
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 174 Session of
2009

INTRODUCED BY CARROLL, HANNA, BEYER, BRENNAN, CALTAGIRONE,
DALEY, DeLUCA, FABRIZIO, FREEMAN, GEIST, GEORGE, GRUCELA,
HENNESSEY, JOSEPHS, KULA, M. O'BRIEN, PASHINSKI, READSHAW,
SIPTROTH, K. SMITH, YUDICHAK, GOODMAN AND W. KELLER,
FEBRUARY 2, 2009

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 13, 2010

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, codifying the Public Eating and Drinking Place Law
3 and the Food Act; providing for the protection of public
4 health and for regulations; requiring licensing; further
5 providing FOR ORGANIC FOODS, FOR MAPLE PRODUCTS, for food
6 employee certification and for farmers' market; providing for
7 penalties; and making related repeals. ←

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

10 Section 1. Chapter 57 of Title 3 of the Pennsylvania
11 Consolidated Statutes is amended by adding subchapters to read:

12 CHAPTER 57

13 FOOD PROTECTION

14 [(Reserved)]

15 Subchapter

16 A. Retail Food Facility Safety

17 B. Food Safety

18 SUBCHAPTER A

RETAIL FOOD FACILITY SAFETY

Sec.

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§ 5701. Short title of chapter.

This chapter shall be known and may be cited as the Retail
Food Facility Safety Act.

§ 5702. Definitions.

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

"Bed and breakfast homestead or inn." 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.

"Employee." The license holder, person in charge, person

1 having supervisory or management duties, person on the payroll,
2 family member, volunteer, person performing work under
3 contractual agreement or other person working in a retail food
4 facility.

5 "Food employee." An individual working with unpackaged food,
6 food equipment or utensils or food contact surfaces.

7 "License." A grant to a proprietor to operate a retail food
8 facility.

9 "Licensor." Any of the following:

10 (1) The county department of health or joint-county
11 department of health whenever a retail food facility is
12 located in a political subdivision under the jurisdiction of
13 a county department of health or joint-county department of
14 health.

15 (2) The health authorities of cities, boroughs,
16 incorporated towns and first class townships whenever a
17 retail food facility is located in a city, borough,
18 incorporated town or first class township not under the
19 jurisdiction of a county department of health or joint-county
20 department of health.

21 (3) The health authorities of second class townships and
22 second class townships which have adopted a home rule charter
23 which elect to issue licenses under this subchapter whenever
24 a retail food facility is located in a second class township
25 or second class township which has adopted a home rule
26 charter not under the jurisdiction of a county department of
27 health or joint-county department of health.

28 (4) The Department of Agriculture whenever a retail food
29 facility is located in any other area of this Commonwealth.

30 "Organized camp." A combination of programs and facilities

established for the primary purpose of providing an outdoor group living experience for children, youth and adults, with social, recreational and educational objectives, and operated and used for five or more consecutive days during one or more seasons of the year.

"Person in charge." A person designated by a retail food facility operator to be present at a retail food facility and responsible for the operation of the retail food facility at the time of inspection.

"POTENTIALLY HAZARDOUS FOOD." THE TERM SHALL HAVE THE SAME MEANING AS DEFINED IN THE 2009 EDITION OF THE FOOD CODE PUBLISHED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOOD AND DRUG ADMINISTRATION OR ANY SUCCESSOR DOCUMENT APPROVED BY REGULATION OF THE DEPARTMENT.

"Proprietor." A person, partnership, association or corporation conducting or operating a retail food facility within this Commonwealth.

"Public eating or drinking place." A place within this Commonwealth where food or drink is served to or provided for the public, with or without charge. The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

"Raw agricultural commodity." As defined under section 5722 (relating to definitions).

"Retail food establishment." An establishment which stores, prepares, packages, vends, offers for sale or otherwise provides food for human consumption and which relinquishes possession of food to a consumer directly, or indirectly, through a delivery service such as home delivery of grocery orders or delivery service provided by common carriers. The term does not include



dining cars operated by a railroad company in interstate
commerce or a bed and breakfast homestead or inn.

"Retail food facility." A public eating or drinking place or
a retail food establishment.

§ 5703. License required.

(a) Unlawful conduct.-- Except as provided in subsection
(b), it shall be unlawful for any proprietor to conduct or
operate a retail food facility without first obtaining a license
for each retail food facility as provided in this subchapter.

(b) Exempt retail food facilities.--

(1) A licensor may exempt the following retail food
facilities from the license requirements of this section:

(i) A food bank owned by a charitable nonprofit
entity and operated for charitable or religious purposes.

(ii) A soup kitchen owned by a charitable nonprofit
entity and operated for charitable or religious purposes.

(iii) A retail food facility that operates on no
more than three days each calendar year.

(iv) A school cafeteria.

(v) A retail food facility that is owned by a
charitable nonprofit entity and that is one or more of
the following:

(A) Managed by an organization which is
established to promote and encourage participation or
support for extracurricular recreational activities
for youth of primary and secondary public, private
and parochial school systems on a not-for-profit
basis. This subparagraph does not apply to organized
camps.

(B) Offers only foods that are nonpotentially

1 hazardous foods or beverages.

2 (vi) A retail food facility in which food or
3 beverages are sold only through a vending machine.

4 (VII) A RETAIL FOOD FACILITY WHICH IS OWNED BY A ←
5 CHURCH, ASSOCIATION OF CHURCHES OR OTHER RELIGIOUS ORDER,
6 BODY OR INSTITUTION WHICH:

7 (A) QUALIFIES FOR EXEMPTION FROM TAXATION UNDER
8 SECTION 501(C)(3) OR (D) OF THE INTERNAL REVENUE CODE
9 OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 501).

10 (B) ~~WHICH IS~~ IS NOT SUBJECT TO UNRELATED ←
11 BUSINESS INCOME TAXATION UNDER SECTIONS 511, 512 OR
12 513 OF THE INTERNAL REVENUE CODE OF 1986 FOR ←
13 ACTIVITIES UNDERTAKEN UNDER THIS CHAPTER.

14 If the licensor is the department, the exemption shall be
15 accomplished by order of the secretary and published in the
16 Pennsylvania Bulletin. If the licensor is an entity other
17 than the department, the exemption shall be accomplished by
18 order of the local government unit or units having
19 jurisdiction over the licensor. A retail food facility that
20 is exempted from the license requirements under this section
21 shall remain subject to inspection and all other provisions
22 of this subchapter.

23 (2) A licensor shall exempt the following retail food
24 facilities from the license requirements of this section:

25 (i) A retail food facility in which only
26 prepackaged, nonpotentially hazardous food or beverages
27 are sold.

28 (ii) A retail food facility that sells only raw
29 agricultural commodities.

30 A retail food facility that is exempted from the license

requirements under this section shall remain subject to inspection and all other provisions of this subchapter.

(c) Issuance of license.--A retail food facility license shall be issued by the licensor having jurisdiction. A license shall specify the date of expiration, the period for which the license is valid, the name of the licensee and the place licensed. Licenses shall be conspicuously displayed at all times in the place thereby licensed. Licenses shall not be transferable.

(d) Application requirement.--Any person owning or operating or desiring to operate a retail food facility within this Commonwealth shall make application for a license to the licensor on forms furnished by the licensor. The forms shall, at a minimum, set forth such information as the department may require and any additional information a licensor that is not the department may require under the authority of THE ACT OF APRIL 21, 1949 (P.L.665, NO.155), KNOWN AS THE FIRST CLASS CITY HOME RULE ACT, OR the act of August 24, 1951 (P.L.1304, No.315), known as the Local Health Administration Law. Application forms shall include the name and address of the applicant, together with all the other information deemed necessary to identify the applicant, provide contact information for the applicant, identify the location of the retail food facility that is the subject to the application and facilitate the licensor's processing of the application.

(e) Inspection.--

(1) No license shall be issued until inspection of the retail food facility has been made by the licensor and the retail food facility meets the requirements of both this subchapter and one of the following:

1 (i) The rules and regulations of the department.

2 (ii) The rules and regulations adopted under the
3 authority of THE FIRST CLASS CITY HOME RULE ACT OR the
4 Local Health Administration Law.

5 (2) Rules and regulations adopted by a licensor who is
6 not the department shall, ~~at the minimum,~~ meet AND SHALL NOT
7 EXCEED the requirements of this subchapter and the rules and
8 regulations of the department.

9 (f) Reports.--If the licensor is an entity other than the
10 department, the licensor shall provide the department a copy of
11 any inspection report resulting from any inspection conducted
12 under authority of this subchapter within 30 days of the
13 inspection date. This copy may be sent by electronic methods, as
14 approved by the department. The department may, by regulation,
15 require that inspection reports be submitted in a specific
16 electronic format.

17 (g) Term of license.--

18 (1) Except as provided in paragraph (2), licenses shall
19 expire on the day after the original license anniversary date
20 at intervals of one year, or for any other license period
21 that is established by the department through regulation and
22 that uses risk-based factors identified in the current
23 edition of the Food Code, published by the United States
24 Department of Health, Food and Drug Administration, as a
25 basis for determining the appropriate license interval. An
26 application for renewal shall be made one month before the
27 expiration of an existing license. A license granted under
28 the provisions of this subchapter shall be renewed if the
29 most recent inspection by the licensor was conducted within
30 the preceding license period and determined that requirements

1 specified in this chapter with respect to the retail food
2 facility were met.

3 (2) A temporary license for a retail food facility that
4 operates on no more than 14 days in one calendar year or for
5 a retail food facility operating at a fair, festival or
6 similar temporary event shall be granted with respect to the
7 calendar year in which it is issued if the retail food
8 facility meets the requirements of this subchapter.

9 (h) Sales and use tax license.--No license shall be issued
10 until the proprietor exhibits proof that the proprietor has
11 applied for or received a sales and use tax license or exemption
12 certificate from the Department of Revenue.

13 (i) Denial or revocation of license.--

14 (1) A licensor shall state in writing to the proprietor
15 the reason for the refusal to issue a license.

16 (2) (i) If a retail food facility licensed by the
17 department is in violation of a provision of this
18 subchapter, or of a regulation promulgated under
19 authority of this subchapter, or of any other act related
20 to public health and being applicable to retail food
21 facilities, the department may suspend or revoke the
22 license. If a retail food facility licensed by an entity
23 other than the department is in violation of a provision
24 of this subchapter, or of a regulation promulgated under
25 authority of this subchapter, or of any other act related
26 to public health and being applicable to retail food
27 facilities, or of the regulations of the licensor
28 pertaining to retail food facilities, the licensor may
29 suspend or revoke the license. The suspension of a
30 license shall be terminated when the violation for which

1 it was imposed has been found, upon inspection by the
2 licensor, to have been corrected. Whenever a license is
3 suspended or revoked, no part of the fee paid therefore
4 shall be returned to the proprietor.

5 (ii) A licensor may, as an alternative to suspending
6 or revoking a license, provide a licensee a reasonable
7 interval within which to correct conditions that
8 constitute a violation that would result in the
9 suspension or revocation of the license, provided that
10 the health and safety of the employees, occupants and
11 patrons of the retail food facility can be reasonably
12 assured during that interval.

13 (j) Fees.--The fees that may be charged under this
14 subchapter are as established by the licensor, if the licensor
15 is an entity other than the department, and shall be paid into
16 the city, borough, incorporated town, township or county
17 treasury. If the licensor is the department, the fees shall be
18 paid to the State Treasury through the department and are as
19 follows:

20 (1) For licensure of a retail food facility that has not
21 been previously licensed, and that is owner-operated and that
22 has a seating capacity of less than 50: \$103.

23 (2) For licensure of a retail food facility that has not
24 been previously licensed and that is not described in
25 paragraph (1): \$241.

26 (3) For a renewal of a license or for issuing a license
27 to reflect a change of ownership: \$82.

28 (4) For a duplicate license, for each retail food
29 facility location: \$14.

30 (5) For a temporary license under subsection (g) (2):

1 \$14.

2 (6) For conducting a follow-up inspection to review
3 whether changes have been made to correct violations which
4 resulted in noncompliant status determined by a prior
5 inspection:

6 (i) For the second follow-up inspection during the
7 licensure period: \$150.

8 (ii) For a third or subsequent follow-up inspection
9 during the licensure period: \$300.

10 (7) For conducting an inspection that is not otherwise
11 required by the department, but that is conducted at the
12 behest of the proprietor of the retail food facility: \$150.

13 (8) For any license described in paragraph (1), (2),
14 (3), (4) or (5) that is issued for a period of greater than
15 one year by regulation of the department in accordance with
16 subsection (g), the license fee otherwise prescribed under
17 those paragraphs shall be prorated for the license period.

18 (k) Multiple retail food facilities.--Whenever any
19 proprietor maintains more than one retail food facility within
20 this Commonwealth, the proprietor shall be required to apply for
21 and procure a license for each retail food facility.

22 \$ 5704. Inspection, sampling and analysis.

23 (a) Inspection.--For purposes of enforcement of this
24 subchapter, a licenser is authorized, upon presenting
25 appropriate credentials to the person in charge:

26 (1) To enter at reasonable times any retail food
27 facility.

28 (2) To inspect at reasonable times, within reasonable
29 limits and in a reasonable manner, the retail food facility.

30 (3) To obtain a sample of any food at a retail food

1 facility for analysis as may be necessary to determine
2 compliance with this subchapter if the licensor, upon
3 completion of the inspection and prior to leaving the
4 facility, provides the person in charge a receipt describing
5 the sample obtained.

6 (b) Billing.--A retail food facility from which a sample was
7 collected may bill the licensor for the fair market value of the
8 sample.

9 (c) Report.--Upon completion of an inspection of a retail
10 food facility and prior to leaving the premises, a licensor
11 shall give to the person in charge a written report of the
12 findings of the inspection. Results from the analysis of any
13 samples taken shall be provided to the person in charge within
14 30 days of receipt.

15 § 5705. (Reserved).

16 § 5706. (Reserved).

17 § 5707. Powers of department.

18 (a) Rules and regulations.--The department shall make such
19 reasonable rules and regulations as may be deemed necessary for
20 carrying out the provisions and intent of this subchapter. In
21 promulgating regulations, the department shall be guided by the
22 most current edition of the Food Code, published by the United
23 States Department of Health, Food and Drug Administration. The
24 regulatory standards established by the department under this
25 section shall be the ~~minimum~~ standards followed and applied by
26 any licensor with respect to retail food facilities.

27 (b) Food service at schools and organized camps.--

28 (1) The department shall provide for the inspection of a
29 food service at a school and for the training of school food
30 service personnel in accordance with the standards applied to

1 retail food facilities for schools located in areas in which
2 the department is the licensor. Upon request, the department
3 shall provide training to school food service personnel or
4 inspections of a food service at a school located in areas in
5 which the department is not the licensor.

