

## AN ACT

1 Repealing the act of September 1, 1965 (P.L.420, No.215),  
2 entitled "An act for the protection of the public health, and  
3 to prevent fraud and deception in the manufacture, sale,  
4 offering for sale, exposing for sale, and possession with  
5 intent to sell, of adulterated or deleterious frozen  
6 desserts, providing for licensing, authorizing and regulating  
7 the manufacture and sale of frozen desserts, conferring  
8 powers and imposing duties upon the Department of  
9 Agriculture, prescribing penalties, providing for the  
10 enforcement thereof, and making repeals."

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The act of September 1, 1965 (P.L.420, No.215),  
14 known as The Frozen Dessert Law, is repealed:

## [AN ACT

16 For the protection of the public health, and to prevent fraud  
17 and deception in the manufacture, sale, offering for sale,  
18 exposing for sale, and possession with intent to sell, of  
19 adulterated or deleterious frozen desserts, providing for  
20 licensing, authorizing and regulating the manufacture and  
21 sale of frozen desserts, conferring powers and imposing

1 (b) (1) For the purpose of this act, and for any rules,  
2 regulations, definitions, standards of identity, or labeling  
3 requirements promulgated pursuant thereto, the term "frozen  
4 desserts" shall be deemed to include ice cream, frozen custard,  
5 french ice cream, french custard ice cream, artificially  
6 sweetened ice cream, artificially sweetened ice milk, ice milk,  
7 freezer made milk shakes, fruit sherbet, water ice, quiescently  
8 frozen confection, quiescently frozen dairy confection, whipped  
9 cream confection, bisque tortoni, mellorine frozen desserts as  
10 all such products are commonly known, together with any mix used  
11 in such frozen desserts and any products which are similar in  
12 appearance, odor, or taste to such products or are prepared or  
13 frozen as such products are customarily prepared or frozen,  
14 whether made with dairy or non-dairy products but shall not  
15 apply to such commonly known or designated bakery products as  
16 frozen cakes and pastries, cream pies and fillings and toppings,  
17 meringue pie fillings and toppings, cream and ice box pies,  
18 fruit and custard pie fillings, boston cream pie fillings, cream  
19 puff fillings and custards, eclair and napoleon fillings and  
20 custards, or the like.

21 (2) For the purpose of this act, a "frozen dessert plant"  
22 shall mean any place, premises or establishment where frozen  
23 dessert is manufactured, prepared or processed for distribution  
24 or sale.

25 Section 2. Sale, Possession, etc., of Adulterated or  
26 Unregistered Products.--(a) It shall be unlawful for any person  
27 by himself or by his agents, servants or employes, to sell,  
28 offer for sale, expose for sale or have in possession with  
29 intent to sell, any frozen dessert:

30 (1) Which is adulterated within the meaning of this act;

1 delivery to the consumer may be offered for sale from one or  
2 more separate compartments of a refrigerated container or  
3 cabinet of which other separate compartments contain properly  
4 wrapped, unbroken and sealed packages of frozen foods ready for  
5 delivery to the consumer.

6 (5) It falls below the standards of any of them fixed for  
7 the particular product by the definition promulgated pursuant to  
8 the authority granted by this act or is falsely labeled or  
9 labeled contrary to regulations promulgated pursuant to this  
10 act.

11 (6) It is manufactured under conditions not in conformity  
12 with the provisions of section 6 of, or rules and regulations  
13 promulgated by the department pursuant to, this act.

14 Section 6. Frozen Dessert Plants Sanitary Standards.--It  
15 shall be unlawful to operate any frozen dessert plant unless it  
16 shall be maintained and operated with strict regard for the  
17 purity and wholesomeness of the products produced therein. The  
18 entire establishment and its appertaining premises, including  
19 fixtures, furnishings, machinery, apparatus, implements,  
20 utensils, receptacles and all equipment used in production,  
21 keeping, storing, handling or distributing shall be maintained  
22 and operated in a clean, sanitary manner. The equipment,  
23 containers and piping shall be constructed of a smooth nontoxic  
24 impervious corrosion resistant material and fabricated in such a  
25 manner that there will be no contamination of the products  
26 handled therein and they can be easily sanitized. All equipment  
27 shall be kept in good working order and condition and shall be  
28 located so as to facilitate cleaning and practically eliminate  
29 the possibility of contamination. All equipment and utensils  
30 used in the production of any product whose surface comes in

1 Agriculture shall issue to each applicant a license or  
2 certificate of registration which shall expire at the end of  
3 each calendar year and which will authorize the operation of  
4 said plant for the calendar year or portion thereof for which a  
5 license or certificate of registration shall be issued.

6 (d) Establishments such as hotels, dining rooms and boarding  
7 houses where the products defined herein are produced and  
8 consumed only on the premises need not comply with the licensing  
9 and registration provisions of this act, but the other  
10 provisions of this law and regulations passed pursuant thereto,  
11 shall apply to such establishments.

12 Section 8. Revocation of Licenses.--The Department of  
13 Agriculture is hereby authorized to revoke or suspend any  
14 license for cause and where it shall be properly ascertained  
15 that the frozen dessert plant is not operated in a proper and  
16 sanitary manner.

17 Section 9. Enforcement; Rules and Regulations.--(a) The  
18 Department of Agriculture is charged with the enforcement of the  
19 provisions of this act: Provided, however, That the Department  
20 of Agriculture in the usual manner, or any person, committee or  
21 association composed of persons affected by this act or rules or  
22 regulations of the Department of Agriculture may institute such  
23 action at law or in equity as may appear necessary to enforce  
24 compliance with this act or any rule, regulation, definition or  
25 standard of identity of the Department made pursuant to the  
26 provisions of this act.

27 (b) The Department of Agriculture shall, after public  
28 hearing, adopt, promulgate and enforce definitions and standards  
29 of identity for frozen desserts and the mixes used in the  
30 manufacture thereof together with rules and regulations

1 corporation, to undergo an imprisonment in the county jail of  
2 not less than thirty days nor more than sixty days, and for a  
3 third or subsequent offense within two years shall be guilty of  
4 a misdemeanor and sentenced to pay a fine not exceeding one  
5 thousand dollars (\$1000), or in the case of an individual or the  
6 officers and members of an association, partnership or  
7 corporation, to undergo an imprisonment not exceeding one year,  
8 or both, in the discretion of the court.

9 All fines and penalties imposed and recovered for the  
10 violation of the provisions of this act shall be paid into the  
11 State Treasury through the Department of Revenue and credited to  
12 the General Fund.

13 (b) The Attorney General, at the request of the department,  
14 may in the name of the Commonwealth institute proceedings for  
15 the purpose of enjoining the conduct of business in this  
16 Commonwealth contrary to the provisions of this act.

17 Section 13. Short Title.--This act shall be known as and may  
18 be cited as "The Frozen Dessert Law."

19 Section 13.1. Severability.--It is hereby declared to be the  
20 legislative intent that if this act cannot take effect in its  
21 entirety because of the decision of any court holding  
22 unconstitutional any part, sentence or clause hereof, the  
23 remaining provisions of the act shall be given full force and  
24 effect as completely as if the part held unconstitutional had  
25 not been included herein.

26 It is hereby declared as the intent of the Legislature that  
27 every other part, sentence or clause of this act would have been  
28 enacted had such unconstitutional provision not been included  
29 herein.

30 Section 14. Effective Date.--This act shall take effect