

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1002 Session of  
1997

INTRODUCED BY DELP, STAPLETON, WENGER, MADIGAN AND PUNT,  
JUNE 9, 1997

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 9, 1997

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated  
2 Statutes, adding provisions relating to public eating and  
3 drinking places; providing for the protection of public  
4 health and for regulations; requiring licensing; providing  
5 for penalties; and making repeals.

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

8 Section 1. Chapter 57 of Title 3 of the Pennsylvania  
9 Consolidated Statutes is amended by adding a subchapter to read:

10 CHAPTER 57

11 FOOD PROTECTION

12 [(Reserved)]

13 SUBCHAPTER A

14 PUBLIC EATING AND DRINKING PLACES

15 Sec.

16 5701. Definitions.

17 5702. Licensure.

18 5703. Departmental power.

19 5704. Prohibitions.

1 5705. Clean and sanitary condition.

2 5706. Summary offense.

3 § 5701. Definitions.

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

7 "Bed and breakfast homestead or inn." A private residence  
8 which contains ten or fewer bedrooms used for providing  
9 overnight accommodations to the public and in which breakfast is  
10 the only meal served and is included in the charge for lodging.

11 "Employee." Any cook, waiter, kitchen help, chambermaid,  
12 house servant or other employee of any kind in a public eating  
13 or drinking place who, in any manner, handles or comes in  
14 contact with any food or drink served to or provided for the  
15 public. The term also includes the proprietor or any member of  
16 the proprietor's family who handles food or drink served to or  
17 provided for the public.

18 "License." A grant to a licensee to conduct or operate a  
19 restaurant.

20 "Licensor." Any of the following:

21 (1) The county department of health or joint-county  
22 department of health whenever any public eating or drinking  
23 place is located in a political subdivision which is under  
24 the jurisdiction of a county department of health or a joint-  
25 county department of health.

26 (2) The health authorities of cities, boroughs,  
27 incorporated towns and first class townships whenever any  
28 public eating or drinking place is located in a city,  
29 borough, incorporated town or first class township not under  
30 the jurisdiction of a county department of health or a joint-

1 county department of health.

2 (3) The health authorities of second class townships and  
3 second class townships which have adopted a home rule charter  
4 which elect to issue licenses under the provisions of this  
5 subchapter whenever any public eating and drinking place is  
6 located in such a second class township or second class  
7 township which has adopted a home rule charter under the  
8 jurisdiction of a county department of health or joint-county  
9 department of health.

10 (4) The department whenever any public eating or  
11 drinking place is located in any other area of this  
12 Commonwealth.

13 "Proprietor." Any person, partnership, association or  
14 corporation conducting or operating a public eating or drinking  
15 place within this Commonwealth.

16 "Public eating or drinking place." Any place within this  
17 Commonwealth where food or drink is served to or provided for  
18 the public, with or without charge. The term excludes dining  
19 cars operated by railroad companies in interstate commerce and  
20 bed and breakfast homesteads or inns.

21 § 5702. Licensure.

22 (a) Requirement.--It is unlawful for any proprietor to  
23 conduct or operate a public eating or drinking place without  
24 first obtaining the required license for each establishment.

25 (1) The license shall be issued by:

26 (i) the health authorities of cities, boroughs,  
27 incorporated towns and first class townships; or

28 (ii) if electing to issue licenses under this  
29 subchapter, second class townships and second class  
30 townships which have adopted a home rule charter,

1 whenever a public eating or drinking place is located in a  
2 city, borough, incorporated town or township not under the  
3 jurisdiction of a county department of health or joint-county  
4 department of health.

5 (2) The license shall be issued by the county department  
6 of health or joint-county department of health whenever an  
7 eating or drinking place is located in a political  
8 subdivision which is under the jurisdiction of a county  
9 department of health or joint-county department of health.

10 (3) In those townships of the second class which are not  
11 under the jurisdiction of a county department of health or  
12 joint-county department of health and which do not elect to  
13 issue licenses under this subchapter, licenses shall be  
14 issued by the department.