6 (2) The department shall provide for the inspection of a
7 food service at organized camps and for the training of food
8 service personnel at organized camps in accordance with the
9 standards applied to retail food facilities for organized
10 camps located in areas in which the department is the
11 licensor. Upon request, the department shall provide training
12 to organized camp food service personnel or inspections of a
13 food service at organized camps located in areas in which the
14 department is not the licensor.

15 ~~(c) Inspection. If a licensor is required to provide the~~ ←
16 ~~department a copy of an inspection report pursuant to section~~
17 ~~5703(f) (relating to license required) and fails to comply with~~
18 ~~that requirement, the department may inspect and license the~~
19 ~~subject retail food facility, and the licensor that failed to~~

20 (C) INSPECTION.--IF A LICENSOR FAILS TO INSPECT A RETAIL ←
21 FOOD FACILITY AS REQUIRED UNDER SECTION 5703(E) (RELATING TO
22 LICENSE REQUIRED), THE DEPARTMENT SHALL HAVE THE AUTHORITY TO
23 LICENSE AND INSPECT ALL RETAIL FOOD FACILITIES UNDER THAT
24 LICENSOR'S JURISDICTION, AND THE LICENSOR THAT FAILED TO comply
25 with the inspection requirement shall not charge or collect any
26 fee for licensing the subject retail food facility FACILITIES. ←
27 If the department conducts an inspection, it shall, within 30
28 days, provide the licensor a copy of the inspection report.

29 (d) Interagency coordination.--The department shall provide
30 inspection reports or test results that indicate human illness

related to food consumption or food handling practices, or to
other threats to the safety of the food supply, to the
Department of Health, the Department of Environmental Protection
or any other Commonwealth agency as necessary to develop a
comprehensive, coordinated interagency approach to protecting
public health and safeguarding the food supply.

§ 5708. Infectious persons.

No proprietor shall allow any food employee to be in a retail
food facility if that person has an infectious or communicable
disease, as prohibited under the act of April 23, 1956 (1955
P.L.1510, No.500), known as the Disease Prevention and Control
Law of 1955, and its attendant regulations related to
restrictions on food handlers. In consultation with the
Department of Health, the department may promulgate regulations
with respect to specific illnesses as related to operations in a
retail food facility as it deems necessary for the protection of
public health.

§ 5709. Linens, equipment and utensils.

No proprietor shall utilize any linens, equipment or utensils
unless the linens, equipment or utensils have been thoroughly
cleansed and sanitized in the manner prescribed by regulation of
the department.

§ 5710. Retail food facility and employee cleanliness.

All retail food facilities, kitchens, dining rooms and all
places where foods are prepared, kept or stored shall be kept in
a clean and sanitary condition and be protected from dust, dirt,
insects and vermin in the manner prescribed by the regulations
of the department. The clothing and hands of employees shall at
all times be clean and sanitary. Except when washing fruits and
vegetables or when approved by the department, food employees

1 may not contact exposed, ready-to-eat food with their bare
2 hands, and shall use suitable utensils such as deli tissue,
3 spatulas, tongs, single-use gloves or dispensing equipment. No
4 domestic pets or other animals shall be permitted where food or
5 drink is prepared, handled or stored unless specifically
6 permitted or required under the Americans with Disabilities Act
7 of 1990 (Public Law 101-336, 104 Stat. 327) or other Federal or
8 State law. No person shall be permitted to use for living or
9 sleeping purposes any room or place in any retail food facility
10 which is regularly and customarily used for the preparation,
11 handling, storing or serving of food.

12 § 5711. Toilets, sinks and drains.

13 All toilets, hand-wash sinks, tubs, sinks and drains used in
14 or in connection with any retail food facility shall at all
15 times be kept in a clean and sanitary condition.

16 ~~§ 5712. (Reserved).~~

17 § 5712. APPLICABILITY.

18 THIS SUBCHAPTER SHALL NOT APPLY TO FOOD THAT MEETS ALL OF THE
19 FOLLOWING REQUIREMENTS:

20 (1) THE FOOD IS NOT POTENTIALLY HAZARDOUS FOOD.

21 (2) THE FOOD IS PREPARED IN A PRIVATE HOME.

22 (3) THE FOOD IS USED OR OFFERED FOR HUMAN CONSUMPTION BY

23 ANY OF THE FOLLOWING ORGANIZATIONS:

24 (I) A TAX-EXEMPT ORGANIZATION UNDER SECTION
25 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
26 LAW 99-514, 26 U.S.C. § 501(C)(3)).

27 (II) A VOLUNTEER FIRE COMPANY OR AMBULANCE,
28 RELIGIOUS, CHARITABLE, FRATERNAL, VETERANS, CIVIC,
29 SPORTSMEN, AGRICULTURAL FAIR OR AGRICULTURAL ASSOCIATION
30 OR ANY SEPARATELY CHARTERED AUXILIARY OF ANY OF THESE

1 ASSOCIATIONS, ON A NOT-FOR-PROFIT BASIS.

2 (III) AN ORGANIZATION THAT IS ESTABLISHED TO PROMOTE
3 AND ENCOURAGE PARTICIPATION AND SUPPORT FOR
4 EXTRACURRICULAR RECREATIONAL ACTIVITIES FOR YOUTH OF
5 PRIMARY AND SECONDARY PUBLIC, PRIVATE AND PAROCHIAL
6 SCHOOL SYSTEMS ON A NOT-FOR-PROFIT BASIS.

7 (4) THE ORGANIZATION THAT USES OR OFFERS THE FOOD FOR
8 HUMAN CONSUMPTION INFORMS CONSUMERS THAT THE ORGANIZATION
9 USES OR OFFERS FOOD THAT HAS BEEN PREPARED IN PRIVATE HOMES
10 THAT ARE NOT LICENSED OR INSPECTED.

11 (5) THE FOOD IS DONATED TO AN ORGANIZATION DESCRIBED
12 UNDER PARAGRAPH (3).

13 § 5713. School cafeterias and organized camps.

14 Officials of schools and organized camps shall cooperate with
15 the department in the conduct of cafeteria health and safety
16 inspections and shall participate in inspection services and
17 training programs made available by the department in areas
18 where the department is the licensor. Upon request, the
19 department shall provide training to school or organized camp
20 food service personnel or inspections of a food service at a
21 school or organized camp located in areas in which the
22 department is not the licensor.

23 § 5714. Penalties.

24 (a) Retail food facilities under jurisdiction of
25 department.--For retail food facilities under the jurisdiction
26 of the department, penalties are as follows:

27 (1) A person who violates any provision of this
28 subchapter or any rule, regulation, standard or order made
29 under this subchapter commits a summary offense for the first
30 or second offense and shall be subject to a fine not less

1 than \$100 but not more than \$300. A person who violates any
2 provision of this subchapter or any rule, regulation,
3 standard or order made under this subchapter commits a
4 misdemeanor of the third degree if the violation is a third
5 or subsequent offense and if the violation occurs within two
6 years of the date of the last previous offense.

7 (2) In addition to proceeding under any other remedy
8 available at law or in equity for a violation of this
9 subchapter or a rule or regulation adopted or any order
10 issued under this subchapter, the secretary may assess a
11 civil penalty not to exceed \$10,000 upon an individual or
12 business for each offense. No civil penalty shall be assessed
13 unless the person charged has been given notice and
14 opportunity for a hearing in accordance with law. In
15 determining the amount of the penalty, the secretary shall
16 consider the gravity of the violation. Whenever the secretary
17 finds a violation which did not cause harm to human health,
18 the secretary may issue a warning in lieu of assessing a
19 penalty. In case of inability to collect the civil penalty or
20 failure of any person to pay all or any portion of the
21 penalty as the secretary may determine, the secretary may
22 refer the matter to the Attorney General, who shall recover
23 the amount by action in the appropriate court.

24 (b) Retail food facilities under other jurisdiction.--
25 Penalties shall be established by the licensor for retail food
26 facilities under the jurisdiction of a licensor that is not the
27 department.

28 ~~§ 5715. (Reserved).~~

29 ~~§ 5716. Acts not affected.~~

30 ~~Nothing in this subchapter shall be construed to abrogate or~~



~~supersede any provision or regulation adopted under the act of
August 24, 1951 (P.L.1304, No.315), known as the Local Health
Administration Law, with regard to licensure, regulation and
inspection of a retail food facility, as defined in section 5702
(relating to definitions).~~

SUBCHAPTER B

FOOD SAFETY

Sec.

5721. Short title of subchapter.

5722. Definitions.

5723. Prohibited acts.

5724. Temporary or permanent injunctions.

5725. Penalties.

5726. Detention and condemnation.

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5728. Adulteration of food.

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5730. Regulations to exempt certain labeling requirements.

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5733. Rules and regulations.

5734. Registration of food establishments.

5735. Product registration.

5736. Construction of subchapter.

5737. Acts not affected.

§ 5721. Short title of subchapter.

This subchapter shall be known and may be cited as the Food
Safety Act.

§ 5722. Definitions.

The following words and phrases when used in this subchapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Color additive." A material which is a dye, pigment or
4 other substance made by a process of synthesis or similar
5 artifice or extracted, isolated or otherwise derived, with or
6 without intermediate or final change of identity, from a
7 vegetable, animal, mineral or other source and when added or
8 applied to a food is capable, alone or through reaction with
9 other substances, of imparting color thereto. The term includes
10 black, white and intermediate grays. The term does not include:

11 (1) Any material which the Secretary of Agriculture, by
12 regulation, determines is used or intended to be used solely
13 for a purpose or purposes other than coloring.

14 (2) Any pesticide chemical, soil or plant nutrient or
15 other agricultural chemical solely because of its effect in
16 aiding, retarding or otherwise affecting, directly or
17 indirectly, the growth or other natural physiological process
18 of produce of the soil and thereby affecting its color,
19 whether before or after harvest.

20 "Federal acts." The Wholesome Meat Act (Public Law 90-201,
21 21 U.S.C. § 601 et seq.), the Federal Food, Drug, and Cosmetic
22 Act (52 Stat. 1040, 21 U.S.C. § 301 et seq.), the Poultry
23 Products Inspection Act (Public Law 85-172, 21 U.S.C. § 451 et
24 seq.), the Fair Packaging and Labeling Act (Public Law 89-755,
25 15 U.S.C. § 1451 et seq.), the Federal Insecticide, Fungicide,
26 and Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et seq.) and
27 the Nutrition Labeling and Education Act of 1990 (Public Law
28 101-535, 104 Stat. 2353).

29 "Food." An article used for food or drink by humans,
30 including chewing gum and articles used for components of any

1 article. The term does not include medicines and drugs.

2 "Food additive." A substance, the intended use of which
3 results or may reasonably be expected to result, directly or
4 indirectly, in its becoming a component or otherwise affecting
5 the characteristics of any food if the substance is not
6 generally recognized among experts qualified by scientific
7 training and expertise to evaluate its safety, as having been
8 adequately shown through scientific procedures or, in the case
9 of a substance used in food prior to January 1, 1958, through
10 either scientific procedures or experience based on common use
11 in food to be safe under the conditions of its intended use. The
12 term does not include the following:

13 (1) A pesticide chemical in or on a raw agricultural
14 commodity.

15 (2) A pesticide chemical to the extent that it is
16 intended for use or is used in the production, storage or
17 transportation of any raw agricultural commodity.

18 (3) A color additive.

19 (4) Any substance used in accordance with a sanction or
20 approval granted prior to the enactment of this paragraph
21 pursuant to a statute repealed by this act, pursuant to the
22 Poultry Products Inspection Act (Public Law 85-172, 21 U.S.C.
23 § 451 et seq.) or pursuant to the Wholesome Meat Act (Public
24 Law 90-201, 21 U.S.C. § 601 et seq.).

25 (5) A new animal drug.

26 As used in this definition, the term "substance" includes any
27 substance intended for use in producing, manufacturing,
28 packaging, processing, preparing, treating, transporting or
29 holding food and any source of radiation intended for any use.

30 "Food establishment." A room, building or place or portion

1 thereof or vehicle maintained, used or operated for the purpose
2 of commercially storing, packaging, making, cooking, mixing,
3 processing, bottling, baking, canning, freezing, packing or
4 otherwise preparing, transporting or handling food. The term
5 excludes retail food facilities, retail food establishments,
6 public eating and drinking places and those portions of
7 establishments operating exclusively under milk or milk products
8 permits.

9 "Imitation food." A food that is a substitute for and
10 resembles another food but is nutritionally inferior to that
11 food.

12 "Label." A display of written, printed or graphic matter
13 upon the immediate container of any food. The term "immediate
14 container" does not include package liners.

15 "Labeling." All labels and other written, printed or graphic
16 matter upon a food or any of its containers or wrappings.

17 "Package." Any container or wrapping in which food is
18 enclosed for delivery or display to retail purchasers. The term
19 does not include the following:

20 (1) Shipping containers or wrappings for the
21 transportation of food in bulk or quantity to manufacturers,
22 packers or processors or to wholesale or retail distributors.

23 (2) Shipping containers or wrappings used by retailers
24 to ship or deliver food to retail customers, if the
25 containers or wrappings bear no printed matter pertaining to
26 food.

27 (3) Containers used for tray pack displays in retail
28 establishments.

29 (4) Transparent containers or wrappings which do not
30 bear written, printed or graphic matter which obscures

information required to be displayed on the label.

"Pesticide chemical." A substance used in the production,
storage or transportation of raw agricultural commodities which,
alone or in chemical combination or formulation with one or more
other substances, is a pesticide within the meaning of the act
of March 1, 1974 (P.L.90, No.24), known as the Pennsylvania
Pesticide Control Act of 1973.

"Potentially hazardous food." ~~As defined in the 2005 Food~~ ←
~~Code published by the United States Department of Health, Food~~
~~and Drug Administration, or its successor document~~ AS DEFINED IN ←
SECTION 5702 (RELATING TO DEFINITIONS).

"Principal display panel." A part of a label that is most
likely to be displayed, presented, shown or examined under
normal and customary conditions of display for retail sale and
is large enough to accommodate all the mandatory information
required to be placed on the label.

"Public eating and drinking place." As defined in section
5702 (relating to definitions).

"Raw agricultural commodity." A food in its raw or natural
state, including all fruits which are washed, colored or
otherwise treated in their unpeeled, natural form prior to
marketing.

"Retail food establishment." As defined in section 5702
(relating to definitions).

"Retail food facility." As defined in section 5702 (relating
to definitions).

"Secretary." Includes an authorized representative, employee
or agent of the Department of Agriculture.

§ 5723. Prohibited acts.

The following acts are prohibited:

1 (1) Manufacture, sale, delivery, consignment, bailment,
2 holding or offering for sale of any food that is adulterated
3 or misbranded, except where a person in good faith delivers
4 or offers to deliver the food and furnishes shipping
5 documents to the secretary.

6 (2) Adulteration or misbranding of any food.

