

(Revised 122702)

**UNOFFICIAL COPY**  
**Food Employee Certification Act**

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This copy depicts amendments to the Food Employee Certification Act through and including Act 190 of 2002.

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**PENNSYLVANIA CONSOLIDATED STATUTES**  
**TITLE 3. AGRICULTURE CODE**  
**PART VII. QUALITY AND LABELING**  
**CHAPTER 65. FOOD EMPLOYEE CERTIFICATION**

**§ 6501. Short title of chapter**

This chapter shall be known and may be cited as the Food Employee Certification Act.

**§ 6502. Definitions**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Advisory board" or "board."** The Food Employee Certification Advisory Board.

**"Food establishment."** A room, building, place or portion thereof or vehicle maintained, used or operated for the purpose of selling to the public, commercially storing, packaging, making, cooking, mixing, processing, bottling, baking, canning, freezing, packing or otherwise preparing, transporting or handling food. The term includes retail food stores and public eating and drinking licensees, except those portions of establishments operating exclusively under milk or milk products permits and those portions of establishments operating exclusively under USDA inspection. The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast, homestead or inn as defined in the act of May 23, 1945 (P.L. 926, No. 369), referred to as the Public Eating and Drinking Place Law.

**"Potentially hazardous food."** A food which consists in whole or in part of milk or milk products, eggs, meats, poultry, fish, shellfish, edible crustaceans or other

ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms. The term does not include foods that have a pH level of 4.6 or below or a water activity of 0.85 or less under standard conditions or food products in hermetically sealed containers processed to maintain commercial sterility.

**"Public eating and drinking place."** A public eating or drinking place as defined in the act of May 23, 1945 (P.L. 926, No. 369), referred to as the Public Eating and Drinking Place Law.

**"Supervisory employee."** An owner or a person employed by or designated by the business owner to fulfill the requirements of this chapter.

### **§ 6503. Certification advisory board and programs**

(a) **Members of board.**-- The secretary shall appoint persons to serve as members of the Food Employee Certification Advisory Board. Representatives shall be selected to represent the following groups for a term of two, three or four years to be determined by the secretary:

(1) The chairman and minority chairman of the Agricultural and Rural Affairs Committee of the Senate or their designees and the chairman and minority chairman of the Agricultural and Rural Affairs Committee of the House of Representatives or their designees.

(2) A consumer representative.

(3) The Secretary of Agriculture or the secretary's designee.

(4) Two representatives of production agriculture.

(5) Representatives, including at least one person recommended by each of the following: Pennsylvania Association of Milk Dealers, Pennsylvania Restaurant Association, Pennsylvania Food Merchants Association, Pennsylvania Convenience Store Council, Pennsylvania Bakers Association, Pennsylvania Food Processors Association, National Federation of Independent Businesses, Pennsylvania Petroleum Marketers & Convenience Store Association, Local 1776 UFCW, Pennsylvania Retailers Association, the Licensed Beverage Association, Pennsylvania Tourism and Lodging Association, Associated Petroleum Industries, Pennsylvania Veterinary Medical Association, County Commissioners Association of Pennsylvania, Pennsylvania League of Cities and Municipalities, Pennsylvania State Association of Boroughs, Pennsylvania State Association of Township Commissioners, Pennsylvania State Association of Township Supervisors and Pennsylvania School Food Service Association. At least one representative shall have experience in the field of public health.

(b) **Chairman of board.**-- The secretary or the secretary's designee shall serve as the chairman of the advisory board.

(c) **Certification programs.**-- The advisory board shall review and recommend certification programs submitted by individuals or organizations to ensure adequate training of supervisory employees of food establishments.

(c.1) **Other duties.**-- For the purpose of complying with section 6504(g)(1), the secretary shall convene a meeting of the advisory board no later than March 1, 2003.

(d) **Certification of supervisory employees.**-- The supervisory employees shall be certified by the department following the completion of training programs recommended by the advisory board and approved by the department. The department shall adopt food safety protection and training standards for the certification of supervisory employees who are responsible for the storage, preparation, display or serving of foods to the public in establishments regulated by the department or local health organizations. These standards shall be adopted by the department to ensure that, upon successfully passing a test, the supervisory employee has demonstrated adequate food protection knowledge. These standards shall also provide for a certification program which authorizes private or public agencies to conduct and approve tests and certify the results of these tests to the department. At least one supervisory employee of a food establishment shall have passed the test and received a certificate attesting thereto. Employees shall have a period of 90 days after employment to pass the required test.

(e) **Preemption.**-- Except as provided in subsection (f), the regulation of food safety protection and training standards for employees of food establishments is preempted by the Commonwealth.

(f) **Local programs.**-- Any food employee certification program established by a county, city, borough, incorporated town or township prior to September 1, 1994, may remain in effect.

#### **§ 6504. Certification of employees**

(a) **General rule.**-- Food establishments shall maintain certification records on respective supervisory employees. Each food establishment shall employ a person having supervisory authority who holds a valid department food employee certificate.

(b) **Examination.**-- No certificate shall be issued unless the applicant has successfully completed a training course and passed an examination recommended by the advisory board and approved by the department.

(c) **Compliance.**--

(1) [ Reserved.]<sup>1</sup>

(2) A food establishment exempt under section 6510(d) (relating to exemptions) may voluntarily seek certification under this section.

(3) Except as provided in section 6510, compliance with this chapter by a food establishment shall be mandatory by July 1, 2004. Section 6503(e) (relating to certification advisory board and programs) shall not apply to any food establishment prior to July 1, 2004, unless that food establishment complies with this chapter.

