

# SENATE . . . . . No. 2416

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## The Commonwealth of Massachusetts

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SENATE, March 20, 2006.

The committee on Community Development and Small Business, to whom was referred the petition (accompanied by bill, Senate, No. 159) of Richard T. Moore, Edward G. Connolly, Shirley Gomes and Paul K. Frost for legislation to further regulate the sale and distribution of bottled water and certain other non-alcoholic beverages, reports the accompanying bill (Senate, No. 2416).

For the committee,

HARRIETTE L. CHANDLER.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Six.

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  
2 by striking out sections 10A, 10B and 10C, as appearing in the  
3 2004 Official Edition, and inserting in place thereof the following  
4 three sections:—

5 Section 10A. No person shall engage in the business of manu-  
6 facturing or bottling water for human consumption without a  
7 permit to do so from the department of public health, and no  
8 person shall sell or exchange, deliver, advertise, or offer for sale  
9 or exchange, or attempt to deliver, or have in his possession with  
10 intent to do so, any such water unless the manufacturer and bottler  
11 thereof is the holder of a permit issued under the authority of  
12 section 10B and then in full force. The superior court shall have  
13 jurisdiction to enjoin any violation of this section or to take such  
14 other action as equity and justice may require.

15 Section 10B. The department of public health may grant per-  
16 mits to any person engaged in the business of manufacturing or  
17 bottling of water, and said department may grant permits to the  
18 owners of plants for the manufacture or bottling of such water  
19 located without the commonwealth to sell such water within the  
20 commonwealth. Such permits shall apply only to one such plant  
21 and shall be valid throughout the commonwealth. Each permit  
22 shall expire two years from the date of issue. The fee for each  
23 permit and for each biennial renewal thereof shall be determined  
24 annually by the commissioner of administration under the provi-  
25 sion of section 3B of chapter seven.

26 Section 10C. Subject to the requirements of chapter 30A, the  
27 department may refuse to issue or renew, suspend or revoke a  
28 permit described in section 10B if (1) any statement in the permit

29 application or in any other documentation submitted to the depart-  
30 ment is determined to be false or misleading; (2) the applicant or  
31 permittee has been convicted of a crime relating to the manufacture,  
32 bottling, storage, distribution or sale of water, or relating to the pro-  
33 cessing, storage, distribution or sale of food; (3) the applicant or per-  
34 mittee has failed to comply with any applicable provision of this  
35 chapter or any applicable rule or regulation; or (4) the applicant or  
36 permittee refuses to admit representatives of the department at any  
37 reasonable time for purposes of inspection. The commissioner may,  
38 without a prior hearing, suspend a permit if he finds that such per-  
39 mittee is operating his business in a manner which is endangering  
40 or may cause imminent danger to the public health. In every case  
41 of suspension of a permit without a prior hearing, the permittee  
42 shall be promptly afforded an opportunity for such hearing.

1 SECTION 2. Chapter 94 is hereby further amended by striking  
2 out section 10D½ and inserting in place thereof the following  
3 section:—

4 Section 10D½. All persons permitted to manufacture, bottle or  
5 sell water for human consumption under section 10A or 10B shall,  
6 at least annually, cause to be tested by a laboratory certified as  
7 provided herein, the water contained in their finished products. If  
8 the water source or sources from which such products are derived  
9 is located within the commonwealth, the laboratory performing  
10 such tests shall be certified by the department of environmental  
11 protection to perform such tests for water quality purposes. If the  
12 water source or sources from which such products are derived is  
13 located without the commonwealth, the laboratory performing  
14 such tests shall be certified to perform such tests for water quality  
15 testing purposes by the appropriate agency within that state or  
16 jurisdiction wherein such laboratory is located. The testing for fin-  
17 ished products shall include those physical, chemical, microbio-  
18 logical and radiological test parameters required by the department  
19 of environmental protection for the testing of public water sup-  
20 plies. The department of public health in consultation with the  
21 department of environmental protection may, from time to time,  
22 require by rule and regulation such additional tests as it deems  
23 necessary for the protection of the public health.

24 The department of public health shall require any person manu-  
25 facturing, bottling or selling such products to test for physical,

26 chemical and microbiological parameters at least annually, or  
27 more frequently as provided by regulations of the department.  
28 Said department shall require that radiological testing of the fin-  
29 ished products be performed at least once every four years, or  
30 more frequently as provided by regulations of the department.  
31 Test results shall be submitted to the department annually, on a  
32 date specified by the department. Said department shall make  
33 available to the public, upon request, any test results so submitted  
34 upon payment of a reasonable fee.

1 SECTION 3. Section 10E of chapter 94 is hereby amended by  
2 striking out in lines 1 and 2, the words:— “and the local boards  
3 of health”.

1 SECTION 4. Section 10E of chapter 94 is hereby further  
2 amended by inserting after the words “ten E½.” in line 3 the  
3 following sentence:— Such rules and regulations may provide  
4 administrative penalties for the violation of any provision of sec-  
5 tions 10A to 10E½, inclusive, or of any rule or regulation promul-  
6 gated hereunder, not to exceed \$500 for any single violation. Each  
7 day that a violation continues shall constitute a separate violation.

1 SECTION 5. Chapter 94 is hereby further amended by striking  
2 out section 10E½ and 10F and inserting in place thereof the  
3 following two sections:—

4 Section 10E½. The department of public health shall establish  
5 rules and regulations for water standards and labeling require-  
6 ments for finished bottled water products which meet, at a min-  
7 imum, the labeling requirements and quality standards for such  
8 products set by the Federal Food and Drug Administration.

9 Section 10F. Whoever violates any provision of sections 10A  
10 to 10E½, inclusive, or of any rule or regulation made thereunder,  
11 shall be punished for the first offense by a fine of not more than  
12 \$500, and for a subsequent offense by a fine of not less than \$500  
13 nor more than \$1,000.