

PDA SANITARIAN FACT SHEET
CHAPTER 57

Food Safety legislation is now Codified in **Chapter 57 (3 C.S §§5701 et.al.**

Governor Rendell signed the legislation on Nov 23, 2010 & all provisions will take effect on Jan 22, 2010.

Chapter 57 Subchapter A – **Retail Food Facility Safety Act**– provides for the licensure, inspection and regulation of public eating and drinking places and retail food establishments in the Commonwealth.

Chapter 57 Subchapter B – **Food Safety Act**– provides for registration, inspection and relation of food establishments conducting manufacturing, packaging, storage, and distribution of food in the Commonwealth. This subchapter will apply to wholesale facilities in PA.

RETAIL FOOD SAFETY ACT – Chapter 57 Subchapter A

- Applies to ALL Retail Food Facilities (RFF) in PA selling direct or indirectly to the consumer.
- Licensing Fees remain unchanged except for a small number of Retail Food Stores (~2-3,000 facilities) paying \$35 registration fees, will now be subject to \$82 Retail Food Facility licensing.
- ALL Retail Food Facilities will be paying the fee schedule of \$241, \$103 and \$82.
- Maintains and establishes Department inspection oversight of schools (not licensed) and Organized Camps (licensed) in areas where PDA is the licensor.
 - Those in local health areas- upon request only
- Removed the definition of Farmers Market, therefore, all stands within farmers markets will be considered individual Retail Food Facilities, subject to the same fee schedule. The market itself would not need a license unless it is operating a food stand itself.
- Regulatory standards for retail will be modeled after the national FDA Food Code standards.
 - Regulations will need to be written. Current PDA Food Code, Chapter 46 is the code to be utilized until new Food Codes are written.
- Makes PDA food regulations uniform throughout the Commonwealth regardless of licensor.
 - Sets PDA Food Code as “the standard” to be followed and applied by any licensor.
- Maintains local and county authority for retail inspection and licensing
 - Local Health will be responsible for inspection of ALL retail food facilities in their areas
- Local / County Licensors must report inspections to the Department within 30 days which will
 - Allow the public access to all inspection reports on our website
 - Grant the Dept the power “assume” licensing and inspection of facilities in jurisdictions that are not carrying out the inspection requirements of the Act.
- Allows for Licensing Periods (and thus inspection frequency) to be established using Risk Based Criteria to be established in Department regulation. TBD in regulation. Currently ALL retail is once per year..
- Modernizes penalty provisions to criminal penalties up to \$300 and civil penalties up to \$10,000
 - Allows for either a criminal penalty through a District Justice OR a Civil Penalty to be utilized.
- Re-inspection Fees established for retail food facilities requiring multiple inspections:
 - 2nd re-inspection fee of \$150 and
 - 3rd re-inspection fee of \$300
 - We will let you know the procedure for accomplishing this once it is established.
- Duplicate license fees - \$14.00
- Request for inspections, not required by PDA - \$150.00

- Current Non-Profit Exemption (SB 828) maintained which allows *licensed* non-profit RFFs, as defined, to accept 'donated,' 'home-prepared,' 'non-potentially hazardous' food for sale or service within their licensed facility as long as there is a consumer advisory. (This includes non-profit retail stores.)
- Modernizes the definition of "Potentially Hazardous Food" to conform to current scientific knowledge and national standards in the most current FDA Model Food Code. The definition is now officially what is in FDA's Food Code.
- Codified a definition of a "Person in Charge"
- Clarified the definition of a "Retail Food Facility" to include both E & D and Retail Food Establishment.
- Exemptions to licensing, **but NOT inspection**:
 - Those PDA (and local health) **SHALL** exempt:
 - A RFF with only Pre-packaged, non-phf food or drink (list as 'Retail Exempt')
 - RFF that sells only raw Agricultural Commodities, as defined
 - Those PDA (and local health) **MAY** exempt through order:
 - Food banks
 - Soup kitchens
 - RFF that operates no more than 3 days each calendar year
 - There will be a policy developed for 3 day or less events with relation to inspections preformed.
 - School Cafeteria
 - Charitable Non-profits that are:
 - For extracurricular recreational *school system* activities (boosters, etc...)
 - Selling all non-PHF food/drink (bake sales)
 - RFF in which food/drink are sold **ONLY** through vending machines
 - RFF owned by a Church or Religious Organization, by definition
 - **ONLY** 'Non-public' events will be exempted from licensing
 - 'Public events' over 3 calendar days will be licensed, as normal.