**(d) Employee turnover.--** Food establishments which are not in compliance because of employee turnover or other loss of certified personnel shall have three months from the date of loss of certified personnel to comply.

**(e) Maintenance and inspection of records.--** Names and certificate numbers of certified personnel shall be maintained at the place of business and shall be made available for inspection by the department.

**(f) Period of certification.--** Certification shall be in effect for five years. Renewal of certification shall be based on the completion of courses recommended by the advisory board and approved by the department. The courses shall not include a written examination.

**(g) Training program.--**

(1) Training programs to prepare candidates for certification examinations and the administration of the examination shall be made available throughout this Commonwealth through cooperation with industry and others and approved by the department. In order to meet the requirements of this paragraph, the department shall promulgate regulations, with the approval of the board, no later than July 1, 2004, which establish training programs providing for the following considerations which include:

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<sup>1</sup> The following paragraph was deleted by Act 190 of 2002:

Compliance with this chapter by a food establishment shall be optional until July 1, 2003. Section 6503(e) (relating to certification advisory board and programs) shall not apply to a food establishment prior to July 1, 2003, unless that food establishment complies with this chapter. On or after July 1, 2003, compliance with this chapter by a food establishment shall be mandatory unless a resolution to the contrary has been adopted prior to December 1, 2002, in accordance with this subsection. The President pro tempore of the Senate and the Speaker of the House of Representatives shall cause to be placed on their respective calendars for the first legislative day after November 1, 2002, the question, in the form of a resolution, of whether the food employee certification program shall remain optional for food employees of food establishments in this Commonwealth. If a majority of the members elected to each house approve such a resolution, the resolution shall be presented to the Governor for approval or disapproval in accordance with section 9 of Article III of the Constitution of Pennsylvania.

(I) The existence and operation of a department-approved employee training program on safe food handling conducted by the establishment.

(II) The limited handling of potentially hazardous food.

(III) The number of hours necessary to prepare employees for safe food handling due to the food establishment's scope of business.

(IV) The demonstration of satisfactory knowledge and proficiency in the safe handling of food as approved by the department.

(2) The department shall develop and administer a training program for food establishments voluntarily seeking certification under subsection (c)(2). The General Assembly may appropriate funds to offset the cost of the program for food establishments exempt under section 6510(d).

(h) Expired. 1994, Dec. 12, P.L. 903, No. 131, § 1, effective July 1, 2000

#### **§ 6505. Rules and regulations**

The department is charged with the administration of this chapter and shall promulgate rules, regulations and standards for its proper enforcement and administration.

#### **§ 6506. Reciprocal agreements**

The department may accept certifications issued in other states that have comparable requirements for certification provided the department and the other state jurisdiction have entered into a reciprocal agreement to accept each state's certification program as meeting the provisions of this chapter.

#### **§ 6507. Suspension of certification**

Certification may be suspended or revoked by the department if the holder or person fails to comply with this or other sanitation regulations or the act of May 23, 1945 (P.L. 926, No. 369), referred to as the Public Eating and Drinking Place Law, or the act of July 7, 1994 (P.L. 421, No. 70), known as the Food Act. Prior to suspension or revocation, the certificate holder shall be given the opportunity for a hearing before the department.

#### **§ 6508. Civil penalties**

In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this chapter or a rule or regulation adopted thereunder or any order issued pursuant thereto, the department may assess a civil penalty not to exceed \$ 300 for the first offense or not to exceed \$ 1,000 for subsequent offenses upon a person or food establishment for each offense. No civil penalty shall be assessed unless the person

charged has been given notice and opportunity for a hearing on the charge in accordance with law.

### **§ 6509. Fees**

(a) **Change by regulation.**-- All fees imposed by this chapter shall remain in effect until changed by the department by regulation subject to the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act. The department shall propose to change those fees by regulation following consultation with the advisory board.

(b) **Fee for certification.**-- The department shall issue or approve the issuance of a certification document to the person upon the successful completion of the approved training program. A fee of \$ 20 shall be charged by the department for this service unless changed by regulation.

(c) **Payments to municipalities.**-- Local health departments created in accordance with the act of August 24, 1951 (P.L. 1304, No. 315), known as the Local Health Administration Law, may enforce the provisions of this chapter as it pertains to public eating and drinking licensees. Each local health department shall be reimbursed by the department in an amount equal to 50% of the civil penalties levied and collected by the department pursuant to this chapter in each such jurisdiction.

### **§ 6510. Exemptions**

(a) **Prepackaged food.**-- Food establishments where only commercially prepackaged food is handled and sold are exempt from this chapter.

(b) **Nonpotentially hazardous food.**-- Food establishments that handle only nonpotentially hazardous food are exempt from this chapter.

(c) **Food manufacturing facilities.**-- Food manufacturing facilities which are engaged in the manufacture of prepackaged foods and which do not manufacture potentially hazardous food are exempt from this chapter.

(d) **Exempt organizations.**-- Except as set forth in section 6504(c)(2) (relating to certification of employees), the following organizations are exempt from this chapter:

(1) A food establishment managed by an organization which is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, [26 U.S.C. § 501\(c\)\(3\)](#)).

(2) A food establishment managed on a not-for-profit basis by an organization which is a volunteer fire company or an ambulance, religious, charitable, fraternal, veterans, civic, agricultural fair or agricultural association or any separately chartered auxiliary of any of the above associations.

(3) A food establishment managed by an organization which is established to promote and encourage participation and support for extracurricular recreational activities for youth of primary and secondary public, private and parochial school systems on a not-for-profit basis.

**END**