

**PUBLIC EATING AND DRINKING PLACE LAW - PROVIDING FOR DEFINITIONS  
AND APPLICABILITY**

**Act of Jun. 3, 2010, P.L. 209, No. 31**

**Cl. 35**

Session of 2010

No. 2010-31

SB 828

**AN ACT**

Amending the act of May 23, 1945 (P.L.926, No.369), entitled, as amended, "An act for the protection of the public health by regulating the conduct and operation of public eating and drinking places within this Commonwealth; requiring their licensing; imposing certain duties on the Department of Agriculture of this Commonwealth and on the local health authorities; and providing penalties," further providing for definitions; and providing for applicability.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1 of the act of May 23, 1945 (P.L.926, No.369), referred to as the Public Eating and Drinking Place Law, amended December 9, 2002 (P.L.1421, No.179), is amended to read:

Section 1. Definitions.--"Department" shall mean the Department of Agriculture of the Commonwealth.

The words "public eating or drinking place" shall mean any place within this Commonwealth where food or drink is served to or provided for the public, with or without charge: Provided, however, That nothing herein contained shall apply to dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

The word "proprietor" shall mean any person, partnership, association or corporation, conducting or operating within this Commonwealth, a public eating or drinking place.

The word "employee" shall include any cook, waiter, kitchen help, chambermaid, house servant or other employee of any kind in a public eating or drinking place, who in any manner whatever, handles or comes in contact with any food or drink served to or provided for the public, and the proprietor or any member of the proprietor's family who handles said food or drink.

"License" shall mean a grant to a licensee to conduct a restaurant, as defined in this act.

"Licensor" shall mean the county department of health or joint-county department of health, whenever such public eating or drinking place is located in a political subdivision which is under the jurisdiction of a county department of health or joint-county department of health, or the health authorities of cities, boroughs, incorporated towns and first-class townships, whenever such public eating or drinking place is located in a city, borough, incorporated town or first-class township not under the jurisdiction of a county department of health or joint-county department of health, or the health authorities of second class townships and second class townships which have adopted a home rule charter which elect to issue licenses under the provisions of this act whenever such public eating and drinking place is located in such a second class township or second class township which has adopted a home rule charter not under the jurisdiction of a county department of health or joint-county department of health, or the Department of Agriculture,

whenever such public eating or drinking place is located in any other area of the Commonwealth.

The words "bed and breakfast homestead or inn" shall mean a private residence which contains ten or fewer bedrooms used for providing overnight accommodations to the public and in which breakfast is the only meal served and is included in the charge for the room.

The words "potentially hazardous food" shall have the same meaning as that term is defined in the 2009 edition of the Food Code published by the United States Department of Health, Food and Drug Administration or any successor document approved by regulation of the department.

Section 2. The act is amended by adding a section to read:

Section 13.1. This act shall not apply to food that meets all of the following requirements:

- (1) The food is not potentially hazardous food.
- (2) The food is prepared in a private home.
- (3) The food is used or offered for human consumption by any of the following organizations:
  - (i) 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));
  - (ii) a volunteer fire company or an ambulance, religious, charitable, fraternal, veterans, civic, sportsmen, agricultural fair or agricultural association or any separately chartered auxiliary of any of these associations, on a not-for-profit basis; or
  - (iii) an organization that 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.
- (4) The organization that uses or offers the food for human consumption informs consumers that the organization uses or offers food that has been prepared in private homes that are not licensed or inspected .
- (5) The food is donated to an organization described under paragraph (3).

Section 3. This act shall take effect in 60 days.

APPROVED--The 3rd day of June, A.D. 2010.

EDWARD G. RENDELL