FOOD SAFETY ACT – Chapter 57, Subchapter B – No substantive changes.

- All Wholesale facilities will have to register with a \$35 dollar fee. Only exemption is delivery truck.
 - No 50% rule
 - No exemption for dry warehouses
- PDA has sole authority over this Subchapter.
- Maintains uniform with the Federal Food, Drug & Cosmetic Act and adoption of all federal regulations related to food, as PA regulation.
- Water Standards established to conform with PA Safe Drinking Water Act and regulations, rather than by the Federal Drinking Water standards.
- Interagency Coordination enhanced by mandating interagency communication with the appropriate departments regarding sampling and foodborne illness and reported findings for a coordinated interagency approach to protecting public health and the food supply.

REPEALS:

Chapters 59, Organic Foods and Chapter 61 Maple Products repealed.

Section 602-A(16) of the Act of April 9, 1929 (P.L.177, No. 175), known as the Administrative code of 1929 is repealed; relating to fees.

Act 369, Public Eating and Drinking Places Law (P.L. 926, No. 369) & Act 70, Food Act (P.L.421, No. 70)

SANITARIAN FACT SHEET
FOOD EMPLOYEE CERTIFICATION

Act 106 of 2010 amends Chapter 65. (3 C.S. §§6501 et.al.)

EFFECTIVE ON JANUARY 22, 2011.

Chapter 65 - Food Employee Certification Act requires for the certification in food safety of one employee, in most retail food facilities. The employee will be the person in charge of the retail food facility when present, but must be *accessible* at all times the facility is operating.

CHAPTER 65 – FOOD EMPLOYEE CERTIFICATION

- Amended current statute Chapter 65 to only cover retail food facilities and make it uniform with National requirements (ANSI-CFP Accreditation Program).
 - Acceptable courses to date are National Registry for Food Safety Professionals (NRFSP), ServSafe (National Education Foundation), and Thomson Prometrics, Inc.
 - As more programs become accredited they will be listed on ANSI's website:
<https://www.ansica.org/wwwversion2/outside/ALLdirectoryListing.asp?menuID=8&prgID=8&status=4>
- Only requires certified employees to hold a valid "Nationally Recognized Food Protection Certificate".
- Recertification will be as required by the nationally accredited program, and is not determined in the Law. The accredited programs all currently require retaking of the exam every five years.
- Elimination of the \$20 fee to the Department and need for a PDA State FEC Certificate.
- Locals having programs can maintain them:
 - Chester, Philadelphia, Montgomery, Allegheny, Bucks, State College, and Lansdale
- Maintains the standard for one certified person per facility; however, language was amended to clarify that the certified person is the "person in charge" when present at the facility, and that they must be *accessible (not necessarily present at the facility)* at all times a facility is operating.
- Clarify that individuals may only be the certified employee at ONE retail food facility.
 - Multiple food stands owned by the same person and located at a single event, fair, or festival.
- Keeps current exemptions for Food Facilities which handle commercially prepackaged food or non-potentially hazardous foods and charitable non-profit organizations.
- A valid PDA FEC certificate will continue to comply with the FEC Law, until its expiration date. After the expiration date of a PDA Certificate a valid National Certificate should be posted.
- Between now and January 22, 2011:
 - Any facilities having a food employee who has taken a nationally accredited program can post the national certificate in the food facility and should be considered compliant – do not write a violation or request warning letters for not having a PDA certificate.
 - Individuals submitting for PDA certification that have taken a nationally accredited program will have their application and \$20 fee returned with an explanatory letter.
 - Individuals taking a recertification course prior to January 22, 2011 – which did not include a nationally accredited exam program – can submit for a PDA certificate, and one will be issued that the Department will recognize until it expires.
 - The Department will continue to send Warning Letters and issue Civil Penalties to those retail food facilities that do not have certified employees. NO PHASE IN – this will continue as before.