

CHAPTER 87
SB 221-FN - FINAL VERSION

2017 SESSION

17-0826
08/03

SENATE BILL ***221-FN***

AN ACT relative to food safety.

SPONSORS: Sen. Carson, Dist 14; Sen. Soucy, Dist 18; Sen. Fuller Clark, Dist 21; Rep. Kotowski, Merr. 24; Rep. M. McCarthy, Hills. 29; Rep. Bixby, Straf. 17

COMMITTEE: Health and Human Services

ANALYSIS

This bill makes certain facility inspections at the discretion of the department of health and human services.

This bill is a request of the department of health and human services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seventeen

AN ACT relative to food safety.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 87:1 Sanitary Inspectors; Inspection of Food Products. Amend RSA 130:3 to read as follows:

2 130:3 Inspection of Food Products. The inspectors shall investigate food manufacturing
3 processes and food products offered, or to be offered, for sale in this state, and may take samples of
4 food for examination at the laboratories of the department of health and human services. ***The***
5 ***department may determine the focus and frequency of inspections and sampling and shall***
6 ***use a risk-based approach in consideration of available resources to prioritize inspections***
7 ***and sampling.***

8 87:2 Sanitary Production and Distribution of Food; Inspections. Amend RSA 143:4 to read as
9 follows:

10 143:4 Inspections. The department of health and human services or its inspectors, or special
11 agents designated for that purpose, shall have full power and authority at all times to enter and
12 inspect every building, room, or other place occupied or used for the production, storage, sale, or
13 distribution of food, and all utensils and appurtenances relating thereto. ***The department may***
14 ***determine the focus and frequency of inspections and shall use a risk-based approach in***
15 ***consideration of available resources to prioritize inspections.***

16 87:3 Food Service Licensure; Definition. Amend the introductory paragraph of RSA 143-A:5 to
17 read as follows:

18 143-A:5 Exemptions. The following establishments and events shall be exempt from
19 ***departmental*** licensure ***and inspection*** under this chapter, ***except that the department may***
20 ***inspect when the department has reason to suspect an imminent health hazard as defined***
21 ***in RSA 143-A:3, IV-b:***

22 87:4 Food Service Licensure; Application; Issue; Fee. Amend RSA 143-A:6, II-III to read as
23 follows:

24 II. Within 45 days of issuance of a provisional license issued under this section or RSA 143-
25 A:8, the commissioner [~~shall~~] ***may, if deemed necessary,*** conduct an inspection. If following such
26 inspection the commissioner determines that the applicant's operation and facilities are sufficient
27 under rules adopted under RSA 143-A:9, the commissioner shall issue to the applicant a license
28 valid for a time period of one year following the date of issuance of the provisional license.
29 Notwithstanding RSA 541-A, any individual denied a full license at the end of the 90-day period
30 shall immediately shut down his or her establishment, unless otherwise ordered by a court of

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competent jurisdiction.

III. Upon receipt of an application for renewal of a license from an existing food service establishment or retail food store, the commissioner may, *if deemed necessary*, conduct an inspection. If the commissioner determines that the applicant's operation and facilities are sufficient under rules adopted under RSA 143-A:9, the commissioner shall issue to the applicant a new license valid for one year.

87:5 Food Service Licensure; Application; Issue; Fee. Amend RSA 143-A:6, V to read as follows:

V. The commissioner shall charge a fee for each license application processed[,] *and* for each plan review conducted[~~;~~~~and for each inspection performed~~]; provided that the commissioner shall charge only one fee for the provisional license and the license.

87:6 Food Service Licensure; Homestead Food License Required. Amend RSA 143-A:12, II to read as follows:

II. Homestead food operations selling less than a maximum annual gross sales of \$20,000 of food, excluding potentially hazardous food, from the homestead residence, at the owner's own farm stand, at farmers' markets, or at retail food stores are exempt from licensure *and departmental inspection* under this subdivision, *except that the department may inspect when the department has reason to suspect an imminent health hazard as defined in RSA 143-A:3, IV-b.*

87:7 Food Service Licensure; Purchase of Uninspected Poultry and Rabbits by Licensed Restaurants. Amend RSA 143-A:15, I to read as follows:

I. A licensed restaurant may purchase uninspected, processed, whole poultry or rabbits from *unlicensed* rabbit producers or federally exempt poultry producers who provide proof of compliance with the registration and educational requirements of this subdivision. All packaging containing uninspected poultry and rabbits shall be clearly labeled to include, but not be limited to, the following information: the name and address of the farm where the product originates and the date of slaughter.

87:8 Food Services Licensure; Producer Requirements. Amend RSA 143-A:16 to read as follows:

143-A:16 Producer Requirements.

I. A federally exempt poultry producer may, in a calendar year, sell to licensed restaurants uninspected, processed whole poultry that the producer has raised in a quantity not to exceed the federal limit established in 21 U.S.C. section 464 and [a] *an unlicensed* rabbit producer may, in a calendar year, sell to licensed restaurants up to 1,000 uninspected, processed whole rabbits that the producer has raised, provided all of the following conditions are met:

[~~I.~~] (*a*) The producer is current with all educational requirements that are established by the commissioner in consultation with the commissioner of agriculture, markets, and food relative to proper methods of slaughtering, processing, packaging, and storing poultry or rabbit on the farm

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1 and its subsequent transport to restaurants; and

2 [H.] **(b)** The producer has registered with the department of agriculture, markets, and food
3 by providing his or her name, the name and address of the farm, and phone number, to allow for
4 trace back in the event of disease outbreak. Such registry information shall be protected pursuant
5 to RSA 436:6-a.

6 ***II. The department may inspect these exempt products when the department has***
7 ***reason to suspect an imminent health hazard as defined in RSA 143-A:3, IV-b.***

8 87:9 Disposal of Fines; Reference Removed. Amend RSA 143:8 to read as follows:

9 143:8 Disposal of Fines. All fines collected for the violation of RSA 143 ~~and 145~~ shall be paid
10 to the state.

11 87:10 Inspection and Sale of Dairy Products. Amend RSA 184:85, III to read as follows:

12 III. Annual graduated license fees shall be set by rules adopted by the commissioner,
13 pursuant to RSA 541-A~~, and shall be based on the administrative costs associated with the~~
14 ~~licensing and regulation of milk plants, milk distributors and milk producer-distributors~~. Any
15 licensee who qualifies in more than one licensing category shall be required to pay only a single
16 license fee, but shall meet all sanitary requirements established for each separate licensing
17 category.

18 87:11 Repeal. The following are repealed:

19 I. RSA 130:2, relative to inspection of meat.

20 II. RSA 143:29, relative to registration by nonresident vendors.

21 III. RSA 145, relative to cold storage.

22 87:12 Effective Date. This act shall take effect July 1, 2017.

Approved: June 02, 2017
Effective Date: July 01, 2017

