

[CORRECTED COPY]
ASSEMBLY, No. 961

STATE OF NEW JERSEY

PL 1788,
C. 454
Signed by
W. Kern
11/14/88

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KERN

1 AN ACT to revise the kosher food law, supplementing chapter
21 of Title 2C of the New Jersey Statutes and repealing
3 section 23B of P.L. 1981, c. 290.

5 BE IT ENACTED by the Senate and General Assembly of the
State of New Jersey:

7 1. As used in this act:

9 a. "Advertise" means engaging in promotional activities
including, but not limited to, newspaper, radio and television
advertising; the distribution of fliers and circulars; and the
11 display of window and interior signs.

13 b. "Food," "food product," or "food commodity" means any
food, food product or food preparation, whether raw or prepared
for human consumption, and whether in a solid or liquid state,
15 including, but not limited to, any meat, meat product or meat
preparation; any milk, milk product or milk preparation; and any
17 alcoholic or non-alcoholic beverage.

19 c. "Food commodity in package form" means a food
commodity put up or packaged in any manner in advance of sale
in units suitable for retail sale and which is not intended for
21 consumption at the point of manufacture.

23 d. "Kosher" means prepared under and maintained in strict
compliance with the laws and customs of the Orthodox Jewish
religion and includes foods prepared for the festival of Passover
25 and represented to be "kosher for Passover."

27 2. a. A false representation prohibited by this act shall
include any oral or written statement that directly or indirectly
tends to deceive or otherwise lead a reasonable individual to
29 believe that a non-kosher food or food product is kosher.

31 b. The presence of any non-kosher food or food product in
any place of business that advertises or represents itself in any

1 manner as selling, offering for sale, preparing or serving kosher
food or food products only, is presumptive evidence that the
3 person in possession offers the same for sale in violation of this
act.

5 c. It shall be a complete defense to a prosecution under this
act that the defendant relied in good faith upon the
7 representations of a slaughterhouse, manufacturer, processor,
packer or distributor, or any person or organization which
9 certifies or represents any food or food product at issue to be
kosher, kosher for Passover, or as having been prepared under or
11 sanctioned by Orthodox Jewish religious requirements.

3. A person commits a disorderly persons offense if in the
13 course of business he:

15 a. (1) Falsely represents any food sold, prepared, served or
offered for sale to be kosher or kosher for Passover;

17 (2) Removes or destroys, or causes to be removed or
destroyed, the original means of identification affixed to food
19 commodities to indicate that same are kosher or kosher for
Passover, except that this paragraph shall not be construed to
prevent the removal of the identification if the commodity is
21 offered for sale as non-kosher; or

23 (3) Sells, disposes of or has in his possession for the purpose of
resale as kosher any food commodity to which a slaughterhouse
plumba, mark, stamp, tag, brand, label or other means of
25 identification has been fraudulently attached.

27 b. (1) Labels or identifies a food commodity in package form
to be kosher or kosher for Passover or possesses such labels or
means of identification, unless he is the manufacturer or packer
29 of the food commodity in package form;

31 (2) Labels or identifies an article of food not in package form
to be kosher or kosher for Passover or possesses such labels or
other means of identification, unless he is the manufacturer of
33 the article of food;

35 (3) Falsely labels any food commodity in package form as
kosher or kosher for Passover by having or permitting to be
inscribed on it, in any language, the words "kosher" or "kosher

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food or food products only, is presumptive evidence that the
3 person in possession offers the same for sale in violation of this
act.

5 c. It shall be a complete defense to a prosecution under this
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15 offered for sale to be kosher or kosher for Passover;

(2) Removes or destroys, or causes to be removed or
17 destroyed, the original means of identification affixed to food
commodities to indicate that same are kosher or kosher for
19 Passover, except that this paragraph shall not be construed to
prevent the removal of the identification if the commodity is
21 offered for sale as non-kosher; or

(3) Sells, disposes of or has in his possession for the purpose of
23 resale as kosher any food commodity to which a slaughterhouse
plumba, mark, stamp, tag, brand, label or other means of
25 identification has been fraudulently attached.

b. (1) Labels or identifies a food commodity in package form
27 to be kosher or kosher for Passover or possesses such labels or
means of identification, unless he is the manufacturer or packer
29 of the food commodity in package form;

(2) Labels or identifies an article of food not in package form
31 to be kosher or kosher for Passover or possesses such labels or
other means of identification, unless he is the manufacturer of
33 the article of food;

(3) Falsely labels any food commodity in package form as
35 kosher or kosher for Passover by having or permitting to be
inscribed on it, in any language, the words "kosher" or "kosher

1 for Passover," "parve," "glatt," or any other words or symbols
which would tend to deceive or otherwise lead a reasonable
3 individual to believe that the commodity is kosher or kosher for
Passover; or

5 (4) Labels any food commodity in package form by having or
permitting to be inscribed on it the words "kosher-style,"
7 "kosher-type," "Jewish," or "Jewish-style," unless the product
label also displays the word "non-kosher" in letters at least as
9 large and in close proximity.

c. (1) Sells, offers for sale, prepares, or serves in or from the
11 same place of business both unpackaged non-kosher food and
unpackaged food he represents to be kosher unless he posts a
13 window sign at the entrance of his establishment which states in
block letters at least four inches in height: "Kosher and
15 Non-Kosher Foods Sold Here," or "Kosher and Non-Kosher
Foods Served Here," or a statement of similar import; or

17 (2) Employs any Hebrew word or symbol in any advertising of
any food offered for sale or place of business in which food is
19 prepared, whether for on-premise or off-premise consumption,
unless the advertisement also sets forth in conjunction therewith
21 and in English, the words "We Sell Kosher Food Only," "We Sell
Both Kosher and Non-Kosher Foods," or words of similar import,
23 in letters of at least the same size as the characters used in
Hebrew. For the purpose of this paragraph, "Hebrew symbol"
25 means any Hebrew word, or letter, or any symbol, emblem, sign,
insignia, or other mark that simulates a Hebrew word or letter.

