall be available for workmen, as well as adequate room for cleaning and storage of apparatus, cans and utensils.

7. The portion of the room or rooms in which ice cream freezers are installed shall have tight and impervious floors, and such floors shall be maintained in a tight and impervious condition. Such floors shall be so constructed that there will be no accumulation of waste liquids.

8. The sidewalls and ceilings of all rooms in which ice cream, frozen custards, sherbets and ices are prepared shall be of a suitable impervious material, which shall be smooth and tight, cleanable and clean.

9. Rooms in which ice cream, frozen custards, sherbets or ices are prepared, shall be properly lighted and ventilated.

10. All establishments in which ice cream, frozen custards, sherbets and ices are prepared shall be provided with an abundant supply of pure hot and cold water.

11. Waste liquids shall be conducted to a point outside the building and disposed of in a manner which will not create a nuisance.

12. Apparatus, containers, equipment and utensils used in the handling, storage, processing or transporting of ice cream, frozen custards, sherbets or ices shall not be used for any other purpose and shall be of such material and construction as to enable them to be readily cleaned. Cans or other receptacles which are badly worn or rusted on the inside surfaces, or in such a condition that they cannot be readily cleaned shall not be used to contain ice cream, frozen custards, sherbets or ices.

13. All apparatus, utensils, equipment and containers used in the manufacturing, handling, storage and transportation of ice cream, frozen custards, sherbets and ices shall be cleaned after each use by washing with a solution of at least 1% alkali, scrubbed inside and out with suitable brushes, rinsed with warm water and then scalded with hot water or steam. Such apparatus, utensils, equipment and containers shall again be sterilized just prior to use. If any other method is used, such method shall result in the same degree of cleanliness as the method described. No cloths of any kind shall be used to wipe off the interior of the freezer or containers after sterilization.

14. Containers and utensils, after cleaning, shall be stored in an orderly manner on suitable racks of non-rusting material.

15. Milk pipes and pipe fittings shall be constructed of approved metal with smooth interior surfaces and of a type which can be easily cleaned with a brush and shall be so connected that leakage will not occur. The amount of milk piping in use should be reduced to a minimum. All pipes shall be disconnected and cleaned daily.

16. Surface coolers shall be provided with suitable covers of smooth metal, except when such coolers are maintained in a separate room used for no other purpose.

17. Toilet facilities shall be provided for use of employees, but no water closet or privy shall communicate directly with any room used for handling ice cream, frozen custards, sherbets or ices, or with any room in which utensils are washed or stored. If privies are provided, they shall be at least fifty feet from the ice cream plant and so constructed and maintained that flies cannot gain access to the excremental matter contained therein, and such excremental matter shall be prevented from flowing over or upon the surface of the ground. Every privy or other receptacle for human excrement located within one hundred feet of any stream, the waters of which are used for drinking or domestic purposes, shall be provided with a water-tight vault. Toilet rooms and privies shall be kept clean, well ventilated and in good repair, and toilet rooms shall have self-closing doors.

18. All ice cream plants shall be provided with suitable sinks at which employees may wash their hands, and soap and clean individual towels shall be provided convenient to wash sinks. Employees shall wash their hands before beginning to work and after visiting the toilet, and shall keep their hands clean at all times while engaged in the handling of ice cream, frozen custards, sherbets or ices.

19. The general sanitary conditions of all ice cream plants and their immediate surroundings shall be such as to insure a safe supply of ice cream, frozen custards, sherbets and ices.

COUNTER TYPE ICE CREAM FREEZERS

20. The term "Counter Ice Cream Freezer" as hereinafter used shall include the counter type freezing machine or similar types usually operated in retail establishments.

In addition to the requirements governing all ice cream manufacturing plants, counter ice cream freezers shall be installed in such a way that they shall not be subject to contamination by dirt, dust, flies or handling by customers. Whenever such counter freezer is installed in a room which is a drug, confectionery or other food establishment, to which the public has access, such freezer shall be enclosed in a tight glass or other enclosure which shall extend at least two feet above the highest point of such freezer, which enclosure shall have a tight dust-proof top; such enclosure shall be on the three sides nearest to the place or places where the public ordinarily come. No such freezer shall be installed or operated beneath transoms, nor within twelve feet of outside doors unless it be enclosed on all four sides and top with a dust-proof enclosure. The enclosures herein required need not cover hardening and storage compartments, provided they are otherwise maintained in a sanitary manner.