

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 828 Session of 2009

INTRODUCED BY VOGEL, WARD, BAKER, ERICKSON, ORIE, WASHINGTON, FOLMER, PICCOLA, ALLOWAY, BROWNE, VANCE, PILEGGI, RAFFERTY, SCARNATI, PIPPY, WONDERLING, BOSCOLA, DINNIMAN, WAUGH, EARLL, KASUNIC, D. WHITE, GREENLEAF AND YAW, MAY 1, 2009

SENATOR BRUBAKER, AGRICULTURE AND RURAL AFFAIRS, AS AMENDED, JANUARY 26, 2010

AN ACT

1 Amending the act of May 23, 1945 (P.L.926, No.369), entitled, as
2 amended, "An act for the protection of the public health by
3 regulating the conduct and operation of public eating and
4 drinking places within this Commonwealth; requiring their
5 licensing; imposing certain duties on the Department of
6 Agriculture of this Commonwealth and on the local health
7 authorities; and providing penalties," FURTHER PROVIDING FOR
8 DEFINITIONS; AND providing for applicability. ←

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

11 ~~Section 1. The act of May 23, 1945 (P.L.926, No.369),~~ ←
12 ~~referred to as the Public Eating and Drinking Place Law, is~~
13 ~~amended by adding a section to read:~~

14 ~~Section 13.1. This act shall not apply to food or drink~~
15 ~~prepared in a private home and used or offered for human~~
16 ~~consumption by any of the following organizations:~~

17 ~~(1) A tax exempt organization under section 501(c)(3) of the~~
18 ~~Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §~~
19 ~~501(c)(3)).~~

1 ~~(2) A volunteer fire company or an ambulance, religious,~~
2 ~~charitable, fraternal, veterans, civic, agricultural fair or~~
3 ~~agricultural association or any separately chartered auxiliary~~
4 ~~of any of these associations, on a not for profit basis.~~

5 ~~(3) An organization that is established to promote and~~
6 ~~encourage participation and support for extracurricular~~
7 ~~recreational activities for youth of primary and secondary~~
8 ~~public, private and parochial school systems on a not for profit~~
9 ~~basis.~~

10 SECTION 1. SECTION 1 OF THE ACT OF MAY 23, 1945 (P.L.926, ←
11 NO.369), REFERRED TO AS THE PUBLIC EATING AND DRINKING PLACE
12 LAW, AMENDED DECEMBER 9, 2002 (P.L.1421, NO.179), IS AMENDED TO
13 READ:

14 SECTION 1. DEFINITIONS.--"DEPARTMENT" SHALL MEAN THE
15 DEPARTMENT OF AGRICULTURE OF THE COMMONWEALTH.

16 THE WORDS "PUBLIC EATING OR DRINKING PLACE" SHALL MEAN ANY
17 PLACE WITHIN THIS COMMONWEALTH WHERE FOOD OR DRINK IS SERVED TO
18 OR PROVIDED FOR THE PUBLIC, WITH OR WITHOUT CHARGE: PROVIDED,
19 HOWEVER, THAT NOTHING HEREIN CONTAINED SHALL APPLY TO DINING
20 CARS OPERATED BY A RAILROAD COMPANY IN INTERSTATE COMMERCE OR A
21 BED AND BREAKFAST HOMESTEAD OR INN.

22 THE WORD "PROPRIETOR" SHALL MEAN ANY PERSON, PARTNERSHIP,
23 ASSOCIATION OR CORPORATION, CONDUCTING OR OPERATING WITHIN THIS
24 COMMONWEALTH, A PUBLIC EATING OR DRINKING PLACE.

25 THE WORD "EMPLOYEE" SHALL INCLUDE ANY COOK, WAITER, KITCHEN
26 HELP, CHAMBERMAID, HOUSE SERVANT OR OTHER EMPLOYEE OF ANY KIND IN
27 A PUBLIC EATING OR DRINKING PLACE, WHO IN ANY MANNER WHATEVER,
28 HANDLES OR COMES IN CONTACT WITH ANY FOOD OR DRINK SERVED TO OR
29 PROVIDED FOR THE PUBLIC, AND THE PROPRIETOR OR ANY MEMBER OF THE
30 PROPRIETOR'S FAMILY WHO HANDLES SAID FOOD OR DRINK.

1 "LICENSE" SHALL MEAN A GRANT TO A LICENSEE TO CONDUCT A
2 RESTAURANT, AS DEFINED IN THIS ACT.