27 d. (1) Displays for sale in the same show window or other
location on or in his place of business, both unpackaged food
29 represented to be kosher and unpackaged non-kosher food,
unless he:

31 (a) displays over the kosher and non-kosher food signs that
read, in clearly visible block letter, "kosher food" and
33 "non-kosher food," respectively, or, as to the display of meat
alone, "kosher meat" and "non-kosher meat," respectively;

35 (b) separates the kosher food products from the non-kosher
food products by keeping the products in separate display
37 cabinets, or by segregating kosher items from non-kosher items

1 (c) slices or otherwise prepares the kosher food products for
sale with utensils used solely for kosher food items;

3 (2) Prepares or serves any food as kosher whether for
consumption in his place of business or elsewhere if in the same
5 place of business he also prepares or serves non-kosher food,
unless he:

7 (a) uses and maintains separate and distinctly labeled or
marked dishes and utensils for each type of food; and

9 (b) includes in clearly visible block letters the statement
"Kosher and Non-Kosher Food Prepared and Sold Here" in each
11 menu or sign used or posted on the premise or distributed or
advertised off the premise;

13 (3) Sells or has in his possession for the purpose of resale as
kosher any food commodity not having affixed thereto the
15 original slaughterhouse plumba, mark, stamp, tag, brand, label
or other means of identification employed to indicate that the
17 food commodity is kosher or kosher for Passover; or

(4) Sells or offers for sale, as kosher, any fresh meat or
19 poultry that is identified as "soaked and salted," unless (a) the
product has in fact been soaked and salted in a manner which
21 makes it kosher; and (b) the product is marked "soaked and
salted" on the package label or, if the product is not packaged,
23 on a sign prominently displayed in conjunction with the product.
For the purpose of this paragraph, "fresh meat or poultry" shall
25 mean meat and poultry that has not been processed except for
salting and soaking.

27 4. Section 23B of P.L. 1981, c. 290 (C. 2C:21-7.1) is repealed.

5. This act shall take effect on the 90th day after enactment.

29

31 COMMERCE AND INDUSTRY
Consumer Affairs

33

Revises the kosher food law.

(a)

Medical and Health Services

Medical Examinations; Pregnancy Tests

Adopted Amendment: N.J.A.C. 10A:16-2.11

Proposed: August 3, 1987 at 19 N.J.R. 1396(a).

Adopted: October 9, 1987 by William H. Fauver, Commissioner.

Department of Corrections.

Filed: October 9, 1987 as R.1987 d.443, **without change**.

Authority: N.J.S.A. 30:1B-6 and 30:1B-10.

Effective Date: November 2, 1987.

Expiration Date: April 6, 1992.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

10A:16-2.11 Medical examinations

(a) A preliminary history and physical examination shall be made on each new admission within 24 hours which shall include, but is not limited to:

1. (No change.)
 2. A physical examination:
 3. A pregnancy test for female inmates; and
 4. (No change in text.)
- (b)-(c) (No change.)

LABOR

(b)

DIVISION OF WORKPLACE STANDARDS

**Safety and Health Standards for Public Employees
Hazardous Waste Operations and Emergency
Response**

**Adopted Amendments: N.J.A.C. 12:100-2.1, 4.2, 5.2,
and 6.2**

Proposed: August 17, 1987 at 19 N.J.R. 1533(a).

Adopted: September 2, 1987 by Charles Serrano, Commissioner.

Department of Labor.

Filed: October 8, 1987 as R.1987 d.439, **without change**.

Authority: N.J.S.A. 34:6A-25 et seq., specifically N.J.S.A.
34:6A-30.

Effective Date: November 2, 1987.

Expiration Date: November 5, 1989.

Summary of Public Comments and Agency Responses:

No comments received.

Full text of the adoption follows.

12:100-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

... "CFR" means Code of Federal Regulations.

12:100-4.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1910, General Industry Standards in effect on December 19, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in general operations and shall include:

- 1.-18. (No change.)
- (b)-(c) (No change.)

12:100-5.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1296, Construction Industry Standards in effect on July 21, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in construction operations and shall include:

- 1.-22. (No change.)
- (b)-(c) (No change.)

12:100-6.2 Adoption by reference

(a) The standards contained in 29 CFR Part 1928, Agriculture in effect on July 21, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in agricultural operations and shall include:

- 1.-4. (No change.)
- (b)-(c) (No change.)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

(c)

**PROFESSIONAL AND OCCUPATIONAL LICENSING
BOARDS**

**Compensation and Reimbursement of Expenses of
Professional and Occupational Licensing Board
Members**

Adopted New Rules: N.J.A.C. 13:44B-1.1 through 1.3

Proposed: March 16, 1987 at 19 N.J.R. 444(a).

Adopted: October 2, 1987 by W. Cary Edwards, Attorney
General.

Filed: October 8, 1987 as R.1987 d.438, **without change**.

Authority: N.J.S.A. 45:1-2.5(a).

Effective Date: November 2, 1987.

Expiration Date: November 2, 1992.