15 (b) Prerequisites.--No license may be issued until  
16 inspection of the premises, facilities and equipment has been  
17 made by the licensor and that licensor determines that the  
18 premises, facilities and equipment are found to be adequate to  
19 protect public health. No license may be issued until the  
20 proprietor exhibits proof that that proprietor has applied for  
21 or received a sales and use tax license or certificate of  
22 exemption from the Department of Revenue.

23 (c) Frequency, number and fee.--

24 (1) Licenses shall be renewed annually.

25 (2) Whenever any proprietor maintains more than one  
26 public eating or drinking place within this Commonwealth, the  
27 proprietor is required to apply for and procure a license for  
28 each eating and drinking place.

29 (3) The fee for each license shall be as established by  
30 ordinance of the governing body or by State law and shall be

1       paid, depending upon the location of the public eating or  
2       drinking place, into the city, borough, incorporated town,  
3       township or county treasury or into the State Treasury  
4       through the Department of Revenue.

5       (d) Application.--Any person owning or operating or desiring  
6       to operate a public eating or drinking place within this  
7       Commonwealth shall apply for licensure to the appropriate  
8       licensor on a form furnished by that licensor. The forms shall  
9       be uniform throughout this Commonwealth and shall set forth such  
10      information, including the applicant's name and address, as the  
11      department may require.

12      (e) Inspection.--Prior to licensure, the licensor shall  
13      visit and inspect the restaurant or premises on which the  
14      applicant conducts or proposes to conduct business. The licensor  
15      may refuse to issue a license if the premises on which the  
16      applicant conducts or proposes to conduct business or the  
17      equipment of that applicant fails to meet the requirements of  
18      this subchapter and departmental rules and regulations. The  
19      licensor shall disclose in writing the reason or reasons for  
20      refusal of licensure to the applicant.

21      (f) Renewal.--Licenses are valid for a period of one year  
22      from the date of issuance. Application for renewal shall be made  
23      one month prior to expiration of an existing license. If on  
24      inspection by the licensor the conditions specified in  
25      subsection (e) with respect to the premises and equipment are  
26      fulfilled, a license granted under this subchapter shall be  
27      renewed.

28      (g) Display of license.--Licenses are nontransferable and  
29      shall be conspicuously displayed always in the place licensed.  
30      Licenses shall specify the date of issuance, the period of

1 validity, the name of the licensee and the place licensed.

2 § 5703. Departmental power.

3 (a) Rules and regulations.--The department shall promulgate  
4 rules and regulations as it deems necessary to carry out the  
5 provisions and intention of this subchapter.

6 (b) Suspension and revocation of licensure.--On its own  
7 motion or on complaint after investigation and hearing, the  
8 department may suspend or revoke a license for any violation by  
9 a licensee, or a partner, agent or employee of a licensee of:

10 (1) this subchapter;

11 (2) a departmental rule or regulation;

12 (3) a term, condition or provision of a license; or

13 (4) any other statute relating to public health and  
14 applicable to a public eating or drinking place.

15 Notice of suspension or revocation of licensure and the reasons  
16 therefor, as well as any required notice of hearing, shall be  
17 given in writing to the licensee at the address contained in the  
18 license. Correction of the violation for which suspension was  
19 imposed terminates a suspension after the correction is  
20 confirmed upon inspection. No part of a fee paid for licensure  
21 may be returned to a licensee upon suspension or revocation  
22 thereof.

23 (c) School cafeterias.--The department is responsible for  
24 conducting food safety inspections of school cafeterias using  
25 rules and regulations promulgated under this subchapter. The  
26 department shall assess the food safety training needs of the  
27 school districts and recommend training to each superintendent.  
28 The department shall annually report to the Department of  
29 Education on the compliance of school cafeterias inspected  
30 during the previous fiscal year.

1 § 5704. Prohibitions.

2 (a) Diseases.--

3 (1) No proprietor may employ anyone who is a carrier of  
4 any of the following:

5 (i) Typhoid fever.

6 (ii) Other intestinal infections.

7 (iii) Diphtheria.

8 (2) No proprietor may employ anyone who has any of the  
9 following:

10 (i) Active tuberculosis.

11 (ii) Syphilis in its transmissible stage.

12 (iii) Any infectious disease.

13 (iv) An open, external lesion.

