**South Carolina General Assembly**

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**H. 4029**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gullick, Simrill and Kirsh

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Introduced in the House on May 12, 2009

Currently residing in the House Committee on **Agriculture, Natural Resources and Environmental Affairs**

Summary: Ice

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/12/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑55

5/12/2009 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** [HJ](file:///h:\HJ%20Archive\2009\05-12-09.docx)‑55

**VERSIONS OF THIS BILL**

[5/12/2009](file:///p:\pprever\2009-10\4029_20090512.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 38 TO TITLE 39 SO AS TO REQUIRE PACKAGED ICE PLANT OPERATORS AND PACKAGED ICE DEALERS TO OBTAIN ANNUAL PERMITS TO MANUFACTURE AND DISTRIBUTE PACKAGED ICE FOR HUMAN CONSUMPTION AND TO FURTHER PROVIDE FOR THE REGULATION OF THE MANUFACTURING, DISTRIBUTION, AND SALE OF PACKAGED ICE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 39 of the 1976 Code is amended by adding:

“CHAPTER 38

Packaged Ice

Section 39-38-10. In addition to other general food processing requirements provided for in law, this chapter applies to all persons who manufacture packaged ice sold for human consumption in this State.

Section 39-38-20. For the purposes of this chapter:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Ice’ means food intended for human consumption that is formed from drinking water by freezing to a solid state.

(3) ‘Ice vending machine’ means a self‑service machine that acts as a stand‑alone packaged ice plant and packaged ice dealer.

(4) ‘Maximum contaminant level’ or ‘MCL’ means the maximum permissible level of a contaminant.

Section 39-38-30. (A) Each person or public body that establishes, maintains, or operates a packaged ice plant shall obtain a packaged ice plant operating/food permit from the Department of Health and Environmental Control each year. Each packaged ice plant location must have a permit.

(B) Each packaged ice dealer shall obtain a packaged ice dealer/food permit from the department each year. Ice transported into the State and packaged either before or after importation into the State must meet all requirements of this chapter and must be packaged, labeled, handled, and otherwise processed and sold according to the provisions of this chapter.

(C) A packaged ice plant operator who also is a packaged ice dealer must be issued a combined packaged ice plant operating‑dealer/food permit by the department. This permit must be issued each year upon compliance with all statutory and regulatory requirements for the issuance of a packaged ice plant operating permit and a packaged ice dealer permit. Each location must have a permit.

(D) Each packaged ice plant operator or packaged ice dealer who is engaged in the sale or distribution of any other food product, and whose operation qualifies as a food establishment, must be issued a combined food/packaged ice permit by the department. This permit must be issued each year upon compliance with all statutory and regulatory requirements for the issuance of a food permit, a packaged ice plant operating permit, a packaged ice dealer permit, or a combination of any of these. Each location must have a permit.

(E) All permits expire December thirty-first of each year.

(F) Applications for permits must be made in writing to the department on forms prescribed by the department.

Section 39-38-40. (A) Each packaged ice plant operator shall pay the department an annual, nonrefundable fee of two hundred fifty dollars for each permit.

(B) Each packaged ice dealer shall pay the department an annual, nonrefundable fee of one hundred dollars for each permit.

(C) Each packaged ice plant operator who also is a packaged ice dealer shall pay the department an annual, nonrefundable fee for each permit. This fee must be the greater of the packaged ice plant operating or the packaged ice dealer permit fee as provided for in subsection (A) or (B), as applicable.

(D) Each packaged ice plant operator or packaged ice dealer who is engaged in the sale or distribution of any other food product and whose operation qualifies as a food establishment under R.61‑25 shall pay the department an annual, nonrefundable fee for each permit as provided for in this section.

(E) Fees charged for new permits must be prorated with the applicant paying one-twelfth of the applicable fee for each month remaining in the calendar year, including the month of application.

Section 39-38-50. (A) All water used for the manufacture of ice intended for human consumption and in preparation of brine solutions must be from an approved drinking water supply.

(B) Packaged ice dealers importing product shall submit to the department a copy of the current source certification or a letter from the agency with jurisdiction for approval of drinking water supplies. This information must be submitted to the department with each annual permit application.

(C) Packaged ice must be in conformance with maximum contaminant levels that have been established for drinking water supplies.

(D) All packaged ice plants shall submit monthly to an approved laboratory a sample of each type of finished product for microbiological analysis. A copy of the monthly analytical results must be forwarded to the department by out‑of‑state packaged ice dealers. In‑state packaged ice plants shall maintain these records and shall make these records available to the department upon request.