Summary of Public Comments and Agency Responses:

COMMENT: Five comments were received from professional and occupational board members and staff which indicated a belief that each Board member and officer of a board commission will not be properly compensated by the proposed per diem payment, in that consideration has not been made for preparation time, travel time, time lost from regular employment and additional time spent on follow-up work.

RESPONSE: The Attorney General responded that the fee schedule of payment is found to be fair and adequate given the public nature of the appointment.

Full text of the expired rules, adopted as new, may be found in the New Jersey Administrative Code at N.J.A.C. 13:44B-1.

(d)

**Representations Concerning and Requirements for
the Sale of Kosher Products**

**Adopted Repeal and New Rules: N.J.A.C. 13:45A-21
and 22**

Proposed: June 15, 1987 at 19 N.J.R. 1060(a).

Adopted: October 5, 1987 by James J. Barry, Jr., Director,
Division of Consumer Affairs.

Filed: October 9, 1987 as R.1987 d.450, **with substantive changes**
not requiring additional public notice and comment (See
N.J.A.C. 1:30-4.3).

Authority: N.J.S.A. 56:8-4.

Effective Date: November 2, 1987.

Expiration Date: December 16, 1990.

Summary of Public Comments and Agency Responses:

The Division of Consumer Affairs (Division) received two written comments to the proposed rules.

COMMENT: The New Jersey Food Council (N.J.F.C.) indicated that it fully supports the proposed changes to the Kosher food rules and suggested an amendment to N.J.A.C. 13:45A-21.1 that would exclude product labels from the definition of "advertisement." The N.J.F.C. subsequently withdrew its comment.

COMMENT: Mr. Michael L. Ticktin suggested that N.J.A.C. 13:45A-21.7 be amended to make it clear that a seller will not be protected by that exculpatory section if the Division has previously given notice to the seller that a product is not Kosher.

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- 1.-18. (No change.)
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(a) The standards contained in 29 CFR Part 1928, Agriculture in effect on July 21, 1986 are adopted as occupational safety and health standards for the protection of public employees engaged in agricultural operations and shall include:

- 1.-4. (No change.)
- (b)-(c) (No change.)

LAW AND PUBLIC SAFETY

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COMMENT: Five comments were received from professional and occupational board members and staff which indicated a belief that each Board member and officer of a board commission will not be properly compensated by the proposed per diem payment, in that consideration has not been made for preparation time, travel time, time lost from regular employment and additional time spent on follow-up work.

RESPONSE: The Attorney General responded that the fee schedule of payment is found to be fair and adequate given the public nature of the appointment.

Full text of the expired rules, adopted as new, may be found in the New Jersey Administrative Code at N.J.A.C. 13:44B-1.

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Summary of Public Comments and Agency Responses:

The Division of Consumer Affairs (Division) received two written comments to the proposed rules.

COMMENT: The New Jersey Food Council (N.J.F.C.) indicated that it fully supports the proposed changes to the Kosher food rules and suggested an amendment to N.J.A.C. 13:45A-21.1 that would exclude product labels from the definition of "advertisement." The N.J.F.C. subsequently withdrew its comment.

COMMENT: Mr. Michael L. Tickin suggested that N.J.A.C. 13:45A-21.7 be amended to make it clear that a seller will not be protected by that exculpatory section if the Division has previously given notice to the seller that a product is not Kosher.

RESPONSE: The Division considers this amendment unnecessary because only "good faith" reliance by the seller is protected by the section.

COMMENT: Mr. Ticktin suggested that the terms "non-dairy" and "pareve" be given separate definitions since they have separate meanings.

RESPONSE: The Division has deleted the term "non-dairy", from the rules as unnecessary to the rules' true intent to enhance the protection afforded consumers of Kosher meat and poultry.

COMMENT: Mr. Ticktin suggested that references in the rules to "English letters" and "English words" "Kosher" or "pareve" are erroneous since the letters are, in fact, "Roman" letters.

RESPONSE: The Division considers an amendment in response to this comment confusing and unnecessary.

COMMENT: Mr. Ticktin suggested that the rules should apply to non-food products such as soaps and detergents, which are used with dishes and utensils, in Kosher establishments.

RESPONSE: The Division considers this amendment unnecessary at the present time.

COMMENT: With reference N.J.A.C. 13:45A-21.2(a)5, Mr. Ticktin suggested that the term "traditional" is not automatically restricted in its use to a Jewish context, and that a disclaimer should be required unless there is "some reasonable basis for someone to assume that it is Jewish tradition that is being referred to."

RESPONSE: The Division has amended the rule by placing the word "Jewish" in parenthesis next to the term traditional.

COMMENT: Mr. Ticktin suggested that N.J.A.C. 13:45-21.2(a)6 would be clearer if it referred to "the recognized symbol" of an organization providing rabbinical supervision" rather than to "a Kosher food symbol."

RESPONSE: The Division feels that the term "a Kosher food symbol" is self-explanatory and requires no further clarification.

COMMENT: Mr. Ticktin suggested that the requirement in the existing rules that Kosher and non-Kosher foods be separated in storage displays be retained by the proposed new rules.

RESPONSE: The Division considers this requirement to be an undue burden on supermarkets while providing little or no consumer protection. The rules still require that products contained in a "Kosher food section" of a supermarket be exclusively Kosher.

The above enumerated changes in the proposed rules, along with typographical changes, are minor substantive changes which do not significantly curtail or expand the content or scope of the rules and do not burden, curtail or expand who or what would be affected by the rules or change what is being prescribed or being mandated by the rules.

Full text of the adoption follows (Additions indicated in boldface with asterisks *thus*; deletions indicated in brackets with asterisks *(thus)*).