7 (3) Knowingly receiving in commerce any food which is
8 adulterated or misbranded and the delivery or proffered
9 delivery thereof for pay or otherwise.

10 (4) Sale, delivery for sale, holding for sale or
11 offering for sale any article in violation of section 5731
12 (relating to poisonous or deleterious substances and
13 tolerances).

14 (5) Refusal to permit during normal business hours entry
15 to, inspection of or taking of a sample or access to or
16 copying of any record at a food establishment as authorized
17 under section 5732(a)(2) and (3) (relating to inspection,
18 sampling and analysis).

19 (6) Removal or disposal of a detained or embargoed food
20 article in violation of section 5726 (relating to detention
21 and condemnation).

22 (7) Alteration, mutilation, destruction, obliteration or
23 removal of the whole or any part of the labeling of a food or
24 the doing of any other act with respect to a food, if the act
25 is done while the food is held for sale and results in the
26 food being adulterated or misbranded.

27 (8) Forging, counterfeiting, simulating, falsely
28 representing or using without proper authority any mark,
29 stamp, tag, label or other identification device authorized
30 or required by regulation promulgated under this subchapter.

1 (9) Use by any person to his own advantage or revealing,
2 other than to the secretary or the courts when relevant in
3 any judicial proceeding under this subchapter, of any
4 information acquired under authority of this subchapter
5 concerning any method or process which, as a trade secret or
6 confidential trade information, is entitled to protection.

7 (10) Holding of any potentially hazardous food at unsafe
8 temperatures in violation of an applicable regulation issued
9 under this chapter.

10 (11) Failure to register with the department under the
11 provisions of section 5734 (relating to registration of food
12 establishments).

13 (12) Use of wording which incorrectly indicates or
14 implies that a label or product has received approval of the
15 department. A food establishment may not claim registration
16 either upon its label or package or otherwise, except as
17 provided in section 5735 (relating to product registration).

18 (13) Sale of confectionery containing alcohol at a level
19 above one-half of 1% by volume.

20 (14) Failure by a carrier to make records showing the
21 movement in commerce of any food or the holding thereof
22 during or after the movement and the quantity, shipper and
23 consignee thereof available for one year after the initial
24 date of movement of the food in commerce.

25 § 5724. Temporary or permanent injunctions.

26 In addition to any other remedies provided in this
27 subchapter, the secretary may apply to the Commonwealth Court or
28 to any other court having jurisdiction for a temporary or
29 permanent injunction restraining a person from violating this
30 subchapter or any regulation adopted under this subchapter.

1 § 5725. Penalties.

2 (a) Criminal penalties.--A person who violates any provision
3 of this subchapter or any rule, regulation, standard or order
4 made under this subchapter commits a summary offense for the
5 first or second offense. A person who violates this subchapter
6 or any rule, regulation, standard or order made under this
7 subchapter commits a misdemeanor of the third degree if the
8 violation is a third or subsequent offense and if the violation
9 occurs within two years of the date of the last previous
10 offense.

11 (b) Civil penalties.--In addition to proceeding under any
12 other remedy available at law or in equity for a violation of
13 this subchapter, or a rule or regulation adopted or any order
14 issued under this subchapter, the secretary may assess a civil
15 penalty not to exceed \$10,000 upon an individual or business for
16 each offense. No civil penalty shall be assessed unless the
17 person charged has been given notice and opportunity for a
18 hearing in accordance with law. In determining the amount of the
19 penalty, the secretary shall consider the gravity of the
20 violation. Whenever the secretary finds a violation which did
21 not cause harm to human health, the secretary may issue a
22 warning in lieu of assessing a penalty. In case of inability to
23 collect the civil penalty or failure of any person to pay all or
24 any portion of the penalty as the secretary may determine, the
25 secretary may refer the matter to the Attorney General, who
26 shall recover the amount by action in the appropriate court.

27 (c) Guaranty.--

28 (1) No prosecution shall be sustained under the
29 provisions of this subchapter for the manufacture, delivery,
30 consignment, bailment, holding or sale of or offering for

1 sale, exposing for sale or having in possession with intent
2 to sell any adulterated or misbranded article against a
3 person from whom the article of food, sample or portion was
4 obtained by the department if the person can establish a
5 guaranty to the effect that the article of food is not
6 adulterated or misbranded within the meaning of this
7 subchapter, was adulterated or misbranded prior to coming
8 into the possession of the person and the person did not know
9 or have reason to know of the adulteration or misbranding or
10 was adulterated or misbranded after it left the possession
11 and control of the person. The guaranty must be signed by the
12 supplier, manufacturer, wholesale dealer, jobber or
13 distributor from whom the articles of food were purchased or
14 procured.

15 (2) The guaranty to afford protection shall contain the
16 name and address of the supplier, manufacturer, wholesale
17 dealer, jobber or distributor making the sale of the article
18 of food to the person holding the guaranty. A supplier,
19 manufacturer, wholesale dealer, jobber or distributor giving
20 a guaranty under the provisions of this subchapter may be
21 held responsible and may be proceeded against for the
22 adulteration or misbranding of any article of food sold under
23 the guaranty and shall be subject to the penalties provided
24 for violation of this subchapter. A guaranty shall not
25 operate as a defense to prosecution for a violation of the
26 provisions of this subchapter if the person holding the
27 guaranty continues to sell the same food after written or
28 printed notice from the secretary that the article is
29 adulterated or misbranded within the meaning of this
30 subchapter. However, if the person violated the provisions of

1 this subchapter by having stored, transported, exposed or
2 kept the article in a way or manner to render it diseased,
3 contaminated or unwholesome, the person may be proceeded
4 against for a violation.

5 (d) Minor violations.--Nothing in this subchapter shall be
6 construed as requiring prosecution or institution of a
7 proceeding under this subchapter for minor violations of this
8 subchapter if the secretary believes that the public interest
9 will be adequately served in the circumstances by a suitable
10 written notice or warning.

11 (e) Food establishments subject to local inspections.--
12 Penalties shall be established by the county, borough,
13 incorporated town or township for food establishments that are
14 subject to local inspection under section 5733(b) (relating to
15 rules and regulations).

16 § 5726. Detention and condemnation.

17 (a) Marking detained food.--Whenever the secretary has
18 probable cause to believe that food is adulterated or
19 misbranded, the secretary shall affix to the container or
20 wrapping a tag or other marking. The tag or marking shall give
21 notice that:

22 (1) The food may be adulterated or misbranded and shall
23 be detained.

24 (2) It is unlawful to remove the food from the food
25 establishment or to dispose of it without approval of the
26 secretary.

27 (b) Determination and appeal.--The secretary shall determine
28 whether a food detained under this subchapter may be sold,
29 delivered, consigned, held or offered for sale as is or whether
30 it shall be relabeled, reprocessed or destroyed within 40 days

of issuance of the detention order. Any determination by the
secretary that the food shall be relabeled, reprocessed or
destroyed shall be subject, within 30 days of the determination,
to appeal by the owner or operator of the food establishment or
the manufacturer or owner of the food to the court of common
pleas of the county in which the food was located. The detention
order shall expire after five working days from the issuance of
the order, unless the secretary confirms the order. The order
shall clearly and concisely state the facts on which it is
based.

(c) Relabeling.--If the secretary determines that the
adulteration or misbranding can be corrected by a proper label
or reprocessing and the determination is not appealed within the
time permitted, the secretary may direct that the food be
released to the claimant to label or process under the
supervision of the secretary. The relabeled or reprocessed food
shall not be released into the market until the secretary has
executed an order indicating that the food is no longer in
violation of this subchapter.

(d) Order for destruction.--Food detained under this
subchapter shall be destroyed by the owner under the supervision
of the secretary, if the secretary determines that the food is
unfit for human consumption and the food cannot be reconditioned
so as to be made fit for human consumption and the determination
is not appealed within the time permitted. Food detained under
this subchapter may be used as animal feed or for other
beneficial use, provided that such use is in compliance with
other applicable statutes, rules, regulations, standards and
orders. The owner shall pay all costs of destruction.

§ 5727. Temporary permits.

1 Temporary permits granted by Federal agencies for interstate
2 shipment of experimental packs of food varying from the
3 requirements of definitions and standards of identity in Federal
4 acts shall be effective in this Commonwealth under the
5 conditions provided in the permits. The secretary may issue
6 intrastate permits where they are necessary to the completion of
7 an investigation and where the interests of consumers are
8 safeguarded for foods not complying with definitions, standards
9 of identity and State laws and regulations. The permits shall be
10 for a period not to exceed one year, although the permit may be
11 extended for a period of up to one additional year if a new
12 standard of identity has been applied for under section 5733
13 (relating to rules and regulations). The secretary may revoke a
14 permit after notice to the affected party if the application
15 contains misleading statements or if the secretary determines
16 that unfair competitive advantage is gained through the issuance
17 of the permit or that the need no longer exists for the permit.
18 § 5728. Adulteration of food.

19 A food shall be deemed adulterated:

20 (1) If it bears or contains any poisonous or deleterious
21 substance which may render it injurious to health. However,
22 if the substance is not an added substance, the food shall
23 not be considered adulterated under this section if the
24 quantity of the substance in the food does not ordinarily
25 render it injurious to health.

26 (2) If it bears or contains any added poisonous or added
27 deleterious substance which is unsafe within the meaning of
28 section 5731 (relating to poisonous or deleterious substances
29 and tolerances). This paragraph does not apply to a pesticide
30 chemical in or on a raw agricultural commodity, a food

1 additive or a color additive.

2 (3) If it is a raw agricultural commodity and bears or
3 contains a pesticide chemical which is unsafe within the
4 meaning of section 5731, except that, where a pesticide
5 chemical has been used in or on a raw agricultural commodity
6 with an exemption granted or tolerance prescribed under
7 section 5731 or under any of the Federal acts and the raw
8 agricultural commodity has been subjected to processing such
9 as canning, cooking, freezing, dehydrating or milling, the
10 residue of the pesticide remaining in or on the processed
11 food shall, notwithstanding the provisions of section 5731
12 and this paragraph, not be deemed unsafe if the residue in or
13 on the raw agricultural commodity has been removed to the
14 extent possible in good manufacturing practice and the
15 concentration of the residue in the processed food when ready
16 to eat is not greater than the tolerance prescribed for the
17 raw agricultural commodity.

18 (4) If it bears or contains any food additive which is
19 unsafe within the meaning of section 5731 or under any of the
20 Federal acts.

21 (5) If it consists, in whole or in part, of any
22 diseased, contaminated, filthy, putrid or decomposed
23 substance or is otherwise unfit for food.

24 (6) If it has been produced, prepared, packed or held
25 under unsanitary conditions so that it may have become
26 contaminated with filth or may have been rendered diseased,
27 unwholesome or injurious to health.

28 (7) If it is, in whole or in part, the product of a
29 diseased animal or of an animal which has died otherwise than
30 by slaughter.

1 (8) If its container is composed, in whole or in part,
2 of any poisonous or deleterious substance which may render
3 the contents injurious to health, unless the container is
4 fabricated or manufactured with good manufacturing practice
5 as that standard is defined and delineated by any of the
6 Federal acts and their regulations.

7 (9) If it has been intentionally subjected to radiation,
8 unless the use of the radiation was in conformity with a
9 regulation or exemption in effect under section 5731 or under
10 one of the Federal acts.

11 (10) If:

12 (i) any valuable constituent has been, in whole or
13 in part, omitted or abstracted therefrom;

14 (ii) any substance has been substituted wholly or in
15 part;

16 (iii) damage or inferiority has been concealed in
17 any manner; or

18 (iv) any substance has been added thereto or mixed
19 or packed so as to increase its bulk or weight or reduce
20 its quality or strength or make it appear better or of
21 greater value than it is.

22 (11) If it bears or contains any color additive which is
23 unsafe within the meaning of section 5731 or under one of the
24 Federal acts.

25 (12) If it bears or contains eggs processed by or egg
26 products derived from a manufacturing, processing or
27 preparing method wherein whole eggs are broken using a
28 centrifuge-type egg breaking machine that separates the egg's
29 liquid interior from the shell.

30 § 5729. Misbranding of food.

1 (a) General rule.--A food shall be misbranded:

2 (1) If its labeling is false or misleading in any way.

3 (2) If it is offered for sale under the name of another
4 food.

5 (3) If it is an imitation of another food, unless its
6 label bears, in type of uniform size and prominence, the word
7 "imitation" and, immediately thereafter, the name of the food
8 that is simulated.

9 (4) If its container is so made, formed or filled as to
10 be misleading.

11 (5) If it is in a package that does not bear a label
12 containing:

13 (i) The name and place of business of the
14 manufacturer, packer or distributor.

15 (ii) An accurate statement of the quantity of the
16 contents in terms of weight, measure or numerical count.
17 Reasonable variations are permitted and exemptions as to
18 small packages shall be established in regulations
19 promulgated by the secretary.

20 (6) If it is represented as a food for which a
21 definition and standard of identity has been prescribed by
22 regulation under this subchapter or under any of the Federal
23 acts, unless it conforms to the definition and standard and
24 its label bears the name of the food specified in the
25 definition and standard and the common names of optional
26 ingredients, other than spices, flavoring and coloring,
27 present in the food.

28 (7) Unless its label bears the following:

29 (i) The common or usual name of the food, if any.

30 (ii) If made from two or more ingredients, the

1 common or usual name of each ingredient is listed in
2 descending order of predominance by weight, except that
3 spices, flavorings and colorings not required to be
4 certified under any of the Federal acts, other than those
5 sold as such, may be designated as spices, flavorings and
6 colorings without naming each.

7 (8) If it is represented for special dietary uses,
8 unless its label bears such information concerning its
9 vitamin, mineral and other dietary properties as determined
10 by regulation to be necessary and in order to inform
11 purchasers as to its value for such use.

12 (9) If it bears or contains any artificial flavoring,
13 artificial coloring or chemical preservative, unless it bears
14 labeling stating that fact. Exemptions shall be established
15 by regulations to the extent that compliance with
16 requirements of this paragraph is impracticable. The
17 provisions of this paragraph or paragraphs (6) and (7) with
18 respect to artificial coloring shall not apply in the case of
19 butter, cheese or ice cream. The provisions of this paragraph
20 with respect to chemical preservatives shall not apply to a
21 pesticide chemical when used in or on a raw agricultural
22 commodity which is the produce of the soil.

23 (10) If it is a raw agricultural commodity bearing or
24 containing a pesticide chemical applied after harvest, unless
25 the shipping container of the commodity bears labeling which
26 declares the presence of the chemical and the common or usual
27 name and function of the chemical. A declaration shall not be
28 required when the commodity is removed from the shipping
29 container and is held or displayed for sale at retail in
30 accordance with the custom of the trade.

1 (11) If it is a color additive, unless its packaging and
2 labeling are in conformity with the packaging and labeling
3 requirements applicable to color additives in department
4 regulations.

