

## 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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MAY 3, 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. Section 1 of the act of May 23, 1945 (P.L.926,  
12 No.369), referred to as the Public Eating and Drinking Place  
13 Law, amended December 9, 2002 (P.L.1421, No.179), is amended to  
14 read:

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

17 The words "public eating or drinking place" shall mean any  
18 place within this Commonwealth where food or drink is served to  
19 or provided for the public, with or without charge: Provided,

1 however, That nothing herein contained shall apply to dining  
2 cars operated by a railroad company in interstate commerce or a  
3 bed and breakfast homestead or inn.

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

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

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

15 "Licensor" shall mean the county department of health or  
16 joint-county department of health, whenever such public eating  
17 or drinking place is located in a political subdivision which is  
18 under the jurisdiction of a county department of health or  
19 joint-county department of health, or the health authorities of  
20 cities, boroughs, incorporated towns and first-class townships,  
21 whenever such public eating or drinking place is located in a  
22 city, borough, incorporated town or first-class township not  
23 under the jurisdiction of a county department of health or  
24 joint-county department of health, or the health authorities of  
25 second class townships and second class townships which have  
26 adopted a home rule charter which elect to issue licenses under  
27 the provisions of this act whenever such public eating and  
28 drinking place is located in such a second class township or  
29 second class township which has adopted a home rule charter not  
30 under the jurisdiction of a county department of health or

1 joint-county department of health, or the Department of  
2 Agriculture, whenever such public eating or drinking place is  
3 located in any other area of the Commonwealth.

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

9 ~~The words "potentially hazardous food" shall mean a food~~ ←  
10 ~~which consists in whole or in part of milk or milk products,~~  
11 ~~eggs, meat, poultry, fish, shellfish, edible crustacea or other~~  
12 ~~ingredients, including synthetic ingredients, and which is in a~~  
13 ~~form capable of supporting rapid and progressive growth of~~  
14 ~~infectious or toxicogenic microorganisms. The term does not~~  
15 ~~include a food that has a pH of food products in a hermetically~~  
16 ~~sealed container processed to maintain commercial sterility.~~

17 THE WORDS "POTENTIALLY HAZARDOUS FOOD" SHALL HAVE THE SAME ←  
18 MEANING AS THAT TERM IS DEFINED IN THE 2009 EDITION OF THE FOOD  
19 CODE PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH, FOOD  
20 AND DRUG ADMINISTRATION OR ANY SUCCESSOR DOCUMENT APPROVED BY  
21 REGULATION OF THE DEPARTMENT.

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

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

25 (1) The food is not potentially hazardous food.

26 (2) The food is prepared in a private home.

27 (3) The food is used or offered for human consumption by any  
28 of the following organizations:

29 (i) a tax-exempt organization under section 501(c)(3) of the  
30 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §

1 501(c)(3));

2 (ii) a volunteer fire company or an ambulance, religious,  
3 charitable, fraternal, veterans, civic, SPORTSMEN, agricultural ←  
4 fair or agricultural association or any separately chartered  
5 auxiliary of any of these associations, on a not-for-profit  
6 basis; or

7 (iii) an organization that is established to promote and  
8 encourage participation and support for extracurricular  
9 recreational activities for youth of primary and secondary  
10 public, private and parochial school systems on a not-for-profit  
11 basis.

12 (4) The organization that uses or offers the food for human  
13 consumption informs consumers That the organization uses or  
14 offers food that has been prepared in private homes that are not  
15 licensed or inspected by the department. ←

16 (5) THE FOOD IS DONATED TO AN ORGANIZATION DESCRIBED UNDER ←  
17 PARAGRAPH (3).

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