SUBCHAPTER 21. REPRESENTATIONS CONCERNING AND REQUIREMENTS FOR THE SALE OF KOSHER PRODUCTS

13:45A-21.1 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context indicates otherwise:

"Advertiser, represents or holds itself out" means engaging in promotional activities including but not limited to newspaper, radio and television advertising and distribution of fliers.

"Kosher" means a Kosher food or food product which is prepared and maintained in strict compliance with the laws and customs of the Orthodox Jewish religion.

"Kosher brand" means a brand of a type approved by the United States Department of Agriculture.

"Kosher for Passover" means a Kosher food or food product which is prepared and maintained in strict compliance with the laws and customs of the Orthodox Jewish religion relating to the Jewish holiday of Passover.

"Kosher-style," "Kosher-type," "Jewish," "Hebrew" or other similar words mean a Non-Kosher food or food product which has not been prepared or maintained in strict compliance with the laws and customs which are generally recognized as being among the Orthodox Jewish religious requirements, but rather has either been prepared in such a way as to simulate the taste, appearance and/or consistency of a kosher food or food product or has originally been prepared in accordance with the above religious requirements but has not been maintained in the proper manner.

["Non-dairy" or] "Pareve" means a Kosher food or food product which is prepared and maintained in strict compliance with the laws and customs of the Orthodox Jewish religion relating to non-dairy*[, pareve,]* foods.

"Person" means an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest or, any other legal or commercial entity. When used in N.J.A.C. 13:45A-21.2, "person" shall include, in addition to all retail establishments, all dealers in Kosher food or food products, New Jersey-based manufacturers, wholesalers, processors, slaughterhouses and all others along the chain from the time the product is manufactured or, in the case of meat or poultry, from the slaughter to the time of its sale, and hold themselves out as Kosher or dealing with Kosher food or food products.

"Plumba" means the tin seal commonly used in the Kosher industry with the word "Kosher" indicated thereon either in English or Hebrew letters, and with certain letters, figures or emblems indicated thereon that will positively identify such plumba with the particular slaughterhouse where the animal was slaughtered or processed.

"Properly sealed packages" means those packages placed on the Kosher meat or Kosher food or food product by the manufacturer.

"Tag" means a tag of whatever form bearing the name and address of the slaughterhouse where the animal was slaughtered, the name of the person who sanctioned the Kosher slaughtering of meat at the slaughterhouse named and the date of the slaughter.

13:45A-21.2 Unlawful practices

(a) It shall be an unlawful consumer practice for any person to sell, offer for sale, expose for sale, serve or have in his possession with intent to sell, by any of the following means, in any restaurant, hotel, store or catering facility or other place, any food or food product which is falsely represented to be Kosher, Kosher for Passover, under Rabbinical Supervision, *[non-dairy or]* pareve or as having been prepared under and/or with a product sanctioned by Orthodox Jewish religious requirements:

1. By direct statements, orally or in writing; or
2. By display of the word "Kosher" in English or Hebrew letters, or by display of any sign, emblem, insignia, six-pointed star, symbol or mark in simulation of the word Kosher; or

3. By inscription on any food or food product or its package, container or contents, the word "Kosher," "Pareve," "Glatt," or "Rabbinical Supervision" in English or Hebrew letters, or by display or inscription of any sign, emblem, insignia, six-pointed star, symbol or mark in simulation of the word Kosher. For the purposes of this paragraph, the marking of any food or food product or its package, container or contents with the English words "Kosher" or "Pareve," or with the letters "K," "KP," "KD," or "KOS," shall be deemed to be an unlawful practice if the product is not under rabbinical supervision; or

4. By display on any interior or exterior sign or menu or otherwise, the words "Kosher-Style," "Kosher-Type," "Jewish," "Hebrew," "Holiday (Jewish) Foods," "Traditional *(Jewish)*," "Bar Mitzvah," "Bat Mitzvah," or other similar words, either alone or in conjunction with the word "Type," "Style" or other similar expression, unless there is clearly and conspicuously stated a disclaimer in the same size type or letters in some prominent place or location that these terms refer to a Non-Kosher food or food product or food handling facility that does not observe Orthodox Jewish dietary laws; or

5. By advertisement, either oral or in writing, using the words "Kosher-Style," "Kosher-Type," "Jewish," "Hebrew," "Holiday (Jewish) Food," "Traditional *(Jewish)*," "Bar Mitzvah," "Bat Mitzvah," or other similar words, either alone or in conjunction with the word "Type," "Style" or other similar expression unless there is clearly and conspicuously stated a disclaimer in type no smaller than the smallest type in the advertisement, and in no event less than 10-point type, that the product or products offered for sale are not Kosher.

- i. The disclaimer shall appear in a box within the advertisement and shall be preceded with the word "NOTICE," or other similar word, in not smaller than bold 14-point type.