5 (12) If, at the site of purchase of the particular food,
6 a sign, placard or other graphic matter relating to the food
7 is false or misleading in any particular.

8 (b) Exceptions.--The provisions of subsection (a)(1), (2),
9 (3), (4), (5), (6), (7), (8), (9), (10) and (11) shall not apply
10 to the following:

11 (1) Bakery goods sold at retail by the bakery directly
12 to the consumer in a store or market stand operated by the
13 bakery. The bakery goods must be made by the bakery, the
14 bakery must guarantee that they are in compliance with this
15 act in all other respects and the required information in
16 subsection (a)(1), (2), (3), (4), (5), (6), (7), (8) and (9)
17 must be available to the public at the point-of-sale.

18 (2) Bakery goods sold to the operators of retail food
19 facilities when the required information in subsection (a)(1)
20 (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11) is
21 available to the public on the premises of the retail food
22 facility.

23 (c) Nonpackaged food.--Food offered for retail sale in other
24 than package form shall be accompanied by a sign, placard or
25 notice listing the ingredients in descending order of
26 predominance by weight.

27 § 5730. Regulations to exempt certain labeling requirements.

28 The department shall promulgate regulations exempting from
29 any labeling requirement food which is, in accordance with the
30 practice of the trade, to be processed, labeled or repacked in

substantial quantities at establishments other than those where
originally processed or packed if the food is not adulterated or
misbranded under this subchapter upon removal from the
processing, labeling or repacking establishments.

§ 5731. Poisonous or deleterious substances and tolerances.

(a) Additions to food.--A poisonous or deleterious substance
added to a food, except where the substance is required in its
production and cannot be avoided by good manufacturing practice,
shall be deemed to be unsafe unless added in compliance with the
Federal acts.

(b) Pesticide chemicals in or on raw agricultural
commodities.--A poisonous or deleterious pesticide chemical, or
any chemical which is not generally recognized among experts
qualified by scientific training and experience to evaluate the
safety of pesticide chemicals as safe for use, added to a raw
agricultural commodity shall be deemed unsafe unless added in
compliance with the Federal acts.

(c) Unsafe food additives.--A food additive shall, with
respect to any particular use or intended use, be deemed to be
unsafe for the purposes of the application of section 5728(4)
(relating to adulteration of food) unless it and its intended
use conform to the terms of an exemption which is in effect
under this section or unless there is in effect, and it and its
intended use are in conformity with, a regulation issued under
this section prescribing the conditions under which the additive
may be safely used. A food which is in compliance with a
regulation relating to a food additive shall not, by reason of
bearing or containing an additive in accordance with the
regulations, be considered adulterated within the meaning of
section 5728(4).

1 § 5732. Inspection, sampling and analysis.

2 (a) Inspection.--For purposes of enforcement of this
3 subchapter, the secretary is authorized, upon presenting
4 appropriate credentials to the owner, operator or agent in
5 charge:

6 (1) To enter at reasonable times any factory, warehouse
7 or food establishment in which food is or was manufactured,
8 processed, packed or held for introduction into commerce or
9 to enter any vehicle used to transport or hold the food in
10 commerce.

11 (2) To inspect at reasonable times, within reasonable
12 limits and in a reasonable manner the factory, warehouse,
13 food establishment or vehicle and all pertinent materials,
14 containers and labeling and to obtain samples necessary to
15 administer this subchapter.

16 (3) To have access to and to copy all records of
17 carriers showing the movement in commerce of any food or the
18 holding thereof during or after the movement, and the
19 quantity, shipper and consignee thereof, if the secretary has
20 probable cause to believe that the movement or holding of
21 food is in violation of this subchapter or department
22 regulations.

23 (b) Report of inspection.--Upon completion of an inspection
24 of a factory, warehouse or other food establishment and prior to
25 leaving the premises, the secretary shall give to the owner,
26 operator or agent in charge a written report of the findings of
27 the inspection.

28 (b.1) Interagency coordination.--The department shall share
29 inspection reports or tests results that indicate human illness
30 related to food consumption or food handling practices, or to

other threats to the safety of the food supply, with the Department of Health, the Department of Environmental Protection or any other Commonwealth agency as necessary to develop a comprehensive, coordinated interagency approach to protecting public health and safeguarding the food supply.

(c) Collection of samples.--During an inspection of a factory or other food establishment where food is manufactured, processed, packed, stored or offered for sale, the secretary may obtain a sample of any food for such analysis as is necessary to determine compliance with this subchapter.

(d) Receipt for samples.--If the secretary has obtained any sample in the course of the inspection, the secretary shall, upon completion of the inspection and prior to leaving the premises, give to the owner, operator or agent in charge a receipt describing the sample obtained.

(e) Payment of samples.--The food establishment from which samples are collected may bill the secretary for the fair market value of the samples.

§ 5733. Rules and regulations.

(a) Nature of rules.--The secretary shall be charged with the enforcement of this subchapter and shall promulgate rules, regulations and food standards necessary for its proper enforcement. The rules, regulations and food standards shall conform and shall be construed to conform with the purposes expressed in section 5736 (relating to construction of subchapter).

(b) Local inspection.--Nothing in this subchapter shall prohibit any county, city, borough, incorporated town or township which was licensing food establishments in accordance with THE ACT OF APRIL 21, 1949 (P.L.665, NO.155), KNOWN AS THE



1 FIRST CLASS CITY HOME RULE ACT, OR the act of August 24, 1951
2 (P.L.1304, No.315), known as the Local Health Administration
3 Law, on September 2, 1994, from continuing to license such food
4 establishments in accordance with THE FIRST CLASS CITY HOME RULE ←
5 ACT OR the Local Health Administration Law. No county, city,
6 borough, incorporated town or township shall ordain or enforce
7 requirements of any kind or description with respect to food
8 establishments related to sanitation, food safety, inspections,
9 standards and labeling other than those promulgated by the
10 secretary in accordance with this subchapter or adopted in
11 accordance with subsection (f).

12 (c) Reciprocal inspection.--The secretary is authorized to
13 enter into reciprocal agreements with other jurisdictions to
14 ensure inhabitants of this Commonwealth that food sold in this
15 Commonwealth complies with this subchapter and its regulations.
16 The agreements may be for reciprocal inspection and labeling
17 review. The secretary may approve or accept inspection and
18 labeling requirements of other jurisdiction with respect to
19 food.

20 (d) Uniform regulation.--In reaching reciprocal agreements
21 with other jurisdictions, the provisions of this subchapter and
22 its regulations shall be considered as establishing uniform
23 requirements and regulations for food establishments throughout
24 this Commonwealth as defined in section 5722 (relating to
25 definitions).

26 (e) Interagency agreements.--Nothing in this subchapter
27 shall prohibit a Commonwealth agency which is regulating and
28 inspecting retail food facilities in accordance with Subchapter
29 A (relating to retail food facility safety) from continuing to
30 regulate and inspect retail food facilities in accordance with

1 Subchapter A.

2 (f) Adoption of Federal regulations.--All regulations and
3 supplements thereto or revisions thereof adopted under the
4 Federal acts which relate to food on, before or after the
5 effective date of this subchapter are adopted as regulations in
6 this Commonwealth and shall remain in effect unless subsequently
7 modified or superseded by regulations promulgated by the
8 secretary.

9 (g) Water standards.--If a food establishment uses or
10 supplies water for human consumption, the water shall be in
11 compliance with the primary and secondary Maximum Contaminant
12 Levels (MCL), treatment techniques and Maximum Residual
13 Disinfectant Levels (MRDL) required by the act of May 1, 1984
14 (P.L.206, No.43), known as the Pennsylvania Safe Drinking Water
15 Act, and its attendant regulations.

16 (h) Definitions.--As used in this section, the phrase "other
17 jurisdictions" shall mean the United States of America or any
18 state, territory or possession thereof or any other country.
19 § 5734. Registration of food establishments.

20 (a) General rule.--Subject to the rules and regulations
21 adopted by the secretary, it shall be the duty of every person
22 operating a food establishment within this Commonwealth to
23 register with the secretary as a food establishment. This
24 registration requirement shall not be construed to exempt food
25 establishments from licensing requirements of any county, city,
26 borough, incorporated town or township in accordance with THE
27 ACT OF APRIL 21, 1949 (P.L.665, NO.155), KNOWN AS THE FIRST
28 CLASS CITY HOME RULE ACT, OR the act of August 24, 1951
29 (P.L.1304, No.315), known as the Local Health Administration
30 Law.



1 (b) Application.--The application for registration shall be
2 made on a form to be supplied by the secretary upon request of
3 the applicant.

4 (c) Fee.--The registration fee shall be \$35 per food
5 establishment per year.

6 (d) Exception.--Vehicles used primarily for the
7 transportation of any consumer commodity in bulk or quantity to
8 manufacturers, packers, processors or wholesale or retail
9 distributors are exempt from the provisions of this section.

10 (e) Single food establishment.--For purposes of this
11 section, food establishments which are located at the same
12 address and operated by the same person shall be deemed to be a
13 single food establishment.

14 § 5735. Product registration.

15 The secretary may promulgate regulations allowing food
16 establishments to label their food products as having been
17 registered by the department. "Reg. Penna. Dept. Agr." shall be
18 the approved abbreviation. This registration label shall be
19 limited to food products prepared or packed in a food
20 establishment registered under section 5734 (relating to
21 registration of food establishments).

22 § 5736. Construction of subchapter.

23 (a) General rule.--The provisions of this subchapter and the
24 regulations promulgated under this subchapter shall be construed
25 in a manner that is consistent with the Federal acts and
26 regulations promulgated under those acts. The secretary shall
27 not ordain or enforce requirements relating to sanitation, food
28 safety, food standards and labeling requirements of any kind or
29 description other than those provided for in the Federal acts
30 unless the proposed regulation meets all of the following:

1 (1) is justified by compelling and unique local
2 conditions;

3 (2) protects an important public interest that would
4 otherwise be unprotected;

5 (3) relates to subject matter that is primarily local in
6 nature and the Federal agency with responsibility over the
7 subject matter is not exercising its jurisdiction with
8 respect to the subject matter;

9 (4) would not cause a food to be in violation of any
10 applicable requirements under the Federal acts; and

11 (5) would not unduly burden interstate commerce.

12 (b) Secretary to participate in rulemaking.--The secretary
13 is encouraged to participate in rulemaking under the Federal
14 acts and, if necessary, to pursue Federal rulemaking as is
15 deemed necessary for the protection of the citizens of this
16 Commonwealth through the Federal petition and rulemaking
17 process.

18 § 5737. Acts not affected.

19 Nothing in this subchapter shall be construed to abrogate or
20 supersede any provision or regulation adopted under:

21 (1) The act of July 2, 1935 (P.L.589, No.210), referred
22 to as the Milk Sanitation Law, the act of August 8, 1961
23 (P.L.975, No.436), referred to as the Milk Adulteration and
24 Labeling Act, and the act of September 1, 1965 (P.L.420, No.
25 215), known as The Frozen Dessert Law.

26 ~~(2) The act of August 24, 1951 (P.L.1304, No.315), known~~ ←
27 ~~as the Local Health Administration Law, with regard to~~
28 ~~licensure, regulation and inspection of a public eating or~~
29 ~~drinking place, as defined in section 5702 (relating to~~
30 ~~definitions), which is not a food establishment under this~~

subchapter.

~~(3)~~ (2) Subchapter A (relating to retail food facility
safety).

SECTION 1.1. CHAPTERS 59 AND 61 OF TITLE 3 ARE REPEALED:

[CHAPTER 59

ORGANIC FOODS

SEC.

5901. SHORT TITLE OF CHAPTER.

5902. DECLARATION OF POLICY.

5903. DEFINITIONS.

5904. ORGANIC CERTIFICATION.

5905. CROP PRODUCTION PRACTICES AND MATERIALS.

5906. ANIMAL PRODUCTION PRACTICES AND MATERIALS.

5907. PRODUCER STATEMENT.

5908. RULES AND REGULATIONS.

5909. VIOLATIONS.

§ 5901. SHORT TITLE OF CHAPTER.

THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE ORGANIC
FOOD PRODUCTS STANDARDS ACT.

§ 5902. DECLARATION OF POLICY.

THE GENERAL ASSEMBLY FINDS AND DECLARES AS FOLLOWS:

(1) A PUBLIC BENEFIT WILL BE ACHIEVED BY ESTABLISHING
STANDARDS FOR AGRICULTURAL PRODUCTS MARKETED, LABELED AND
ADVERTISED USING THE TERM "ORGANIC" OR A DERIVATIVE OF THE
TERM "ORGANIC." STANDARDS FACILITATE THE DEVELOPMENT OF
INTRASTATE AND INTERSTATE MARKETS FOR ORGANICALLY PRODUCED
AGRICULTURAL PRODUCTS BY PROVIDING A CLEAR, UNIFORM
DEFINITION FOR FARMERS, FOOD PROCESSORS, FOOD DISTRIBUTORS
AND CONSUMERS ALIKE.

(2) IT IS INTENDED THAT PRIVATE CERTIFYING AGENTS BE

1 RECOGNIZED BY THE DEPARTMENT TO DETERMINE WHETHER FOOD
2 PRODUCTS MARKETED, LABELED AND ADVERTISED AS ORGANIC CONFORM
3 TO STANDARDS SET FORTH IN THE ORGANIC FOODS PRODUCTION ACT OF
4 1990 (PUBLIC LAW 101-624, 104 STAT. 3935).

5 § 5903. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
7 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "AGRICULTURAL PRODUCT." ANY AGRICULTURAL COMMODITY OR
10 PRODUCT, WHETHER IN RAW OR PREPARED FORM, INCLUDING ANY
11 COMMODITY OR PRODUCT DERIVED FROM LIVESTOCK THAT IS INTENDED FOR
12 HUMAN OR LIVESTOCK CONSUMPTION OR SEED.

13 "DISTRIBUTE." TO OFFER FOR SALE, SELL, BARTER, PROCESS OR
14 OTHERWISE SUPPLY AGRICULTURAL PRODUCTS.

15 "DISTRIBUTOR." ANY PERSON WHO SELLS AGRICULTURAL PRODUCTS TO
16 CONSUMERS OR OTHER DISTRIBUTORS. THE TERM DOES NOT INCLUDE FINAL
17 RETAILERS OF AGRICULTURAL PRODUCTS THAT DO NOT PROCESS
18 AGRICULTURAL PRODUCTS.