14 (3) No proprietor nor any member of the family of the  
15 proprietor who is a carrier of any of the diseases listed in  
16 paragraph (1) or who has any disease listed in paragraph (2)  
17 may have anything to do with handling, preparing, serving or  
18 providing food or drink to the public.

19 (b) Cleaning.--No proprietor may furnish cloth towels and  
20 cloth napkins to any patron of a public eating or drinking place  
21 unless such cloth towel or cloth napkin is laundered after each  
22 individual use. Since its use by another individual, no  
23 proprietor may furnish patrons of a public eating or drinking  
24 place dishes, glasses, containers or utensils used in eating or  
25 drinking which have not been thoroughly cleansed in the manner  
26 prescribed by departmental rules and regulations.

27 (c) Occupancy.--Except for seeing eye or service dogs, no  
28 domestic pets or other animals are permitted where food or drink  
29 is prepared. No person may use for sleeping purposes any room or  
30 place in any public eating or drinking place which is

1 customarily and regularly used for preparation, handling,  
2 storage or serving food.

3 § 5705. Clean and sanitary condition.

4 (a) Kitchenware, rooms and employees.--In every public  
5 eating or drinking place, kitchens, dining rooms, cellars,  
6 refrigerators and all places where foods are prepared, kept or  
7 stored and all kitchenware, tableware, glassware, cutlery,  
8 utensils, containers and other machinery used in moving,  
9 handling, cutting, mixing, preparing or serving foods shall be  
10 kept in a clean and sanitary condition and be protected from  
11 dust, dirt, insects and vermin in the manner prescribed by  
12 departmental rules and regulations. Clothing and hands of  
13 employees shall at all times be clean and sanitary.

14 (b) Lavatories.--All toilets, water closets, lavatories,  
15 tubs, sinks and drains used in or in connection with any public  
16 eating or drinking place shall at all times be kept in a clean  
17 and sanitary condition.

18 (c) Revocation of licensure.--Any proprietor who has failed  
19 or refused after a reasonable interval to correct conditions  
20 found to constitute a violation of this subchapter or  
21 departmental rules and regulations relating to public eating or  
22 drinking places shall have his license revoked.

23 § 5706. Summary offense.

24 Any violation of this subchapter is a summary offense.

25 Section 2. Current departmental rules and regulations  
26 promulgated under the act of May 23, 1945 (P.L.926, No.369),  
27 referred to as the Public Eating and Drinking Place Law, shall  
28 remain effective unless and until amended or rescinded.

29 Section 3. All personnel, allocations, appropriations,  
30 contracts, agreements, rights, obligations, equipment, files,



1 records and other materials which are employed, expended or used  
2 in connection with food safety inspections of school cafeterias  
3 by the Department of Environmental Protection are transferred to  
4 the Department of Agriculture. The transfer of personnel is made  
5 with the same force and effect as if the personnel had been  
6 originally assigned to the Department of Agriculture. The  
7 transfer of allocations and appropriations is made with the same  
8 force and effect as if the allocations and appropriations had  
9 been originally made to the Department of Agriculture. The  
10 transfer of contracts, agreements, rights and obligations is  
11 made with the same force and effect as if the contracts,  
12 agreements, rights and obligations had been originally those of  
13 the Department of Agriculture. The transfer of equipment, files,  
14 records and other materials is made with the same force and  
15 effect as if the items had been originally the property of the  
16 Department of Agriculture.

17 Section 4. Section 607-A(1) of the act of April 9, 1929  
18 (P.L.177, No.175), known as The Administrative Code of 1929,  
19 shall be deemed to authorize the Department of Agriculture to  
20 charge the specified fees for the stated purposes.

21 Section 5. A food establishment licensed under this act as a  
22 public eating or drinking place is exempt from the registration  
23 fee imposed by section 14(c) of the act of July 7, 1994  
24 (P.L.421, No.70), known as the Food Act.

25 Section 6. (a) The act of May 23, 1945 (P.L.926, No.369),  
26 referred to as the Public Eating and Drinking Place Law, is  
27 repealed.

28 (b) All other acts and parts of acts are repealed insofar as  
29 they are inconsistent with this act.

30 Section 7. This act shall take effect immediately.