- ii. An advertisement that utilizes any Kosher symbol that also promotes the sale of non-kosher food or food products is in violation of this section unless there is clearly and conspicuously stated in the advertisement a disclaimer in accordance with the requirement of this paragraph, that some of the food or food products offered for sale are Non-Kosher; or

6. By unauthorized use of a Kosher food symbol including, but not limited to OU, OK, VH, NK, SK, CRC, KAJ, KOF-K.

13:45A-21.3 Display and handling requirements

(a) A Kosher food or food product sold by a restaurant, hotel, store, catering facility or other place which advertises, represents or holds itself out as selling, serving or offering for sale both Kosher and Non-Kosher food or food products may be falsely represented to be Kosher within the meaning of N.J.A.C. 13:45A-21.2 unless the following display and handling requirements are observed:

1. Interior display and handling requirements are as follows:

i. Kosher meats, food or food products which are not prepared, cut, sliced, carved, broken down or divided into smaller portions on the premises of the place in which they are offered for sale, and which are contained in properly sealed packages, may be commingled with Non-Kosher meats, food or food products, provided, however, that if an establishment indicates by sign or label that kosher products are contained in a separate display cabinet or section, only Kosher products may be contained therein;

ii. Kosher meats, food or food products which are prepared, cut, sliced, carved, broken down or divided into smaller portions on the premises of the place in which they are offered for sale shall not be commingled with Non-Kosher meats, food or food products. Kosher meats, food or food products shall be kept in a separate display cabinet which shall not contain any Non-Kosher meat, Non-Kosher food or food products, or any dairy products and shall be separated from any Non-Kosher meats, Non-Kosher food or food products or any dairy products by a clearly visible divider.

iii. There shall be a clearly visible sign in block letters affixed to the separate display cabinet or Kosher section of said cabinet indicating that only KOSHER FOOD is contained therein and indicating which section contains only DAIRY products and which section contains only MEAT.

iv. Kosher dairy foods shall be prepared in utensils that are separate and distinct from those used to prepare Kosher or Non-Kosher meats and all servicing and eating utensils shall be kept separate and apart as either meat or dairy. Such Kosher meat and food or food products shall be sliced with a separate knife, and on a separate cutting board, or on a separate slicing machine, used solely for Kosher meat and food or food products and labelled "Kosher" in clearly visible block letters affixed to the knife or, in the case of a slicer, either affixed to the slicer or displayed in a prominent place on the premises where the slicer is maintained.

v. No articles of food or food products, including meats, shall be sold as Kosher or Kosher for Passover unless a Kosher or Kosher for Passover identification is securely affixed thereto by the manufacturer or packer at his premises. No person other than such manufacturer or packer shall possess or affix such marks of identification.

vi. No raw meat or poultry may be sold or offered for sale as Kosher unless the words "soaked and salted," "not soaked and salted" or "soaked and salted upon request only," as the appropriate case may be, is prominently displayed on a sign in conjunction with the product. If the raw meat or poultry is packaged, the words "soaked and salted" or "not soaked and salted" may be marked on the package label in lieu of, or in addition to, the above requirement, but in no event shall packaged raw meat be sold or offered for sale as Kosher without the date of packaging clearly marked on the label. No person may sell or offer for sale, as Kosher, any raw meat or poultry that is identified as "soaked and salted" unless the product has been soaked and salted in a manner which makes it Kosher.

2. Washing and deveining requirements are as follows:

i. Kosher meats must be maintained Kosher and must be properly deveined and, with the exception of liver, washed within 72 hours after slaughter, and within each subsequent 72 hour period in accordance with the laws and customs of the Orthodox Jewish religion. The date and time of the day (A.M. or P.M.) of each washing and the name of the person performing such duty shall be legibly indicated on all tags attached to the said meat.

ii. Meats to be washed enroute shall be packed in such a manner as to allow washing to be done as prescribed above. The date and time of day of the washing shall be indicated on all tags or by means of a written statement securely attached inside the car or other vehicle and signed by the person supervising the washing. Upon receipt of the meat so washed enroute, the information contained in the written statement shall be legibly transferred to tags attached to the meat by the person receiving the meat.

iii. When tongues, offal and other parts of meat that are packed in containers and are not deveined, soaked, salted and rinsed in accordance with the Jewish laws of Koshering meat prior to shipping, they must be packed in containers that are sufficiently perforated to permit the free flow of water to reach all sides of said tongues, offal and other parts of meat packed therein and to enable the water to freely flow out again.

iv. When calves are shipped unflayed and part of the skin is detached from the meat, the water shall also reach every portion of the meat under the detached skin.

v. All marks of Kosher identification shall be removed by the owner or consignee from meat which has not been properly washed immediately after the time of washing has expired provided, however, that liver shall

be excepted from the requirements of this paragraph. All marks of Kosher identification shall be removed by the owner or consignee from meat on which the date and time of day (A.M. or P.M.) of each washing have not been properly indicated on all tags attached thereto. Stamps, inscriptions and incision of Kosher marks of identification impressed on the meat shall be removed by the owner or consignee by blotting out and/or obliterating such marks of identification.

3. Exterior sign requirements are as follows:

i. Any restaurant, hotel, store, catering facility or other place as is described in (a) above shall display in a prominent place in its front window the following sign which shall be printed in block letters at least four inches in height:

"KOSHER AND NON-KOSHER FOOD PRODUCTS SOLD HERE."

13:45A-21.4 Identification requirements

(a) All meats sold as Kosher, regardless of the size of the portion, must have affixed thereto at the slaughterhouse a tag and/or plumba. The tags shall be affixed as follows:

1. For all forequarters of steers, cows, bulls, heifers, and yearling calves, the following Kosher identifications shall be affixed to each of the following parts:

i. Breast, rib, plate (outside), plate pieces (inside), chuck, shoulder, heart, lung, oxtail, tripe, milt (spleen), tenderloin (hanger): plumba and tag;

ii. Liver: two Kosher brands and two plumbas, one of each to opposite ends of liver, so that if the liver is cut in half through the vein each half will bear one plumba and one Kosher brand;

iii. Feet: plumba and tag to each foot;

iv. Breasts: plumba and tag to each pair;

v. Brains: plumba to each brain, when sold separately from the head;

vi. Tongue: plumba and tag at the tip, and a Kosher brand at the tip on smooth surface;

vii. Breastbone: incisions in the form of Hebrew characters, showing date of slaughter.