19 "ORGANIC CERTIFICATION AGENT OR AGENCY." PRIVATE INDIVIDUALS
20 OR ORGANIZATIONS RESIDING OR DOING BUSINESS IN THIS COMMONWEALTH
21 WHO ARE CERTIFIED BY THE SECRETARY OF THE UNITED STATES
22 DEPARTMENT OF AGRICULTURE AS CAPABLE OF INSPECTING FARMS AND
23 FOOD DISTRIBUTOR OPERATIONS TO DETERMINE WHETHER THE FARMS AND
24 FOOD DISTRIBUTOR OPERATIONS CONFORM WITH STANDARDS SET FORTH IN
25 THE ORGANIC FOODS PRODUCTION ACT OF 1990 (PUBLIC LAW 101-624,
26 104 STAT. 3935).

27 "ORGANICALLY PRODUCED." ANY AGRICULTURAL PRODUCT THAT IS
28 PRODUCED AND DISTRIBUTED IN ACCORDANCE WITH THIS CHAPTER.

29 "PRODUCER." ANY PERSON THAT GROWS, RAISES, PROCESSES OR
30 PRODUCES AN AGRICULTURAL PRODUCT AND DISTRIBUTES THE

1 AGRICULTURAL PRODUCT AS ORGANICALLY PRODUCED.

2 "USDA." THE UNITED STATES DEPARTMENT OF AGRICULTURE.

3 § 5904. ORGANIC CERTIFICATION.

4 (A) GENERAL RULE.--THE DEPARTMENT SHALL DESIGNATE ONE OR
5 MORE ORGANIC CERTIFICATION AGENTS OR AGENCIES TO CERTIFY
6 ORGANICALLY PRODUCED AGRICULTURAL PRODUCTS IN ACCORDANCE WITH
7 THIS CHAPTER.

8 (B) ELIGIBILITY FOR SERVICES OR CERTIFICATION.--AN ORGANIC
9 CERTIFICATION AGENT OR AGENCY MAY NOT REFUSE SERVICES OR
10 CERTIFICATION TO A PERSON WHO MEETS ALL OF THE FOLLOWING
11 REQUIREMENTS:

12 (1) THE PERSON HAS MET CERTIFICATION REQUIREMENTS FOR
13 AGRICULTURAL PRODUCTS.

14 (2) THE PERSON HAS PAID CERTIFICATION FEES.

15 (C) USDA SEAL.--PRODUCERS AND DISTRIBUTORS CERTIFIED BY A
16 RECOGNIZED ORGANIC CERTIFICATION AGENT OR AGENCY MAY INCORPORATE
17 THE USDA SEAL IN THE LABEL DESIGN OF THEIR AGRICULTURAL PRODUCT.

18 (D) RECORDS.--EACH ORGANIC CERTIFICATION AGENT OR AGENCY
19 DESIGNATED BY THE DEPARTMENT SHALL MAINTAIN DETAILED AND
20 VERIFIABLE RECORDS ON EACH PRODUCER CERTIFIED FOR A PERIOD OF
21 TEN YEARS.

22 (E) PROPOSED REGULATIONS.--ORGANIC CERTIFICATION AGENTS OR
23 AGENCIES MAY SUBMIT PROPOSED REGULATIONS TO THE DEPARTMENT.

24 § 5905. CROP PRODUCTION PRACTICES AND MATERIALS.

25 (A) SEEDS AND SEEDLINGS.--TO BE CERTIFIED UNDER THIS
26 CHAPTER, PRODUCERS SHALL NOT APPLY MATERIALS TO OR ENGAGE IN
27 PRACTICES ON SEEDS OR SEEDLINGS THAT ARE CONTRARY TO OR
28 INCONSISTENT WITH USDA STANDARDS OR THIS CHAPTER.

29 (B) SOIL ADDITIVES.--TO BE CERTIFIED UNDER THIS CHAPTER,
30 PRODUCERS SHALL NOT:

(1) USE ANY FERTILIZERS CONTAINING SYNTHETIC INGREDIENTS OR ANY COMMERCIALY BLENDED FERTILIZERS CONTAINING MATERIALS PROHIBITED UNDER THE ORGANIC FOODS PRODUCTION ACT OF 1990 (PUBLIC LAW 101-624, 104 STAT. 3935) OR THIS CHAPTER.

(2) USE PHOSPHORUS, LIME OR POTASH AS A SOURCE OF NITROGEN.

(C) CROP MANAGEMENT.--TO BE CERTIFIED UNDER THIS CHAPTER, PRODUCERS SHALL NOT:

(1) USE NATURAL POISONS SUCH AS ARSENIC OR LEAD SALTS THAT HAVE LONG-TERM EFFECTS AND PERSIST IN THE ENVIRONMENT, AS DETERMINED BY THE DEPARTMENT.

(2) USE PLASTIC MULCHES UNLESS THE MULCHES ARE REMOVED AT THE END OF EACH GROWING OR HARVEST SEASON.

(3) USE TRANSPLANTS THAT ARE TREATED WITH ANY SYNTHETIC OR PROHIBITED MATERIAL.

§ 5906. ANIMAL PRODUCTION PRACTICES AND MATERIALS.

(A) LIVESTOCK IN GENERAL.--ANY LIVESTOCK THAT IS TO BE SLAUGHTERED AND SOLD OR LABELED AS ORGANICALLY PRODUCED SHALL BE RAISED IN ACCORDANCE WITH THIS CHAPTER.

(B) BREEDER STOCK.--BREEDER STOCK MAY BE PURCHASED FROM ANY SOURCE IF THE STOCK IS NOT IN THE LAST THIRD OF GESTATION.

(C) PRACTICES.--IN ORDER FOR LIVESTOCK TO BE CERTIFIED AS ORGANICALLY PRODUCED UNDER THIS CHAPTER PRODUCERS SHALL NOT:

(1) FEED THE LIVESTOCK FEED OTHER THAN ORGANICALLY PRODUCED FEED THAT MEETS THE REQUIREMENTS OF THIS CHAPTER.

(2) USE THE FOLLOWING FEED:

(I) PLASTIC PELLETS FOR ROUGHAGE.

(II) MANURE REFEEDING.

(III) FEED FORMULAS CONTAINING UREA.

(3) USE GROWTH PROMOTERS AND HORMONES ON LIVESTOCK,

1 WHETHER IMPLANTED, INGESTED OR INJECTED, INCLUDING
2 ANTIBIOTICS AND SYNTHETIC TRACE ELEMENTS USED TO STIMULATE
3 GROWTH OR PRODUCTION OF THE LIVESTOCK.

4 (D) LIVESTOCK HEALTH CARE.--IN ORDER FOR LIVESTOCK TO BE
5 CERTIFIED AS ORGANICALLY PRODUCED UNDER THIS CHAPTER, PRODUCERS
6 SHALL NOT:

7 (1) USE SUBTHERAPEUTIC DOSES OF ANTIBIOTICS.

8 (2) USE SYNTHETIC INTERNAL PARASITICIDES ON A ROUTINE
9 BASIS.

10 (3) ADMINISTER MEDICATION, OTHER THAN VACCINATIONS, IN
11 THE ABSENCE OF ILLNESS.

12 (E) ADDITIONAL STANDARDS.--

13 (1) WITH THE EXCEPTION OF DAY-OLD POULTRY, ALL POULTRY
14 FROM WHICH MEAT OR EGGS WILL BE SOLD OR LABELED AS
15 ORGANICALLY PRODUCED SHALL BE RAISED AND HANDLED IN
16 ACCORDANCE WITH THIS CHAPTER PRIOR TO AND DURING THE PERIOD
17 IN WHICH THE MEAT OR EGGS ARE SOLD.

18 (2) A DAIRY ANIMAL FROM WHICH MILK OR MILK PRODUCTS WILL
19 BE DISTRIBUTED AS ORGANICALLY PRODUCED SHALL BE RAISED IN
20 ACCORDANCE WITH THIS CHAPTER FOR A PERIOD OF NOT LESS THAN
21 THE 12 MONTHS IMMEDIATELY PRIOR TO THE SALE OF THE MILK OR
22 MILK PRODUCTS.

23 (F) LIVESTOCK IDENTIFICATION.--

24 (1) TO BE CERTIFIED UNDER THIS CHAPTER, PRODUCERS MUST
25 KEEP ADEQUATE RECORDS AND MAINTAIN A DETAILED, VERIFIABLE
26 AUDIT TRAIL SO THAT EACH ANIMAL OR, IN THE CASE OF POULTRY,
27 EACH FLOCK CAN BE TRACED BACK TO THE PRODUCER.

28 (2) IN ORDER TO CARRY OUT THE REQUIREMENTS OF PARAGRAPH
29 (1), EACH PRODUCER MUST KEEP ACCURATE RECORDS ON EACH ANIMAL
30 OR, IN THE CASE OF POULTRY, EACH FLOCK, INCLUDING AMOUNTS AND

SOURCES OF ALL MEDICATIONS ADMINISTERED AND ALL FEEDS AND
FEED SUPPLEMENTS BOUGHT AND FED.

§ 5907. PRODUCER STATEMENT.

A PRODUCER SHALL NOT SELL TO A DISTRIBUTOR ANY AGRICULTURAL
PRODUCT WHICH THE PRODUCER REPRESENTS AS AN ORGANICALLY PRODUCED
AGRICULTURAL PRODUCT UNLESS THE PRODUCER RECEIVED CERTIFICATION
FROM AN ORGANIC CERTIFICATION AGENCY OR AGENT PRIOR TO THE SALE.

§ 5908. RULES AND REGULATIONS.

(A) ADOPTION.--THE DEPARTMENT SHALL ADOPT RULES AND
REGULATIONS IN CONFORMITY WITH THE ACT OF JUNE 25, 1982
(P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT, AND THE
ORGANIC FOODS PRODUCTION ACT OF 1990 (PUBLIC LAW 101-624, 104
STAT. 3935) AS THE DEPARTMENT BELIEVES ARE APPROPRIATE FOR THE
ADMINISTRATION OF THIS CHAPTER.

(B) PROHIBITED SUBSTANCES.--WHENEVER THE DEPARTMENT BELIEVES
IT APPROPRIATE TO PROTECT THE INTERESTS OF CONSUMERS OF
ORGANICALLY PRODUCED AGRICULTURAL PRODUCTS, THE DEPARTMENT MAY,
BY REGULATION AND IN ACCORDANCE WITH THE REGULATORY REVIEW ACT,
ADD TO THE LIST OF PROHIBITED SUBSTANCES UNDER THIS CHAPTER.

§ 5909. VIOLATIONS.

THE DEPARTMENT SHALL ISSUE ORDERS TO PRODUCERS OR
DISTRIBUTORS FOUND VIOLATING ANY PROVISION OF THIS CHAPTER OR
RULES OR REGULATIONS ADOPTED UNDER THIS CHAPTER TO CEASE THEIR
VIOLATIONS AND DESIST FROM FUTURE VIOLATIONS. THE ORGANIC
CERTIFICATION AGENCIES, THE PRODUCERS AND THE DISTRIBUTORS SHALL
REPORT TO THE DEPARTMENT ANY VIOLATIONS OF THIS CHAPTER OF WHICH
THEY ARE AWARE. WHENEVER THE DEPARTMENT FINDS THAT A PRODUCER OR
DISTRIBUTOR HAS COMMITTED A VIOLATION, THE DEPARTMENT SHALL
IMPOSE UPON AND COLLECT FROM THE VIOLATOR A CIVIL FINE NOT
EXCEEDING THE TOTAL OF THE FOLLOWING AMOUNTS:

(1) THE COMMONWEALTH'S ESTIMATED COSTS OF INVESTIGATING
AND TAKING APPROPRIATE ADMINISTRATIVE AND ENFORCEMENT ACTIONS
IN RESPECT TO THE VIOLATION.

(2) \$1,000.

CHAPTER 61

MAPLE PRODUCTS

SEC.

6101. SHORT TITLE OF CHAPTER.

6102. DECLARATION OF POLICY.

6103. DEFINITIONS.

6104. LICENSE.

6105. REGISTRATION.

6106. ENFORCEMENT.

6107. REQUIREMENTS AND GRADES.

6108. PROHIBITED ACTS.

6109. LABELING OF MAPLE PRODUCTS.

6110. DETAINED FOOD.

6111. MANUFACTURING AND MARKETING PRACTICES.

6112. PENALTIES.

§ 6101. SHORT TITLE OF CHAPTER.

THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE MAPLE
PRODUCTS ACT.

§ 6102. DECLARATION OF POLICY.

THE MAPLE INDUSTRY CONSTITUTES AN IMPORTANT PART OF THE
ECONOMY OF THIS COMMONWEALTH. THEREFORE, THE PURPOSE OF THIS
CHAPTER IS TO PRESERVE AND FOSTER GROWTH IN MAPLE PRODUCTS FOR
PRODUCERS AND ENSURE THE QUALITY OF MAPLE PRODUCTS OF THIS
COMMONWEALTH FOR THE CONSUMER BY ESTABLISHING REASONABLE
STANDARDS OF IDENTITY AND QUALITY FOR MAPLE PRODUCTS.

§ 6103. 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:

"ADVERTISEMENT." ANY METHOD USED TO CALL PUBLIC ATTENTION TO
A PRODUCT FOR THE SPECIFIC PURPOSE OF INDUCING A DESIRE TO
PURCHASE THAT PRODUCT. THE TERM INCLUDES, BUT IS NOT LIMITED TO,
SIGNS, DISPLAYS, RADIO AND TELEVISION BROADCASTS, NEWSPAPERS AND
PERIODICALS, DIRECT MAIL AND OTHER PRINTED FORMS.

"BRIX." A SCALE USED TO MEASURE SUGAR SOLUTIONS SO GRADUATED
THAT ITS READINGS AT A SPECIFIED TEMPERATURE REPRESENT
PERCENTAGES BY WEIGHT OF SUGAR IN THE SOLUTION.

"BULK MAPLE SYRUP." MAPLE SYRUP PACKED IN CONTAINERS OF MORE
THAN FIVE GALLONS.

"DAMAGED MAPLE SYRUP." A MAPLE SYRUP WHICH HAS COLOR,
APPEARANCE, FLAVOR, AROMA, EDIBILITY OR SHIPPING QUALITY WHICH
HAS BEEN ADVERSELY AFFECTED BY CONTAMINATION OF SAP OR SYRUP
WITH BIOLOGICAL, CHEMICAL, BUDDY OR PARTICULATE MATTER.

"DEALER," "PACKER" OR "REPROCESSOR." A PERSON WHO ANNUALLY
PURCHASES, PRODUCES OR OTHERWISE ACQUIRES FROM ANOTHER PERSON OR
PERSONS AT LEAST 1,000 GALLONS OF MAPLE SYRUP FOR THE PURPOSES
OF PACKAGING FOR RESALE OR FOR THE PURPOSES OF RESALE IN BULK.

"FOOD ESTABLISHMENT." SHALL HAVE THE MEANING GIVEN TO IT IN
THE ACT OF JULY 7, 1994 (P.L.421, NO.70), KNOWN AS THE FOOD ACT.