3 "LICENSOR" SHALL MEAN THE COUNTY DEPARTMENT OF HEALTH OR
4 JOINT-COUNTY DEPARTMENT OF HEALTH, WHENEVER SUCH PUBLIC EATING
5 OR DRINKING PLACE IS LOCATED IN A POLITICAL SUBDIVISION WHICH IS
6 UNDER THE JURISDICTION OF A COUNTY DEPARTMENT OF HEALTH OR
7 JOINT-COUNTY DEPARTMENT OF HEALTH, OR THE HEALTH AUTHORITIES OF
8 CITIES, BOROUGH, INCORPORATED TOWNS AND FIRST-CLASS TOWNSHIPS,
9 WHENEVER SUCH PUBLIC EATING OR DRINKING PLACE IS LOCATED IN A
10 CITY, BOROUGH, INCORPORATED TOWN OR FIRST-CLASS TOWNSHIP NOT
11 UNDER THE JURISDICTION OF A COUNTY DEPARTMENT OF HEALTH OR
12 JOINT-COUNTY DEPARTMENT OF HEALTH, OR THE HEALTH AUTHORITIES OF
13 SECOND CLASS TOWNSHIPS AND SECOND CLASS TOWNSHIPS WHICH HAVE
14 ADOPTED A HOME RULE CHARTER WHICH ELECT TO ISSUE LICENSES UNDER
15 THE PROVISIONS OF THIS ACT WHENEVER SUCH PUBLIC EATING AND
16 DRINKING PLACE IS LOCATED IN SUCH A SECOND CLASS TOWNSHIP OR
17 SECOND CLASS TOWNSHIP WHICH HAS ADOPTED A HOME RULE CHARTER NOT
18 UNDER THE JURISDICTION OF A COUNTY DEPARTMENT OF HEALTH OR
19 JOINT-COUNTY DEPARTMENT OF HEALTH, OR THE DEPARTMENT OF
20 AGRICULTURE, WHENEVER SUCH PUBLIC EATING OR DRINKING PLACE IS
21 LOCATED IN ANY OTHER AREA OF THE COMMONWEALTH.

22 THE WORDS "BED AND BREAKFAST HOMESTEAD OR INN" SHALL MEAN A
23 PRIVATE RESIDENCE WHICH CONTAINS TEN OR FEWER BEDROOMS USED FOR
24 PROVIDING OVERNIGHT ACCOMMODATIONS TO THE PUBLIC AND IN WHICH
25 BREAKFAST IS THE ONLY MEAL SERVED AND IS INCLUDED IN THE CHARGE
26 FOR THE ROOM.

27 THE WORDS "POTENTIALLY HAZARDOUS FOOD" SHALL MEAN A FOOD
28 WHICH CONSISTS IN WHOLE OR IN PART OF MILK OR MILK PRODUCTS,
29 EGGS, MEAT, POULTRY, FISH, SHELLFISH, EDIBLE CRUSTACEA OR OTHER
30 INGREDIENTS, INCLUDING SYNTHETIC INGREDIENTS, AND WHICH IS IN A

1 FORM CAPABLE OF SUPPORTING RAPID AND PROGRESSIVE GROWTH OF
2 INFECTIOUS OR TOXICOGENIC MICROORGANISMS. THE TERM DOES NOT
3 INCLUDE A FOOD THAT HAS A PH OF FOOD PRODUCTS IN A HERMETICALLY
4 SEALED CONTAINER PROCESSED TO MAINTAIN COMMERCIAL STERILITY.

5 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

6 SECTION 13.1. THIS ACT SHALL NOT APPLY TO FOOD THAT MEETS
7 ALL OF THE FOLLOWING REQUIREMENTS:

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

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

10 (3) THE FOOD IS USED OR OFFERED FOR HUMAN CONSUMPTION BY ANY
11 OF THE FOLLOWING ORGANIZATIONS:

12 (I) A TAX-EXEMPT ORGANIZATION UNDER SECTION 501(C) (3) OF THE
13 INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. §
14 501(C) (3));

15 (II) A VOLUNTEER FIRE COMPANY OR AN AMBULANCE, RELIGIOUS,
16 CHARITABLE, FRATERNAL, VETERANS, CIVIC, AGRICULTURAL FAIR OR
17 AGRICULTURAL ASSOCIATION OR ANY SEPARATELY CHARTERED AUXILIARY
18 OF ANY OF THESE ASSOCIATIONS, ON A NOT-FOR-PROFIT BASIS; OR

19 (III) AN ORGANIZATION THAT IS ESTABLISHED TO PROMOTE AND
20 ENCOURAGE PARTICIPATION AND SUPPORT FOR EXTRACURRICULAR
21 RECREATIONAL ACTIVITIES FOR YOUTH OF PRIMARY AND SECONDARY
22 PUBLIC, PRIVATE AND PAROCHIAL SCHOOL SYSTEMS ON A NOT-FOR-PROFIT
23 BASIS.

24 (4) THE ORGANIZATION THAT USES OR OFFERS THE FOOD FOR HUMAN
25 CONSUMPTION INFORMS CONSUMERS THAT THE ORGANIZATION USES OR
26 OFFERS FOOD THAT HAS BEEN PREPARED IN PRIVATE HOMES THAT ARE NOT
27 LICENSED OR INSPECTED BY THE DEPARTMENT.

28 Section 2 3. This act shall take effect in 60 days.