2. For all foresaddles of veal, the following Kosher identification shall be affixed to each of the following parts:

i. Breast: incision on each in the form of Hebrew characters, showing date of slaughter;

ii. Rack: two incisions on the inside, one of them on each side of the spine, in the form of Hebrew characters, showing the date of slaughter;

iii. Shoulder: plumba and tag;

iv. Liver: plumba affixed to center of liver at the vein, and a Kosher brand on the upper surface of liver;

v. Haslett: plumba and tag through the heart and milt;

vi. Lung: plumba and tag;

vii. Feet: plumba and tag to each foot;

viii. Breasts: one tag, and one plumba drawn through three pairs;

ix. Brains: plumba to each brain, when sold separately from the head;

x. Tongue: plumba and tag at the tip, and a Kosher brand at the tip of the smooth surface.

3. For all foresaddles of lamb and mutton, the following Kosher identifications shall be affixed of the following parts:

i. Breast: incision on each in the form of Hebrew characters, showing date of slaughter;

ii. Rack: two plumbas and two tags, one of each to either side of spine;

iii. Shoulder: plumba and tag;

iv. Haslett: plumba and tag through the liver and milt;

v. Tongue: one tag, and one plumba drawn through each group of six;

vi. Brains: plumba to each brain, when sold separately from the head;

vii. Liver: plumba and tag at center of liver, when sold separately from the haslett.

(b) The slaughterer and/or wholesaler of Kosher poultry is responsible to ensure that plumbas are affixed and remain on each and every portion. A New Jersey based slaughterer and/or wholesaler may not refuse to accept returned poultry that is missing the necessary plumbas and must provide a refund for same.

13:45A-21.5 Filing requirements

(a) Any restaurant, hotel, store, catering facility, or other place which advertises, represents or holds itself out as selling, serving or offering for sale exclusively Kosher food or food products, shall either file with the Director of the Division of Consumer Affairs a document in writing from a supervising rabbi or rabbinical organization that said establishment meets Orthodox Jewish dietary laws or, if said establishment is not under rabbinical supervision, so advise the Director. The Director of the Division of Consumer Affairs shall be informed in writing, within 10 business days, of any change in the Kosher or rabbinical supervision

status referred to above. Failure to advise the Director of the Division of Consumer Affairs of a change in the Kosher or rabbinical supervision status as provided herein, shall constitute an unlawful practice as defined by N.J.A.C. 13:45A-21.2.

(b) Any person or organization giving Kosher supervision to any restaurant, hotel, store, catering facility, slaughter, or other place shall file with the Director of the Division of Consumer Affairs a document in writing listing the name, address and type of establishment that is certified. The Director of Division of Consumer Affairs shall be informed in writing, within 10 business days, if said supervision or supervising agency removes such supervision. Failure to advise the Director of Division of Consumer Affairs of said removal shall constitute an unlawful practice as defined by N.J.A.C. 13:45A-21.2.

13:45A-21.6 Presumptions

Possession of any Non-Kosher food or food product in any restaurant, hotel, store, catering facility or other place where food or food products are sold and/or served which advertises, represents or holds itself out as only selling Kosher food or food products, is presumptive evidence that the person is in possession of such food or food products with the intent to sell the same.

13:45A-21.7 Exculpatory section

A restaurant, hotel, store, catering facility or other place where food or food products are sold and/or served shall not be deemed to have committed an unlawful practice under N.J.A.C. 13:45-21.2 if it can be shown by a preponderance of the evidence that it relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food or food product represented to be Kosher, Kosher for Passover or as having been prepared under or sanctioned by Orthodox Jewish religious requirements.

SUBCHAPTER 22. INSPECTIONS OF KOSHER MEAT DEALERS, KOSHER POULTRY DEALERS, AND DEALERS OF KOSHER FOOD AND FOOD PRODUCTS: RECORDS REQUIRED TO BE MAINTAINED BY KOSHER MEAT DEALERS AND KOSHER POULTRY DEALERS.

13:45A-22.1 Definitions

The following words and terms when used in this subchapter shall have the following meanings, unless the context indicates otherwise:

"Dealer in Kosher food or food products" means any store, restaurant, hotel, catering facility or other place where foods or food products are sold or offered for sale or served as Kosher or as having been prepared under and/or with a product sanctioned by Orthodox Jewish religious requirements.

"Kosher meat dealer" means any person engaged in the slaughtering or wholesaling of properly identified Kosher meat or who purchases, obtains or receives properly identified Kosher meat from slaughterhouses, wholesalers or other sources and who cuts, slices, carves, breaks down or divides such kosher meat into smaller quantities or portions intended for sale to a customer as Kosher meat. Places of business carrying on the aforesaid actions include, but are not limited to: caterers, hotels, summer camps, butcher shops, delicatessens, supermarkets, grocery stores, freezer dealers and food plan companies. Such places of business may also purchase, sell, handle, package and process Non-Kosher meat and other Kosher and Non-Kosher food products.

"Kosher poultry dealer" means any person engaged in the slaughtering or wholesaling of properly identified Kosher poultry who purchases, obtains or receives properly identified kosher poultry from slaughterhouses, wholesalers or other sources and who cuts, slices, carves, breaks down or divides such kosher poultry into smaller quantities or portions intended for sale to a customer as Kosher poultry. Places of business carrying on the aforesaid actions include, but are not limited to: caterers, hotels, summer camps, butcher shops, delicatessens, supermarkets, grocery stores, freezer dealers and food plan companies. Such places of business may also purchase, sell, handle, package and process Non-Kosher poultry and other Kosher and Non-Kosher food products.