"GRADE." THE STANDARDS FOR MAPLE SYRUP OR MAPLE SUGAR
PROMULGATED THROUGH REGULATIONS OF THE DEPARTMENT AS THE
OFFICIAL GRADES OF MAPLE SYRUP OR MAPLE SUGAR FOR THIS
COMMONWEALTH.

"HYDROMETER." A FLOATING INSTRUMENT WHICH MEASURES THE
SPECIFIC GRAVITIES OF LIQUID SOLUTIONS AND WHICH CONTAINS A
SCALE DESIGNED TO DETERMINE THE DENSITY OF MAPLE SAP OR MAPLE

1 SYRUP.

2 "INSPECTOR." A PERSON WITH KNOWLEDGE OF THE MAPLE SYRUP
3 INDUSTRY DESIGNATED BY THE DEPARTMENT OF AGRICULTURE TO CARRY
4 OUT THE DUTIES DESCRIBED IN THIS CHAPTER.

5 "MAPLE PRODUCTS." MAPLE SYRUP, MAPLE SUGAR, MAPLE CREAM OR
6 ANY OTHER PRODUCT IN WHICH THE SUGAR CONTENT IS ENTIRELY DERIVED
7 FROM PURE MAPLE SAP AND TO WHICH NOTHING HAS BEEN ADDED UNLESS
8 ALLOWED UNDER SECTION 6107 (RELATING TO REQUIREMENTS AND
9 GRADES) .

10 "MAPLE SAP." THE UNPROCESSED LIQUID DERIVED FROM THE MAPLE
11 TREE.

12 "MAPLE SUGAR." THE SOLID, CRYSTALLINE PRODUCT OF MAPLE SAP.

13 "MAPLE SYRUP." THE LIQUID DERIVED BY CONCENTRATION AND HEAT
14 TREATMENT OF MAPLE SAP.

15 "MAPLE SYRUP CONFECTIONERY." A PRODUCT CONSISTING OF MAPLE
16 SYRUP AND OTHER FOOD PRODUCTS THAT DOES NOT CONTAIN ARTIFICIAL
17 FLAVORS OR COLORS.

18 "PACKAGED MAPLE SYRUP." MAPLE SYRUP PACKED IN CONTAINERS OF
19 FIVE GALLONS OR LESS.

20 "PRODUCER." A PERSON WHO COLLECTS MAPLE SAP FOR THE
21 PRODUCTION OF MAPLE SYRUP OR MAPLE PRODUCTS FOR SALE IN RETAIL
22 OR WHOLESALE MARKETS.

23 § 6104. LICENSE.

24 (A) GENERAL RULE.--A PERSON MAY NOT PURCHASE, PRODUCE OR
25 OTHERWISE ACQUIRE 1,000 GALLONS OF MAPLE SYRUP OR MORE ANNUALLY
26 FOR THE PURPOSES OF PACKAGING FOR SALE OR RESALE OR FOR THE
27 PURPOSES OF SALE OR RESALE IN BULK WITHOUT POSSESSING A CURRENT
28 VALID DEALER'S LICENSE ISSUED BY THE DEPARTMENT OR A CURRENT
29 VALID REGISTRATION AS A FOOD ESTABLISHMENT ISSUED BY THE
30 DEPARTMENT UNDER THE ACT OF JULY 7, 1994 (P.L.421, NO.70), KNOWN

1 AS THE FOOD ACT.

2 (B) OPTIONAL LICENSURE.--A PERSON WHO PURCHASES, PRODUCES OR
3 OTHERWISE ACQUIRES LESS THAN 1,000 GALLONS OF MAPLE SYRUP
4 ANNUALLY FOR THE PURPOSES OF PACKAGING FOR SALE OR RESALE OR FOR
5 THE PURPOSES OF SALE OR RESALE IN BULK MAY APPLY FOR AND BE
6 ISSUED A DEALER'S LICENSE BY THE DEPARTMENT. A PERSON WHO IS
7 LICENSED PURSUANT TO THIS SUBSECTION SHALL BE SUBJECT TO THE
8 SAME REQUIREMENTS APPLICABLE TO A PERSON LICENSED PURSUANT TO
9 SUBSECTION (A) .

10 (C) APPLICATION FOR LICENSE.--A PERSON SEEKING TO BE
11 LICENSED PURSUANT TO EITHER SUBSECTION (A) OR (B) SHALL APPLY ON
12 OR BEFORE DECEMBER 31 FOR A LICENSE FOR THE SUCCEEDING YEAR. THE
13 APPLICATION SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND,
14 TOGETHER WITH ANY OTHER INFORMATION WHICH THE DEPARTMENT MAY
15 REQUIRE, SHALL INCLUDE:

16 (1) THE NAME AND ADDRESS OF THE APPLICANT OR, IF THE
17 APPLICANT IS AN ASSOCIATION OR PARTNERSHIP, THE NAME AND
18 ADDRESS OF EACH MEMBER OF THE ASSOCIATION OR PARTNERSHIP OR,
19 IF THE APPLICANT IS A CORPORATION, THE NAME AND ADDRESS OF
20 EACH OFFICER OF THE CORPORATION.

21 (2) THE NAME AND ADDRESS OF THE PERSON, IF OTHER THAN
22 THE APPLICANT, WHOSE NAME WILL APPEAR ON THE LABEL OF ANY
23 MAPLE PRODUCT WHICH THE PERSON INTENDS TO SELL.

24 (3) THE LOCATION OF ALL PLACES AT WHICH THE APPLICANT
25 INTENDS TO DO BUSINESS.

26 (D) ISSUANCE OF LICENSE.--EXCEPT AS PROVIDED IN SUBSECTION
27 (E), THE DEPARTMENT SHALL ISSUE A DEALER'S LICENSE TO A PERSON
28 WHO SUBMITS A COMPLETED APPLICATION PURSUANT TO SUBSECTION (C)
29 AND PAYS THE ANNUAL LICENSE FEE OF \$35. A PERSON WHO PAYS THE
30 ANNUAL REGISTRATION FEE PURSUANT TO SECTION 14(C) OF THE FOOD

1 ACT SHALL NOT BE SUBJECT TO THE LICENSE FEE IMPOSED BY THIS
2 SUBSECTION.

3 (E) RIGHT TO REFUSE, SUSPEND OR REVOKE LICENSE.--THE
4 DEPARTMENT MAY REFUSE TO ISSUE A LICENSE OR MAY SUSPEND OR
5 REVOKE A PREVIOUSLY ISSUED LICENSE IF THE DEPARTMENT DETERMINES
6 THAT THE APPLICANT OR LICENSEE HAS DONE ANY OF THE FOLLOWING:

7 (1) FAILED TO PROVIDE ANY INFORMATION WHICH THE
8 DEPARTMENT HAS REASONABLY REQUESTED.

9 (2) MADE A FALSE OR MISLEADING STATEMENT IN THE
10 APPLICATION FOR A LICENSE OR THE RENEWAL OF A LICENSE.

11 (3) COMMITTED AN ACT PROHIBITED UNDER SECTION 6108
12 (RELATING TO PROHIBITED ACTS).

13 (F) APPEALS.--ANY PERSON REFUSED A LICENSE OR A LICENSE
14 RENEWAL OR ANY PERSON WHOSE LICENSE IS SUSPENDED OR REVOKED MAY
15 APPEAL THE REFUSAL, SUSPENSION OR REVOCATION IN ACCORDANCE WITH
16 TITLE 2 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).
17 § 6105. REGISTRATION.

18 SUBJECT TO REGULATIONS PROMULGATED BY THE DEPARTMENT, A
19 LICENSEE MAY LABEL A MAPLE PRODUCT AS HAVING BEEN REGISTERED BY
20 THE DEPARTMENT. "REG. PENNA. DEPT. AGR." SHALL BE THE APPROVED
21 ABBREVIATION.

22 § 6106. ENFORCEMENT.

23 (A) GENERAL RULE.--A MAPLE PRODUCT SHALL BE SUBJECT TO THE
24 ACT OF JULY 7, 1994 (P.L.421, NO.70), KNOWN AS THE FOOD ACT, AND
25 THE REGULATIONS PROMULGATED UNDER THAT ACT, EXCEPT TO THE EXTENT
26 THAT THIS CHAPTER OR THE REGULATIONS PROMULGATED UNDER THIS
27 CHAPTER ARE INCONSISTENT WITH THOSE STATUTES AND REGULATIONS.

28 (B) INSPECTORS.--INSPECTORS SHALL HAVE THE POWER AND DUTY
29 TO:

30 (1) ADMINISTER AND ENFORCE THE PROVISIONS OF THIS

1 CHAPTER.

2 (2) PERIODICALLY INSPECT DEALERS, PRODUCERS AND OTHER
3 FOOD ESTABLISHMENTS FOR COMPLIANCE WITH THIS CHAPTER. AN
4 INSPECTOR MAY ENTER UPON ANY PUBLIC OR PRIVATE PREMISES
5 DURING HOURS OF THEIR OPERATION AND OTHER REASONABLE TIMES
6 WITHOUT PRIOR NOTICE TO INSPECT, CONDUCT TESTS, COLLECT
7 SAMPLES AND EXAMINE RECORDS AS HE CONSIDERS NECESSARY TO
8 DETERMINE COMPLIANCE WITH THIS CHAPTER.

9 (C) REGULATIONS.--THE DEPARTMENT SHALL PROMULGATE SUCH
10 REGULATIONS AS ARE NECESSARY TO CARRY OUT THIS CHAPTER.

11 § 6107. REQUIREMENTS AND GRADES.

12 (A) GENERAL RULE.--

13 (1) A FOOD PRODUCT SHALL NOT BE DESCRIBED AS "MAPLE" OR
14 "MAPLE FLAVORED" UNLESS IT CONTAINS MAPLE SYRUP AS THE SOLE
15 SOURCE OF MAPLE FLAVOR AND COLOR, PROVIDED THAT A FOOD
16 PRODUCT WHICH CONTAINS MAPLE SYRUP AS THE SOLE SOURCE OF
17 MAPLE FLAVOR BUT WHICH IS ARTIFICIALLY COLORED MAY BE
18 DESCRIBED AS "MAPLE FLAVORED, ARTIFICIALLY COLORED."

19 (2) NO PERSON SHALL SELL OR OFFER FOR SALE IN THIS
20 COMMONWEALTH MAPLE SYRUP WHICH DOES NOT COMPLY WITH THE
21 GRADES, DENSITY, FLAVOR AND OTHER REQUIREMENTS OF THIS
22 SECTION.

23 (B) PROCESSING.--MAPLE SYRUP SHALL NOT BE PROCESSED IN ANY
24 MANNER WHICH ADDS OR REMOVES NATURALLY OCCURRING SOLUBLE
25 MATERIALS. THIS LIMITATION SHALL NOT PRECLUDE THE USE OF
26 APPROVED FILTER AIDS USED FOR THE SOLE PURPOSE OF ASSISTING THE
27 REMOVAL OF SUSPENDED MATERIAL OR THE USE OF DEFOAMING AGENTS
28 APPROVED BY THE DEPARTMENT.

29 (C) INGREDIENTS.--THE ONLY INGREDIENTS WHICH MAY BE ADDED TO
30 MAPLE SAP IN THE PRODUCTION OF MAPLE SYRUP ARE:

1 CONSPICUOUSLY MARKED AS TO INDICATE THE ACCURATE AND
2 DESCRIPTIVE NAME OF THE ADDED SUBSTANCE AND THE AMOUNT OF
3 MAPLE SUGAR, MAPLE SYRUP OR OTHER SUBSTANCE CONTAINED IN THE
4 PRODUCT.

5 (5) A PRODUCT OR PACKAGE CONTAINING A PRODUCT MADE BY
6 USING AN ARTIFICIAL MAPLE FLAVORING OR ARTIFICIAL COLORING
7 SHALL BE CLEARLY AND CONSPICUOUSLY MARKED "ARTIFICIALLY
8 FLAVORED" OR "ARTIFICIALLY COLORED," AS THE CASE MAY BE.

9 (F) GRADE.--UNLESS OTHERWISE ESTABLISHED BY REGULATIONS
10 PROMULGATED BY THE DEPARTMENT, THE GRADES OF MAPLE SYRUP SHALL
11 BE AS FOLLOWS:

12 (1) "GRADE A LIGHT AMBER" SHALL HAVE A COLOR NO DARKER
13 THAN THE UNITED STATES DEPARTMENT OF AGRICULTURE'S VISUAL
14 COLOR STANDARD OF LIGHT AMBER AND A DELICATELY SWEET,
15 ORIGINAL MAPLE FLAVOR CHARACTERISTIC OF A LIGHT AMBER MAPLE
16 SYRUP. LIGHT AMBER MAPLE SYRUP SHALL BE FREE OF SUGAR
17 CRYSTALS AND SHALL NOT BE DAMAGED IN ANY WAY.

18 (2) "GRADE A MEDIUM AMBER" SHALL HAVE A COLOR NO DARKER
19 THAN THE UNITED STATES DEPARTMENT OF AGRICULTURE'S VISUAL
20 COLOR STANDARD OF MEDIUM AMBER AND A FLAVOR WHICH IS MORE
21 PRONOUNCED THAN THAT OF LIGHT AMBER BUT WHICH IS NOT STRONG
22 OR UNPLEASANT AND IS CHARACTERISTIC OF MEDIUM AMBER MAPLE
23 SYRUP. MEDIUM AMBER MAPLE SYRUP SHALL BE FREE OF SUGAR
24 CRYSTALS AND SHALL NOT BE DAMAGED IN ANY WAY.

25 (3) "GRADE A DARK AMBER" SHALL HAVE A COLOR NO DARKER
26 THAN THE UNITED STATES DEPARTMENT OF AGRICULTURE'S VISUAL
27 COLOR STANDARD OF DARK AMBER AND A FLAVOR WHICH IS STRONGER
28 THAN THAT OF MEDIUM AMBER BUT WHICH IS NOT SHARP, BITTER,
29 BUDDY OR OFF-FLAVOR AND IS CHARACTERISTIC OF DARK AMBER. DARK
30 AMBER MAPLE SYRUP SHALL BE FREE OF SUGAR CRYSTALS AND SHALL

1 NOT BE DAMAGED IN ANY WAY.

2 (4) "GRADE B" SHALL HAVE A COLOR DARKER THAN THE UNITED
3 STATES DEPARTMENT OF AGRICULTURE'S VISUAL COLOR STANDARD OF
4 DARK AMBER WHICH NONETHELESS PERMITS LIGHT TRANSMISSION
5 THROUGH STANDARD COMPARATOR CONTAINERS AND A FLAVOR WHICH IS
6 STRONGER THAN THAT OF MEDIUM AMBER BUT WHICH IS NOT SHARP,
7 BITTER, BUDDY OR OFF-FLAVOR AND IS CHARACTERISTIC OF DARK
8 AMBER. GRADE B MAPLE SYRUP SHALL BE FREE OF SUGAR CRYSTALS
9 AND SHALL NOT BE DAMAGED IN ANY WAY.