(E) The monthly laboratory analysis must include testing for fecal and total coliform organisms and Heterotrophic Plate Count (HPC). Total coliforms must not be greater than 2.2 organisms/100 ml. using the Most Probable Number (MPN) method or not greater than 1 organism/100 ml. using the Membrane Filtration (MF) method. The HPC must not exceed 500 colonies/ml. Packaged ice must not have any fecal coliform‑positive samples.

(F) If finished product samples exceed the acceptable standards provided for in subsection (E), the plant shall submit samples to an approved laboratory on a weekly basis until two consecutive acceptable samples are obtained. Copies of weekly sample analyses must be submitted to the department upon receipt by the packaged ice plant or packaged ice dealer.

(G) The department shall collect and analyze samples of source water and finished product when necessary to determine if the source water or finished product, or both, meet the standards provided for in subsection (E). When indicated by reason of complaint or illness, the department may obtain and analyze or require the ice plant to obtain and have analyzed, by an approved laboratory, samples of source water and finished product, or both.

(H) All records of sampling and analyses of source water and finished product must be maintained by the plant for a period of not fewer than two years and must be made available to the department upon request.

Section 39-38-60. (A) Ice must be processed and packaged using methods that preclude contamination of the product.

(B) Air used for water agitation must be filtered or otherwise treated to render it free of oil, dust, dirt, insects, and extraneous material.

(C) Manual packaging of product must be performed in a manner that precludes contamination of the packaging material and the product.

(D) Any spillage created during manufacture, packaging, transportation, or storage must be disposed of and must not be packaged or re‑packaged for sale for human consumption.

(E) Ice packaging material must be of food grade quality and closures must be designed to adequately protect its contents by creating a tight seal. Only pin holes or a butterfly vent that does not exceed one‑fourth inch in diameter must be used in ice packaging material. Pin holes or butterfly vents must be located in the upper one‑third portion of the bag.

(F) Packaging material must be protected from contamination during storage and handling.

Section 39-38-70. (A) Packaged ice plants producing product that is not to be used for human consumption shall store this product in a designated area that is clearly identified and separated from other packaged ice products.

(B) Packaged ice must be stored above the floor protected from splash and must not be located in areas susceptible to overhead dripping.

(C) Wooden platforms or pallets must not be used for the purpose of transporting ice or storing ice above the floor unless platforms or pallets have been designed or covered with surfaces that protect the product from splintering. These surfaces must be easily cleaned and sanitized or must be replaced between uses.

(D) Product must be transported in an enclosed facility designed and equipped to protect the product from contamination and must be maintained in a clean condition.

(E) Packaged ice must be handled in such a manner to preclude contamination during transportation and delivery. At no time during transport or delivery may the packaged ice product come into contact with the floor or ground.

Section 39-38-80. (A) Packaged ice plants producing product that is not to be sold for human consumption shall designate ‘NOT FOR HUMAN CONSUMPTION’ on the package. This designation must be clearly visible to the consumer.

(B) Package labeling must adhere to all applicable federal and state laws and must include a date or lot code to enable the traceability of the product in the event of a recall.

Section 39-38-90. The operator or manager of a packaged ice plant or dealer who knows or should know that a primary maximum contaminant level has been exceeded, or believes or has reason to believe that circumstances exist such as source contamination, spills, accidents, natural disasters, breakdowns in the sanitary processing of ice, or other similar problems that may adversely affect the safety of the packaged ice, immediately shall notify the department of the incident.

Section 39-38-100. (A) If the department determines, based upon results of representative sample tests and risk analysis that an immediate hazard to the health, safety, and welfare of the public is present in any packaged ice product, the department shall order the packaged ice plant or dealer to initiate a product recall to effectively avoid or significantly minimize the threat to the public’s health and, if appropriate, issue a notification to customers. The plant or dealer must be responsible for disseminating the notice in a manner designed to inform customers who may be affected by the problem.

(B) When a laboratory report reveals that a maximum contaminant level (MCL) has been exceeded, but when investigation indicates that the condition causing the MCL to be exceeded was corrected promptly and that previously distributed product will not cause illness or present any significant health hazard, a company recall and media notification is not necessary. If a recall or media notification is not necessary but consumer complaints indicate problems regarding product taste or odor, the department shall order the plant to communicate the exceedence of the MCL and the implementation of corrective measures by direct mailings to affected customers.

Section 39-38-110. Packaged ice plant operators and packaged ice dealers shall allow the department to examine records pertaining to the operation and maintenance of the plant or source water upon request.”

SECTION 2. This act takes effect upon approval by the Governor.

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