"Non-Kosher meat" means meat which is not obtained from animals which are approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which does not have affixed thereto the Kosher plumba or Kosher tag placed on such Kosher meat at the slaughterhouse where the animal was slaughtered. Non-Kosher meat also means meat which is obtained from animals which are approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion but which does not have affixed thereto the Kosher plumba or Kosher tag placed on such meat at the slaughterhouse where the animal was slaughtered.

"Non-Kosher poultry" means poultry which is not approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which does not have affixed thereto the Kosher plumba or Kosher tag placed on such poultry at the slaughterhouse where the poultry was slaughtered. Non-Kosher poultry also means poultry which is approved and slaughtered in strict compliance with the laws and customs of the Orthodox Jewish religion but which does not have affixed thereto the Kosher plumba or Kosher tag placed on such poultry at the slaughterhouse where the poultry was slaughtered.

"Properly identified Kosher meat" means Kosher meat which is obtained from animals which are approved, and slaughtered, in strict compliance with the laws and customs of the Orthodox Jewish religion and which has affixed thereto the Kosher plumba or Kosher tag placed on such Kosher poultry at the slaughterhouse where the poultry was slaughtered.

13:45A-22.2 Records required to be maintained by Kosher meat dealers and Kosher poultry dealers

(a) Complete and accurate records of all purchases of properly identified Kosher meat and properly identified Kosher poultry from slaughterhouses, wholesalers or any other source shall be kept by every Kosher meat dealer and by every Kosher poultry dealer, including the name and address of the slaughterhouse, wholesaler or other source from which such purchases are made, the dates, quantities and identity or nature of meat or poultry included in all such purchases, and copies of all invoices and bills of sale relating to all such purchases. Kosher meat dealers and Kosher poultry dealers shall retain all such records for a two year period following the purchase of properly identified Kosher meat and properly identified Kosher poultry.

(b) Kosher meat dealers and Kosher poultry dealers shall not remove the attached plumbas or tags or any duly affixed identifications affixed thereto by the slaughterhouse or Kosher meats, Kosher poultry, or any other Kosher products received therefrom until the time immediately preceding the point in time when said Kosher meat, Kosher poultry, or product whenever appropriate is ready to be cut, sliced, carved, broken down, or divided into smaller quantities or portions.

(c) Complete and accurate records of all purchases of Non-Kosher meat and Non-Kosher poultry from slaughterhouses, wholesalers or other sources shall be kept by any Kosher meat dealer and by any Kosher poultry dealer, who also purchases, sells, handles, packages or processes Non-Kosher meat, poultry or food products, including the name and address of the slaughterhouse wholesaler or other source from which such purchases are made, the dates, quantities and identity or nature of meat or poultry included in all such purchases, and copies of all invoices and bills of sale relating to all such purchases. Such records shall be kept separate and apart from all records required to be kept for Kosher meat and for Kosher poultry. Kosher meat dealers and Kosher poultry dealers shall retain all such records for a two year period following the purchase of Non-Kosher meat and Non-Kosher poultry.

(d) A failure to keep complete and accurate records in accordance with (a) and (c) above shall be punishable as an unlawful act under this subchapter.

13:45A-22.3 Inspections of Kosher meat dealers, Kosher poultry dealers and dealers in Kosher food or food products.

(a) The inspection provided for by this section shall only be conducted by authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety.

(b) In conducting an inspection as provided for by this subsection, the authorized inspectors shall utilize the inspection report form, approved by the Director of the Division of Consumer Affairs of the Department of Law and Public Safety, to report the date of the inspection, the nature and scope of the inspection and the findings of the inspection.

(c) For the purpose of making any inspection under this section, the authorized inspectors of the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall have a right of entry to, upon and through the business premises of all Kosher meat dealers, Kosher poultry dealers, and dealers in Kosher food or food products.

(d) Authorized inspectors of the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall make inspections of Kosher meat dealers, Kosher poultry dealers and dealers in Kosher food or food products for the purpose of:

1. Determining by examination of the meat, poultry, food products, tags, plumbas, or any other proper identification and by inspection of the records whether the establishment under inspection is in compliance with these rules.

(e) The scope and manner of inspection shall be as follows:

1. At the commencement of all inspections provided for by this section, the authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety shall present appropriate identification to the Kosher meat dealer, kosher poultry dealer and/or Kosher food or food products dealer, owner, manager or any sales person and shall advise the kosher meat dealer, kosher poultry dealer and/or Kosher food or food products dealer, owner, manager or any sales person of the purposes of the inspection to be conducted under the provisions of this section.

2. All inspections provided for by this section shall be limited to:

i. The meat and poultry and other food products located on the business premises of the Kosher meat dealer, Kosher poultry dealer and/or Kosher food or food products dealer. The business premises shall include all places of storage of meats, of poultry and/or of food or food products, all places where meat, poultry and/or food or food products are cut, sliced, carved, broken down, or divided into small quantities or portions and all places where meat, poultry and/or food or food products are sold to customers; and

ii. The records required to be kept by Kosher meat dealers and Kosher poultry dealers under the provisions of this subchapter.

3. The inspections provided for by this section shall be made during the regular business hours of the Kosher meat, Kosher poultry and/or Kosher food or food products dealer, and at any time including non-business hours when deliveries of meat, poultry and/or food or food products are made to the dealer or when the dealer is engaged in the cutting, slicing, carving, breaking down, preparing, packaging, processing, or dividing of meat, poultry and/or food or food products into smaller quantities or portions.