10 (5) "GRADE C" SHALL BE ANY MAPLE SYRUP WHICH DOES NOT
11 MEET THE GRADE STANDARDS FOR GRADE A LIGHT, MEDIUM OR DARK OR
12 GRADE B MAPLE SYRUP. GRADE C MAPLE SYRUP SHALL NOT BE
13 PACKAGED FOR RETAIL OR WHOLESALE SALES EXCEPT FOR SALE
14 DIRECTLY BETWEEN THE PRODUCER AND THE CONSUMER.

15 (G) HYDROMETERS.--THE DEPARTMENT SHALL PROMULGATE
16 REGULATIONS TO ESTABLISH STANDARDS FOR HYDROMETERS USED TO
17 DETERMINE THE DENSITY OF MAPLE SAP OR MAPLE SYRUP. THE
18 REGULATIONS SHALL INCLUDE A PROCEDURE FOR CERTIFYING THE
19 ACCURACY OF HYDROMETERS.

20 § 6108. PROHIBITED ACTS.

21 THE FOLLOWING ACTS ARE PROHIBITED:

22 (1) MANUFACTURE, SALE, DELIVERY, CONSIGNMENT, BAILMENT,
23 HOLDING OR OFFERING FOR SALE OF ANY MAPLE PRODUCT THAT IS
24 ADULTERATED OR MISBRANDED, EXCEPT WHERE A PERSON IN GOOD
25 FAITH DELIVERS OR OFFERS TO DELIVER THE FOOD AND FURNISHES
26 SHIPPING DOCUMENTS TO THE DEPARTMENT.

27 (2) KNOWING RECEIPT OR DELIVERY OR OFFER TO RECEIVE OR
28 DELIVER IN COMMERCE ANY MAPLE PRODUCT WHICH IS ADULTERATED OR
29 MISBRANDED, FOR PAY OR OTHERWISE.

30 (3) SALE, DELIVERY FOR SALE, HOLDING FOR SALE OR

1 OFFERING FOR SALE ANY MAPLE PRODUCT IN VIOLATION OF THE
2 PROVISIONS OF THIS CHAPTER.

3 (4) REFUSAL TO PERMIT ENTRY TO AND INSPECTION OF A FOOD
4 ESTABLISHMENT DURING NORMAL BUSINESS HOURS.

5 (5) REFUSAL TO PERMIT THE TAKING OF SAMPLES OR COPYING
6 OF RECORDS RELATED TO THE PRODUCTION, DISTRIBUTION OR SALE OF
7 MAPLE PRODUCTS.

8 (6) REMOVAL OR DISPOSAL OF A DETAINED OR EMBARGOED MAPLE
9 PRODUCT IN VIOLATION OF THIS CHAPTER.

10 (7) FAILURE TO ACQUIRE A LICENSE IF REQUIRED BY THIS
11 CHAPTER.

12 (8) ALTERATION, MUTILATION, DESTRUCTION, OBLITERATION OR
13 REMOVAL, IN WHOLE OR IN PART, OF A MAPLE PRODUCT LABEL WHILE
14 THE PRODUCT IS HELD FOR SALE IF, AS A RESULT, THE MAPLE
15 PRODUCT IS ADULTERATED OR MISBRANDED.

16 (9) FORGING, COUNTERFEITING, SIMULATING, FALSELY
17 REPRESENTING OR USING WITHOUT PROPER AUTHORITY ANY MARK,
18 STAMP, TAG, LABEL OR OTHER IDENTIFICATION DEVICE AUTHORIZED
19 OR REQUIRED BY THIS CHAPTER OR BY REGULATIONS PROMULGATED
20 PURSUANT TO THIS CHAPTER.

21 § 6109. LABELING OF MAPLE PRODUCTS.

22 ANY SYRUP, CONFECTION OR PRODUCT CONTAINING MAPLE SYRUP AND
23 ARTIFICIAL INGREDIENTS SHALL HAVE ALL ARTIFICIAL INGREDIENTS
24 CLEARLY IDENTIFIED ON THE LABEL. ANY SYRUP, CONFECTION OR
25 PRODUCT NOT CONTAINING MAPLE SYRUP OR MAPLE PRODUCTS SHALL NOT
26 BE LABELED AS A MAPLE SYRUP OR MAPLE PRODUCT OR MAPLE.

27 § 6110. DETAINED FOOD.

28 IF THE DEPARTMENT HAS PROBABLE CAUSE TO BELIEVE THAT A MAPLE
29 PRODUCT IS ADULTERATED OR MISBRANDED, THE MAPLE PRODUCT SHALL BE
30 DETAINED AND SUBSEQUENTLY DISPOSED OF IN ACCORDANCE WITH THE ACT

1 OF JULY 7, 1994 (P.L.421, NO.70), KNOWN AS THE FOOD ACT, AND THE
2 REGULATIONS PROMULGATED UNDER THAT ACT.

3 § 6111. MANUFACTURING AND MARKETING PRACTICES.

4 (A) WATER SUPPLY.--THE WATER SUPPLY USED IN THE PROCESSING
5 OF MAPLE PRODUCTS SHALL BE POTABLE, SUFFICIENT FOR THE
6 OPERATIONS INTENDED AND DERIVED FROM AN ADEQUATE SOURCE. PRIVATE
7 WATER SUPPLIES SHALL BE TESTED ANNUALLY NO MORE THAN 30 DAYS
8 BEFORE THE START OF ANY OPERATIONS.

9 (B) PHYSICAL STRUCTURE OF FACILITIES.--FLOORS, WALLS AND
10 CEILINGS OF FOOD ESTABLISHMENTS IN WHICH MAPLE PRODUCTS ARE
11 PROCESSED OR PACKAGED SHALL BE IN GOOD REPAIR AND PROPERLY
12 CLEANED. DRIP AND CONDENSATE FROM FIXTURES, DUCTS AND PIPES
13 SHALL NOT CONTAMINATE FOOD, FOOD CONTACT SURFACES OR FOOD
14 PACKAGING MATERIALS.

15 (C) LIGHTING.--ADEQUATE LIGHTING SHALL BE PROVIDED IN FOOD
16 ESTABLISHMENTS IN WHICH MAPLE PRODUCTS ARE PROCESSED OR
17 PACKAGED. FOOD SHALL BE PROTECTED AGAINST CONTAMINATION IN CASE
18 OF GLASS BREAKAGE.

19 (D) VENTILATION.--ADEQUATE VENTILATION SHALL BE PROVIDED IN
20 FOOD ESTABLISHMENTS IN WHICH MAPLE PRODUCTS ARE PROCESSED OR
21 PACKAGED TO MINIMIZE VAPORS, INCLUDING STEAM, IN AREAS WHERE
22 THEY MAY CONTAMINATE FOOD. SCREENS OR OTHER MEANS SHALL BE
23 PROVIDED WHERE NECESSARY TO PREVENT PESTS FROM ENTERING THE
24 ESTABLISHMENT.

25 (E) PEST CONTROL.--THE USE OF INSECTICIDES, RODENTICIDES AND
26 OTHER PEST CONTROL MEASURES SHALL BE PERMITTED IN FOOD
27 ESTABLISHMENTS IN WHICH MAPLE PRODUCTS ARE PROCESSED OR PACKAGED
28 ONLY UNDER SUCH PRECAUTIONS AND RESTRICTIONS AS WILL PREVENT
29 CONTAMINATION OF FOOD, FOOD CONTACT SURFACES AND FOOD PACKAGING
30 MATERIALS.

1 (F) PERSONAL SANITATION.--PROPER SANITARY PRACTICES SHALL BE
2 FOLLOWED IN FOOD ESTABLISHMENTS IN WHICH MAPLE PRODUCTS ARE
3 PROCESSED OR PACKAGED. TOILET FACILITIES SHALL BE AVAILABLE. NO
4 LICENSEE, EMPLOYEE OR OTHER PERSON SHALL USE TOBACCO IN THE
5 ESTABLISHMENT OR WHILE IN CONTACT WITH FOOD OR EQUIPMENT.
6 LICENSEES, EMPLOYEES AND OTHER PERSONS IN SUCH ESTABLISHMENT
7 SHALL BE FREE OF COMMUNICABLE DISEASES AND SHALL WEAR CLEAN
8 OUTER GARMENTS WHICH WILL NOT CONTRIBUTE TO THE CONTAMINATION OF
9 THE MAPLE PRODUCT.

10 (G) CLEANING EQUIPMENT.--AN EFFECTIVE CLEANING SCHEDULE
11 SHALL BE MAINTAINED AT ALL TIMES FOR A FOOD ESTABLISHMENT IN
12 WHICH MAPLE PRODUCTS ARE PROCESSED OR PACKAGED. ALL EQUIPMENT
13 AND UTENSILS SHALL BE MAINTAINED IN GOOD REPAIR. AT THE END OF
14 THE SEASON, EQUIPMENT AND LINES SHALL BE THOROUGHLY CLEANED WITH
15 AN APPROVED SANITIZING AGENT. FILTERING, BOTTLING AND CANNING
16 OPERATIONS SHALL BE PERFORMED ACCORDING TO ESTABLISHED MAPLE
17 INDUSTRY STANDARDS.

18 (H) STORAGE.--FACILITIES FOR STORAGE OF MAPLE PRODUCTS SHALL
19 BE MAINTAINED IN A CLEAN AND DRY CONDITION. ALL MAPLE PRODUCTS
20 WHICH ARE NOT BOTTLED OR CANNED SHALL BE ADEQUATELY PROTECTED
21 AND COVERED TO PREVENT CONTAMINATION AND ADULTERATION. PRODUCTS
22 SHALL BE STORED OFF THE FLOOR AND AWAY FROM WALLS. ALL PACKAGED
23 PRODUCTS SHALL BE STORED IN AN ACCEPTABLE SANITARY MANNER. ALL
24 CONTAINERS AND EQUIPMENT ASSOCIATED WITH THE PRODUCTION OF MAPLE
25 PRODUCTS SHALL BE MAINTAINED AND STORED IN AN ACCEPTABLE
26 SANITARY MANNER.

27 (I) TOXIC ITEMS.--TOXIC CLEANING COMPOUNDS, SANITIZING
28 AGENTS AND PESTICIDE CHEMICALS USED IN OR IN CONJUNCTION WITH A
29 FOOD ESTABLISHMENT IN WHICH MAPLE PRODUCTS ARE PROCESSED OR
30 PACKAGED SHALL BE IDENTIFIED, HELD AND STORED IN A MANNER THAT

1 PROTECTS AGAINST CONTAMINATION OF FOOD, FOOD CONTACT SURFACES OR
2 FOOD PACKAGING MATERIALS.

3 (J) CONTAINERS.--IN ADDITION TO ANY OTHER INFORMATION
4 REQUIRED BY THE PROVISIONS OF THIS CHAPTER OR BY THE REGULATIONS
5 PROMULGATED PURSUANT TO THIS CHAPTER, THE LABEL ON A CONTAINER
6 OF MAPLE SYRUP SHALL CONVEY INFORMATION TO THE CONSUMER TO
7 ADEQUATELY PROTECT THE MAPLE SYRUP FROM DETERIORATION, IF ANY,
8 WHICH COULD REASONABLY BE EXPECTED TO RESULT FROM THE CONTAINER.
9 § 6112. PENALTIES.

10 (A) CRIMINAL PENALTIES.--A PERSON WHO VIOLATES ANY PROVISION
11 OF THIS CHAPTER OR ANY RULE, REGULATION, STANDARD OR ORDER MADE
12 UNDER THIS CHAPTER COMMITS A SUMMARY OFFENSE FOR THE FIRST OR
13 SECOND OFFENSE. A PERSON WHO VIOLATES ANY PROVISION OF THIS
14 CHAPTER OR ANY RULE, REGULATION, STANDARD OR ORDER MADE UNDER
15 THIS CHAPTER COMMITS A MISDEMEANOR OF THE THIRD DEGREE IF THE
16 VIOLATION IS A THIRD OR SUBSEQUENT OFFENSE AND IF THE VIOLATION
17 OCCURS WITHIN TWO YEARS OF THE DATE OF THE LAST PREVIOUS
18 OFFENSE.

19 (B) CIVIL PENALTIES.--IN ADDITION TO PROCEEDING UNDER ANY
20 OTHER REMEDY AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF
21 THIS CHAPTER OR A REGULATION PROMULGATED UNDER THIS CHAPTER, THE
22 SECRETARY MAY ASSESS A CIVIL PENALTY NOT TO EXCEED \$10,000 UPON
23 A PERSON WHO KNOWINGLY AND INTENTIONALLY VIOLATES SECTION 6104
24 (RELATING TO LICENSE), 6105 (RELATING TO REGISTRATION), 6107
25 (RELATING TO REQUIREMENTS AND GRADES), 6108 (RELATING TO
26 PROHIBITED ACTS), 6109 (RELATING TO LABELING OF MAPLE PRODUCTS),
27 6110 (RELATING TO DETAINED FOOD) OR 6111 (RELATING TO
28 MANUFACTURING AND MARKETING PRACTICES) OR ANY REGULATION OR
29 ORDER PROMULGATED PURSUANT TO THOSE SECTIONS.]

30 Section 2. Sections 6502, 6503 and 6504 of Title 3 are

1 amended to read:

2 § 6502. Definitions.

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

6 ["Advisory board" or "board." The Food Employee
7 Certification Advisory Board.]

8 "Certificate." A certificate of completion issued by a
9 certification program that has been evaluated and listed by an
10 accrediting agency that has been recognized by the Conference
11 for Food Protection Standards for Accreditation of Food
12 Protection Manager Certification Program.

13 "Conference for Food Protection." An independent, national
14 voluntary nonprofit organization to promote food safety and
15 consumer protection. Participants in this organization include
16 Federal, State and local regulatory agencies, universities, test
17 providers, certifying organizations, consumer groups, food
18 service and retail store trade associations and retail food
19 facility operators. The objectives of the organization include
20 identifying and addressing food safety problems and promoting
21 uniformity of regulations in food protection.

22 "Employee." As defined under section 5702 (relating to
23 definitions).

24 "Food establishment." [A room, building, place or portion
25 thereof or vehicle maintained, used or operated for the purpose
26 of selling to the public, commercially storing, packaging,
27 making, cooking, mixing, processing, bottling, baking, canning,
28 freezing, packing or otherwise preparing, transporting or
29 handling food. The term includes retail food stores and public
30 eating and drinking licensees, except those portions of

1 establishments operating exclusively under milk or milk products
2 permits and those portions of establishments operating
3 exclusively under USDA inspection. The term does not include
4 dining cars operated by a railroad company in interstate
5 commerce or a bed and breakfast, homestead or inn as defined in
6 the act of May 23, 1945 (P.L.926, No.369), referred to as the
7 Public Eating and Drinking Place Law.] As defined in section
8 5722 (relating to definitions).

