

Act 106 of 2010

On Nov. 23, Governor Rendell signed into law Act 106 of 2010, which clarifies and strengthens oversight of food safety inspections for all retail food facilities, or restaurants and retail food stores, by amending the 1945 Public Eating and Drinking Place Act and the 1994 Food Act. Consumer food safety will be greatly enhanced by the implementation of this Act, which updates current food safety laws to reflect modern food science, eliminates duplication of inspections, provides for uniform inspection and addresses other deficiencies in the current food safety laws.

The new law took effect Jan. 22, 2011.

UNDER ACT 106:

- The most current edition of **the U.S. Food and Drug Administration Food Code will guide regulatory framework**. This will apply to all retail food facilities operating in Pennsylvania, regardless of the licensing jurisdiction. The FDA food code will be the state minimum and maximum standard and can be found at www.EatSafePA.com.

Chapter 46, the current Pennsylvania regulations, will continue to be used statewide until new regulations are written.

- **The Pennsylvania Department of Agriculture will no longer license or inspect retail food facilities in a local health jurisdiction**. The local health authority will be responsible for licensing and inspection of retail food facilities in its jurisdiction.

ECDH has always inspected and licensed all retail food facilities within Erie County. This will continue.

- **All inspection forms must be provided to the Pennsylvania Department of Agriculture within 30 days of completion** for posting on the department's food safety website, www.EatSafePA.com.

The Erie County Department of Health (ECDH) already posts inspection reports on the ECDH website, www.ecdh.org, and the PA Department of Agriculture's website links to ECDH's website.

- **Follow-up inspection fees** may be assessed by the licensor for the second and subsequent follow-up inspection during the licensing period. PA Department of Agriculture fees are \$150 for the second follow-up and \$300 for subsequent follow-ups.

ECDH is evaluating the option of charging re-inspection fees.

- Retail food facilities that sell only pre-packaged, non-potentially hazardous food are **exempt from licensing but not inspection**.

ECDH will not license these facilities.

- All retail food facilities will be classified as **High, Medium, or Low risk**. These terms need to be defined. The risk category may determine the inspection frequency of a retail food facility.

Once defined, ECDH will classify each retail food facility and determine frequency of inspection.

- Each local health jurisdiction must determine **penalties** for non-compliance.

ECDH will be establishing penalties for non-compliance.

FOOD EMPLOYEE CERTIFICATION:

- A retail food facility must have **one certified food employee who is accredited (and maintains accreditation) by a nationally recognized program**, including:

National Registry of Food Safety Professionals, Inc.
National Restaurant Association Solutions, LLC (ServSafe)
Prometrics, Inc.

ECDH offers the National Registry of Food Safety Professionals Program. Call 814-451-6740 for course information or visit www.ecdh.org.

- The **certified food employee is the “person in charge”** when physically present and on-duty at the facility. The certified food employee must be immediately accessible (by phone or other electronic means) at all hours of operation when not on duty.

ECDH will conduct inspections with the person in charge.

- Individuals may only be the **certified employee at one retail food facility**, unless multiple food stands are owned by the same person at a single event, fair or festival.

ECDH will verify that each facility has a certified employee.

- The certified food employee must successfully pass an exam to obtain **re-certification** every 5 years. The three programs listed above offer a nationally recognized exam.

ECDH offers the National Registry of Food Safety Professionals Exam.

- The Pennsylvania Department of Agriculture will no longer issue food employee **certificates**, but certificates will be accepted as meeting the requirements of the law until its expiration.

An original certificate issued by one of the three nationally recognized programs must be posted in each facility.

- New retail food facilities have 3 months from the day of licensing to employ a certified food employee.

ECDH may cite a retail food facility for a violation if they do not comply.

- Retail food facilities that lose their certified food employee have 3 months from the date of loss of certified employee to obtain a new certified food employee.

ECDH may cite a retail food facility for a violation if they do not comply.

- The following retail food facilities are **exempt** from certification:

- selling only commercially pre-packaged foods;
- handling and selling only non-potentially hazardous foods;
- 501(c)(3) non-profit organizations; and
- non-profit groups, such as churches, fire halls, civic groups and fraternal organizations.

ECDH exempts these retail food facilities from certification.

- Local jurisdictions have the authority to enforce the requirements of food employee certification.

ECDH has the authority to enforce the requirements of food employee certification and will be establishing penalties for non-compliance.

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