4. In carrying out the requirements of this section, no advance notice of an inspection shall be provided to any person.

5. All inspections of the meat, poultry and/or food or food products located on the business premises of Kosher meat dealers, Kosher poultry dealers and/or Kosher food or food products dealers and all inspections of the records required to be kept by them under the provisions of this subchapter shall be conducted in such a manner as to not unduly interfere with the regular business operations of the Kosher meat dealers, Kosher poultry dealers and/or Kosher food or food products dealers.

(f) A failure to allow an authorized inspector a right of entry upon the business premises of a Kosher meat dealer, Kosher poultry dealer and/or Kosher food or food products dealer in accordance with the requirements of this section shall be punishable as an unlawful act under this subchapter.

(g) At the completion of all inspections provided for by this section, the authorized inspectors of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety shall make an inspection report, which shall show the date of the inspection, the nature and scope of the inspection and the findings of the inspection. A copy of the inspection report shall be filed with the records of the Director of the Division of Consumer Affairs.

(h) Inspectors authorized by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may, under the following circumstances, tag meat, poultry and/or food or food products as evidence of a possible violation of this subchapter:

1. Upon reasonable suspicion that certain meat, poultry and/or food or food products in the possession of a Kosher meat dealer, Kosher poultry dealer and/or Kosher food or food products dealer is not Kosher;

2. Upon discovery that certain meat and/or poultry in the possession of the Kosher meat dealer and/or Kosher poultry dealer is not identified in accordance with N.J.A.C. 13:45A-21.4;

3. Upon discovery that certain meat and/or poultry in the possession of the Kosher meat dealer and/or Kosher poultry dealer has not been maintained in accordance with N.J.A.C. 13:45A-21.3(a)2.

(i) A Kosher meat dealer, Kosher poultry dealer and/or Kosher food or food products dealer whose meat is tagged as evidence in accordance with (h) above may not remove the tag or dispose of the meat, poultry and/or food or food product for a period of 72 hours unless notified otherwise by an authorized representative of the Director of the Division of Consumer Affairs of the Department of Law and Public Safety. If an administrative complaint is issued within the above 72 hour period by the Division of Consumer Affairs, the tagged meat, poultry and/or food or food product may be impounded by an authorized inspector. Removal of the aforesaid tag or disposal of tagged meat, poultry and/or food or food product in violation of this paragraph shall constitute an unlawful practice as defined in this section.

OTHER AGENCIES

DELAWARE RIVER BASIN COMMISSION

(a)

Administrative Manual

Rules of Practice and Procedure: Penalties and Settlements in Lieu of Penalties

Adopted: September 22, 1987

Filed: October 2, 1987 as R.1987 d.432.

Effective Date: September 22, 1987.

Full text of the adoption follows.

No. 87-25

A RESOLUTION to amend the Administrative Manual—Rules of Practice and Procedure in relation to penalties and settlements in lieu of penalties.

WHEREAS, Section 14.17 of the Commission's Compact provides for the imposition of penalties for violations of the Compact or any rule, regulation or order of the Commission; and

WHEREAS, the Commission has proposed administrative procedures in connection with the imposition of penalties for such violations or settlements thereof in lieu of penalties; and

WHEREAS, the Commission held a public hearing on August 5, 1987 regarding this proposed amendment and has received and considered testimony from interested parties; now therefore

BE IT RESOLVED by the Delaware River Basin Commission:

1. The Administrative Manual—Rules of Practice and Procedure is hereby amended by the redesignation of existing Article 7—Public Access to Records and Information and Article 8—General Provisions as Article 8 and Article 9, respectively.

2. New Article 7—Penalties and Settlements in Lieu of Penalties is hereby added to the Rules of Practice and Procedure to read as follows:

Article 7—Penalties and Settlements in Lieu of Penalties

Section 2-7.1 **Scope of Article.** This Article shall be applicable where the Commission shall have information indicating that a person has violated or attempted to violate any provision of the Commission's Compact or any of its rules, regulations or orders (hereafter referred to as possible violator). For the purposes of this Article person shall include person, partnership, corporation, business association, governmental agency or authority.

2-7.2 **Notice to possible violators.** Upon direction of the Commission the Executive Director shall, and in all other instances, the Executive Director may require a possible violator to show cause before the Commission why a penalty should not be assessed in accordance with the provisions of these Rules and Section 14.17 of the Compact. The notice to the possible violator shall: (a) set forth the date on which the possible violator shall respond; and (b) set forth any information to be submitted or produced by the possible violator.

2-7.3 The record for decision making.

(a) **Written submission.** In addition to the information required by the Commission, any possible violator shall be entitled to submit in writing any other information that it desires to make available to the Commission before it shall act. The Executive Director may require documents to be certified or otherwise authenticated and statements to be verified. The Commission may also receive written submissions from any other person as to whether a violation has occurred and the adverse consequences resulting from a violation of the Commission's Compact or its rules, regulations and orders.

(b) **Presentation to the Commission.** At the date set in the Notice, the possible violator shall have the opportunity to supplement its written presentation before the Commission by any oral statement it wishes to present and shall be prepared to respond to any questions from the Commission or its staff or to the statements submitted by persons affected by the possible violation.

2-7.4 Adjudicatory hearings.

(a) An adjudicatory hearing, which may be in lieu of or in addition to proceedings pursuant to Section 2-7.3, at which testimony may be presented and documents received shall not be scheduled unless: (1) the Executive Director determines that a hearing is required to have an adequate record for the Commission; or (2) the Commission directs that such a hearing be held.