9 "Organized camp." As defined in section 5702 (relating to
10 definitions).

11 "Person in charge." As defined in section 5702 (relating to
12 definitions).

13 "Potentially hazardous food." As defined in section 5722 ←
14 5702 (relating to definitions). [A food which consists in whole ←
15 or in part of milk or milk products, eggs, meats, poultry, fish,
16 shellfish, edible crustaceans or other ingredients, including
17 synthetic ingredients, and which is in a form capable of
18 supporting rapid and progressive growth of infectious or
19 toxicogenic microorganisms. The term does not include foods that
20 have a pH level of 4.6 or below or a water activity of 0.85 or
21 less under standard conditions or food products in hermetically
22 sealed containers processed to maintain commercial sterility.]

23 "PROPRIETOR." AS DEFINED IN SECTION 5702 (RELATING TO ←
24 DEFINITIONS).

25 "Public eating [and] or drinking place." A public eating or
26 drinking place as defined in [the act of May 23, 1945 (P.L.926,
27 No.369), referred to as the Public Eating and Drinking Place
28 Law.] section 5702 (relating to definitions).

29 "Retail food establishment." As defined in section 5702
30 (relating to definitions).

1 "Retail food facility." A public eating or drinking place or
2 a retail food establishment.

3 ["Supervisory employee." An owner or a person employed by or
4 designated by the business owner to fulfill the requirements of
5 this chapter.]

6 § 6503. Certification [advisory board and] programs.

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

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

17 (2) A consumer representative.

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

20 (4) Two representatives of production agriculture.

21 (5) Representatives, including at least one person
22 recommended by each of the following: Pennsylvania
23 Association of Milk Dealers, Pennsylvania Restaurant
24 Association, Pennsylvania Food Merchants Association,
25 Pennsylvania Convenience Store Council, Pennsylvania Bakers
26 Association, Pennsylvania Food Processors Association,
27 National Federation of Independent Businesses, Pennsylvania
28 Petroleum Marketers & Convenience Store Association, Local
29 1776 UFCW, Pennsylvania Retailers Association, the Licensed
30 Beverage Association, Pennsylvania Tourism and Lodging

1 Association, Associated Petroleum Industries, Pennsylvania
2 Veterinary Medical Association, County Commissioners
3 Association of Pennsylvania, Pennsylvania League of Cities
4 and Municipalities, Pennsylvania State Association of
5 Boroughs, Pennsylvania State Association of Township
6 Commissioners, Pennsylvania State Association of Township
7 Supervisors and Pennsylvania School Food Service Association.
8 At least one representative shall have experience in the
9 field of public health.] (Reserved).

10 (b) [Chairman of board.--The secretary or the secretary's
11 designee shall serve as the chairman of the advisory board.]
12 (Reserved).

13 (c) Certification programs.--[The advisory board shall
14 review and recommend certification programs submitted by
15 individuals or organizations to ensure adequate training of
16 supervisory employees of food establishments.] The department
17 shall recognize certification programs including examinations
18 developed under those programs that are evaluated and listed by
19 an accrediting agency that has been recognized by the Conference
20 for Food Protection as conforming to the Conference for Food
21 Protection Standards for Accreditation of Food Protection
22 Manager Certification Program.

23 (c.1) [Other duties.--For the purpose of complying with the
24 requirements of section 6504(g)(1) (relating to certification of
25 employees), the secretary shall convene a meeting of the
26 advisory board no later than March 1, 2003.] (Reserved).

27 (d) Certification of [supervisory] employees.--[The
28 supervisory employees] An employee shall be certified [by the
29 department] following [the completion of training programs
30 recommended by the advisory board and approved by the

1 department. The department shall adopt food safety protection
2 and training standards for the certification of supervisory
3 employees who are responsible for the storage, preparation,
4 display or serving of foods to the public in establishments
5 regulated by the department or local health organizations. These
6 standards shall be adopted by the department to ensure that,
7 upon successfully passing a test, the supervisory employee has
8 demonstrated adequate food protection knowledge. These standards
9 shall also provide for a certification program which authorizes
10 private or public agencies to conduct and approve tests and
11 certify the results of these tests to the department. At least
12 one supervisory employee of a food establishment shall have
13 passed the test and received a certificate attesting thereto.
14 Employees shall have a period of 90 days after employment to
15 pass the required test.] demonstration of food safety protection
16 knowledge by the successful completion of an examination
17 conducted by or pursuant to an accredited certification program
18 recognized by the department under subsection (c). A retail food
19 facility shall have a period of three months after licensing
20 under Ch. 57 Subch. A (relating to retail food facility safety)
21 within which to comply with this chapter.

22 (e) Preemption.--Except as provided in subsection (f), the
23 regulation of food safety protection and training standards for
24 employees of [food establishments] retail food facilities is
25 preempted by the Commonwealth.

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

29 § 6504. Certification of employees.

30 ~~(a) General rule. [Food establishments shall maintain~~



~~certification records on respective supervisory employees.] Each
[food establishment shall employ a person having supervisory
authority] retail food facility shall have a person in charge
who holds a valid [department food employee] certificate[.]
present at the retail food facility at all hours of operation.~~

~~(a.1) Exemption. Notwithstanding the provisions of
subsection (a), the department shall, by regulation, exempt
categories of retail food facilities from the requirement that a
certified person in charge be present at all hours of operation.
The regulation shall consider risk based factors identified in
the current edition of the Food Code, published by the United
States Department of Health, Food and Drug Administration, to
identify these categories of retail food facilities.~~

~~(a.2) Multiple retail food facilities. When a proprietor,
as defined in section 5702 (relating to definitions), operates
more than one retail food facility at the same fair, festival or
similar temporary event, only one certified person in charge
need be present.~~

(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.] A RETAIL FOOD FACILITY SHALL HAVE AT LEAST ONE
SUPERVISORY EMPLOYEE WHO HOLDS A VALID CERTIFICATE PRESENT AT
THE RETAIL FOOD FACILITY OR IMMEDIATELY ACCESSIBLE AT ALL HOURS
OF OPERATION AND WHO IS THE PERSON IN CHARGE OF THE RETAIL FOOD
FACILITY WHEN PHYSICALLY PRESENT AND ON-DUTY.

(A.1) MULTIPLE RETAIL FOOD FACILITIES.--

(1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A PERSON WHO
MEETS THE REQUIREMENTS OF SUBSECTION (A) MAY ONLY BE THE

1 REQUIRED CERTIFIED ~~SUPERVISORY~~ EMPLOYEE FOR A SINGLE RETAIL
2 FOOD FACILITY.

3 (2) IF A PROPRIETOR OPERATES MORE THAN ONE RETAIL FOOD
4 FACILITY AT A TEMPORARY FAIR, FESTIVAL OR OTHER TEMPORARY
5 EVENT, A PERSON WHO MEETS THE REQUIREMENTS OF SUBSECTION (A)
6 MAY BE THE CERTIFIED ~~SUPERVISORY~~ EMPLOYEE FOR ALL OF THOSE
7 TEMPORARY RETAIL FOOD ESTABLISHMENTS.

8 (A.2) FEDERAL RECOMMENDED STANDARDS.--NOTWITHSTANDING THIS
9 CHAPTER, IF, AFTER THE EFFECTIVE DATE OF THIS SUBSECTION, THE
10 FOOD CODE PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH,
11 FOOD AND DRUG ADMINISTRATION RECOMMENDS THAT A PERSON IN CHARGE
12 HOLD A CERTIFICATE OR RECOMMENDS THAT A CERTIFICATE HOLDER WITH
13 SUPERVISORY AUTHORITY BE PRESENT DURING HOURS OF OPERATION AT A
14 RETAIL FOOD FACILITY, THE DEPARTMENT SHALL, BY REGULATION,
15 ESTABLISH THIS RECOMMENDED STANDARD AS THE STANDARD FOR RETAIL
16 FOOD FACILITIES.

17 (b) [Examination.--No certificate shall be issued unless the
18 applicant has successfully completed a training course and
19 passed an examination recommended by the advisory board and
20 approved by the department.] (Reserved).

21 (c) Compliance.--

22 (1) (Reserved).

23 (2) A [food establishment] retail food facility exempt
24 under section 6510(d) (relating to exemptions) may
25 voluntarily seek certification under this section.

26 (3) Except as provided in section 6510, compliance with
27 this chapter by a [food establishment] retail food facility
28 shall be mandatory. [by July 1, 2004. Section 6503(e)
29 (relating to certification advisory board and programs) shall
30 not apply to any food establishment prior to July 1, 2004,

unless that food establishment complies with this chapter.]

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

(e) Maintenance and inspection of records.--Names and certificate numbers of certified [personnel] employees shall be maintained at the place of business and shall be made available [for inspection by the department.] to and shall be inspected by:

(1) the department for retail food facilities that are licensed under Subchapter A of Chapter 57 (relating to retail food facility safety) by the department; or

(2) the licensor for retail food facilities that are licensed under Subchapter A of Chapter 57 by a licensor that is not the department.

(f) Period of certification.--Certification shall be in effect for [five years.] the certification interval prescribed by the accredited certification program described in section 6503(c) (relating to certification programs). 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.] successful completion of the certification requirements of an accredited certification program as described in section 6503(c).

(g) [Training program.--

(1) Training programs to prepare candidates for certification examinations and the administration of the

1 examination shall be made available throughout this
2 Commonwealth through cooperation with industry and others and
3 approved by the department. In order to meet the requirements
4 of this paragraph, the department shall promulgate
5 regulations with the approval of the board no later than July
6 1, 2004, which establish training programs providing for the
7 following considerations which include:

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

11 (ii) The limited handling of potentially hazardous
12 food.

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

16 (iv) The demonstration of satisfactory knowledge and
17 proficiency in the safe handling of food as approved by
18 the department.

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

24 (Reserved).

25 (h) [Mitigating factor.--

26 (1) If a food establishment complies with this chapter,
27 the compliance shall be given appropriate consideration as a
28 mitigating factor in determining if a food establishment
29 shall be assessed more than the minimum fine or civil penalty
30 required by law in any action to recover fines or penalties

1 for a violation of the act of July 7, 1994 (P.L.421, No.70),
2 known as the Food Act.

3 (2) This subsection shall expire July 1, 2000.]

4 (Reserved).

5 Section 3. Sections 6506 and 6507 of Title 3 are repealed:

6 [§ 6506. Reciprocal agreements.

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

12 § 6507. Suspension of certification.

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

21 Section 4. Section 6508 of Title 3 is amended to read:

22 § 6508. Civil penalties.

23 [In] (a) Retail food facilities licensed by the
24 department.--For retail food facilities licensed under
25 Subchapter A of Chapter 57 (relating to retail food facility
26 safety) by the department, and in addition to proceeding under
27 any other remedy available at law or in equity for a violation
28 of a provision of this chapter or a rule or regulation adopted
29 thereunder or any order issued pursuant thereto, the department
30 may assess a civil penalty not to exceed \$300 for the first

1 offense or not to exceed \$1,000 for subsequent offenses upon a
2 person or [food establishment] retail food facility for each
3 offense. No civil penalty shall be assessed unless the person
4 charged has been given notice and opportunity for a hearing on
5 the charge in accordance with law.

6 (b) Retail food facilities licensed by other licensor.--For
7 retail food facilities licensed under Subchapter A of Chapter 57
8 by a licensor that is not the department, penalties under this
9 chapter shall be established by the licensor.

10 Section 5. Section 6509 of Title 3 is repealed:

11 [§ 6509. Fees.

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

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

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

Section 6. Sections 6510 and 8101 of Title 3 are amended to read:

§ 6510. Exemptions.

(a) Prepackaged food.--[Food establishments]

(1) Retail food facilities where only commercially prepackaged food is handled and sold are exempt from this chapter.

(2) Retail food facilities that handle and sell food other than commercially prepackaged food are exempt from this chapter during time periods or work shifts when only commercially prepackaged food is sold.

(b) Nonpotentially hazardous food.--[Food establishments]

(1) Retail food facilities that handle only nonpotentially hazardous food are exempt from this chapter.

(2) Retail food facilities that handle and sell potentially hazardous food are exempt from this chapter during time periods or work shifts when only nonpotentially hazardous food is handled and sold.

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

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

(1) A [food establishment] retail food facility 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)).

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

7 (3) A [food establishment] retail food facility managed
8 by an organization which is established to promote and
9 encourage participation and support for extracurricular
10 recreational activities for youth of primary and secondary
11 public, private and parochial school systems on a not-for-
12 profit basis. This paragraph does not apply to organized
13 camps.

14 § 8101. [Farmers' market.

15 For the purpose of section 14(e) of the act of July 7, 1994
16 (P.L.421, No.70), known as the Food Act, any building, structure
17 or place owned, leased or otherwise in possession of a person or
18 municipal corporation or public or private organization, used or
19 intended to be used by two or more farmers or an association of
20 farmers for the purpose of selling food directly to consumers
21 shall be deemed to be a single food establishment.] (Reserved).

22 Section 7. Except to the extent they are inconsistent with
23 any provision of this act, the rules, regulations and standards
24 adopted by the department prior to the effective date of this
25 act under authority of the statutes repealed in section 4 of
26 this act, shall continue in effect unless subsequently modified
27 or superseded by regulations promulgated by the Secretary of
28 Agriculture of the Commonwealth.

29 Section 8. Repeals are as follows:

30 (1) The General Assembly declares as follows:

1 (i) The repeal under paragraph (2)(i) is necessary
2 because the fees described in that provision are supplied
3 by 3 Pa.C.S. Ch. 57 Subch. A.

4 (ii) The repeal under paragraph (2)(ii) is necessary
5 because the material is supplied by 3 Pa.C.S. Ch. 57
6 Subch. A.

7 (iii) The repeal under paragraph (2)(iii) is
8 necessary because the material is supplied by 3 Pa.C.S.
9 Ch. 57 Subch. B.

10 (2) Repeals are as follows:

11 (i) Section 602-A(16) of the act of April 9, 1929
12 (P.L.177, No.175), known as The Administrative Code of
13 1929, is repealed.

14 (ii) The act of May 23, 1945 (P.L.926, No.369),
15 referred to as the Public Eating and Drinking Place Law,
16 is repealed.

17 (iii) The act of July 7, 1994 (P.L.421, No.70),
18 known as the Food Act, is repealed.

19 Section 9. This act shall take effect ~~as follows:~~ ←

20 ~~(1) The amendment of 3 Pa.C.S. § 6504(a) shall take~~
21 ~~effect on the effective date of the regulations promulgated~~
22 ~~under 3 Pa.C.S. § 6504(a.1), or two years from the effective~~
23 ~~date of this section, whichever occurs first.~~

24 ~~(2) The remainder of this act shall take effect in 60~~
25 ~~days.~~