

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO.

House Bill 174

PRINTER'S NO.

4327

AMOUNT

\$150,000 in Additional Revenue

FUND

General

DATE INTRODUCED

February 2, 2009

PRIME SPONSOR

Representative Carroll

HISTORY OF BILLReferred to AGRICULTURE AND RURAL AFFAIRS, Feb. 2, 2009Reported as amended, March 9, 2009

First consideration, March 9, 2009

Laid on the table, March 9, 2009

Removed from table, March 10, 2009

Re-committed to APPROPRIATIONS, March 10, 2009Re-reported as committed, June 9, 2009Second consideration, with amendments, June 9, 2009(Remarks see House Journal Page 946-949), June 9, 2009Third consideration and final passage, June 10, 2009 (102-92)

In the Senate

Referred to AGRICULTURE AND RURAL AFFAIRS, June 11, 2009Reported as amended, Sept. 20, 2010

First consideration, Sept. 20, 2010

Re-referred to APPROPRIATIONS, Sept. 21, 2010Re-reported as amended, Sept. 27, 2010**DESCRIPTION AND PURPOSE OF BILL**

House Bill 174 codifies the Public Eating and Drinking Place Law and the Food Act in Title 3 (Agriculture), makes changes to the acts and the existing Chapter on Food Employee Certification, and makes repeals.

The Public Eating and Drinking Place Law

The bill codifies The Public Eating and Drinking Place Law; which provides for the licensure and inspection of restaurants in Chapter 57, Subchapter A (Food Protection) and makes the following changes to the existing law:

- Establishes the Department of Agriculture's retail food inspection rules and regulations as the standard for all licensors.

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- Establishes new fees to be charged for a second follow-up inspection (\$150); a third and subsequent follow-up inspection (\$300) and for a proprietor requested inspection (\$150).
- Allows a licenser to exempt food banks, soup kitchens, retail food operations operating less than three days per year, school cafeterias, retail food facilities limited to vending machines, retail facilities owned by charitable entities that offer food at school related extracurricular activities or only offer non-potentially hazardous food from licensure; but not inspection.
- Authorizes the department to establish inspection intervals based on facility risk types according to the FDA Model Retail Food Code.
- Requires licensors to provide inspection reports to the department.
- Authorizes the department to inspect and license retail food facilities if a licenser fails to make inspections, and prohibits a licenser that fails to make inspections within its jurisdiction from collecting license fees.
- Establishes a new criminal penalty graded as a third degree misdemeanor for a third a subsequent violation of this subchapter and allows the Secretary to assess civil penalties of up to \$10,000 for violations.

The Food Act

The bill codifies the Food Act, which regulates the sale, manufacture and distribution of food, in Chapter 57, Subchapter B (Food Safety), modifies definitions to focus on non-retail food facilities (manufacturing and distribution facilities) and provides for the department and the Allegheny County Health Department to be the sole regulatory authority for manufacturing facilities.

Food Employees Certification

The bill amends Chapter 65 (Food Employee Certification), which provides for training and certification of food handlers, by making the following changes:

- Exempts non-retail food facilities from the provisions of this chapter.
- Eliminates the Food Employee Certification Advisory Board which approves training programs which lead to food handler certification.
- Provides for the department to recognize food handler certification training programs accredited by the Conference for Food Protection Standards.
- Requires a supervisory employee who holds a valid food handler certificate to be present or immediately accessible at a retail food facility.
- Provides that if Federal Food Code standards are revised to require a certified food handler to be present at a retail food facility at all times, the Commonwealth will adopt the Federal standards.

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- Exempts retail food facilities that also prepare food from having a certified food handler present when only commercially prepackaged or non-potentially hazardous food is sold.
- Allows for only one certified food handler to be present when a proprietor operates multiple retail food facilities at the same fair, festival or similar temporary event.
- Eliminates department issued food handler certification which carries a \$20 fee.

Other Repeals

The bill repeals the Organic Food Products Standards Act (Title 3, Chapter 59), the Maple Products Act (Title 3 Chapter 61), the Public Eating and Drinking Place Law (Act 369 of 1945), the Food Act (Act 70 of 1994) and Section 602-A(16) of the Administrative Code related to eating and drinking place fees.

Effective Date

The bill is schedule to take effect in 60 days.

FISCAL IMPACT:

It is anticipated the new inspection fees in House Bill 174 will generate additional revenue for the Commonwealth. The Department of Agriculture estimates that 800 facilities will require a second inspection each year and generate an additional \$120,000 annually and 100 facilities will require a third inspection each year and generate an additional \$30,000 annually.

The elimination of the department's food handler certification fee is anticipated to be revenue neutral because lost revenues will be offset by the elimination of the Food Employee Certification Advisory Board.

Also, allowing the department to establish inspection intervals on facility risk types may reduce food safety related staffing needs.