



## Legislation Details (With Text)

**File #:** 21-0348      **Version:** 2      **Name:** Ordinance: Amending Title XIII, Foods Drugs and Cosmetics, Chapter 4, Milk and Milk Products

**Type:** Ordinance      **Status:** Adopted

**File created:** 3/5/2021      **In control:** Municipal Council and City Clerk

**On agenda:** 6/22/2021      **Final action:** 8/4/2021

**Title:** AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XIII, FOODS, DRUGS AND COSMETICS, CHAPTER 4, MILK AND MILK PRODUCTS, SECTION 16, PERMIT TO MANUFACTURE, DISTRIBUTE OR SELL CERTAIN ICE CREAM AND ICES; EXCEPTIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, TO PROHIBIT THE SALE OF DRINKS OR ICES CONTAINING ALCOHOLIC BEVERAGES ("PINA COLADA AMENDMENT").

DEFERRED 6F-a 070821

**Sponsors:** Anibal Ramos, Jr., Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
8/4/2021	2	Municipal Council	Close on Public Hearing and Adopt	Pass
7/14/2021	1	Municipal Council	Motion to amend	Pass
7/14/2021	1	Municipal Council	Adopted as amended on first reading	Pass
7/8/2021	1	Municipal Council	Defer to a Special Meeting	Pass
6/22/2021	1	Municipal Council	Advance to First Reading	Pass

**AN ORDINANCE AMENDING AND SUPPLEMENTING TITLE XIII, FOODS, DRUGS AND COSMETICS, CHAPTER 4, MILK AND MILK PRODUCTS, SECTION 16, PERMIT TO MANUFACTURE, DISTRIBUTE OR SELL CERTAIN ICE CREAM AND ICES; EXCEPTIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, TO PROHIBIT THE SALE OF DRINKS OR ICES CONTAINING ALCOHOLIC BEVERAGES ("PINA COLADA AMENDMENT").**

**DEFERRED 6F-a 070821**

**WHEREAS**, Section 13:4-16, Permit to Manufacture, Distribute or Sell certain Ice Cream and Ices, prohibits the manufacture, distribution or sale of any water ices (flavored) in the City of Newark, without a permit, which must be obtained from the Health Officer; and

**WHEREAS**, there has been a proliferation of street vendors, operating from carts or motor vehicles (inclusive of trucks and/trailers), selling flavored ice water "spiked" with alcoholic beverages, which vehicles are commonly referred to as the "Pina Colada Trucks", which are often in violation of City Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF**

**NEWARK, NEW JERSEY, THAT:**

[Deletions are indicated by ~~strikethrough~~, additions are indicated by **bold and underlined.**]

**SECTION 1.** Section 13:4-16, of the Revised General Ordinance of the City of Newark, New Jersey, 2000, as amended and supplemented, is hereby amended as follows:

**13:4-16 PERMIT TO MANUFACTURE, DISTRIBUTE OR SELL CERTAIN ICE CREAM AND ICES; EXCEPTIONS.**

a. No person shall manufacture, distribute or sell any ice cream, frozen product resembling ice cream or water ices (flavored) in the City without a permit therefor having first been obtained from the Health Officer, nor unless such business be conducted in compliance with the regulations governing the issuance of such permits adopted by the Department of Health and Community Wellness of the City; provided, however, that a permit shall not be required for the sale of ice cream, frozen products resembling ice cream or water ices (flavored) in restaurants, drug stores, confectionary and grocery stores.

b. ~~<<https://ecode360.com/36687070>>~~This Section shall not be construed to dispense with any specific requirement in these Revised General Ordinances for a license or permit to engage in the sale or distribution of any of the products referred to in this Section.

c. ~~<<https://ecode360.com/36687071>>~~"Pina Colada" Amendment.

1. ~~<<https://ecode360.com/36687072>>~~No person shall distribute or sell any ice cream, frozen product resembling ice cream or water ices (flavored) containing any alcoholic beverage in the City of Newark.

2. ~~<<https://ecode360.com/36687073>>~~Any person who violates the provisions of Section 13:4-16c shall, upon conviction thereof, be punished by a fine of ~~\$500~~ **up to \$1,000.00** for the first offense. ~~For a second or subsequent offense the fine shall be \$1,000.~~ **and a fine up to \$1,000.00 for each and every subsequent offense.**

3. ~~<<https://ecode360.com/36687074>>~~The prohibition contained herein, shall not apply to any holder of a license issued pursuant to Title IV, Alcoholic Beverages, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, and operating pursuant to law.

**4. Upon conviction of a violation of the provisions of Section 13:4-16c, and if the violator possesses a permit issued by the Health Department of the City of Newark, for the distribution, and/or sale of any ice cream product, ices and/or water ices (flavored), the Health Officer, after a hearing, may confiscate, cancel or suspend for a period of time to be set by the Health Officer for a minimum period of six months and up to a maximum period of 12 months, the permit issued to said violator.**

**Section 2.** If any provision of this ordinance is held to be unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

**Section 3.** This ordinance shall take effect upon final passage and publication in accordance with the law of the State of New Jersey.

**STATEMENT**

An Ordinance amending Title XIII, Foods, Drugs and Cosmetics, Chapter 4, Milk and Milk Products, Section 16, Permit to Manufacture, Distribute or Sell certain Ice Cream and Ices, Exceptions, to prohibit the sale of drinks or ices containing alcoholic beverages, to increase penalties.