

Act XX (HB 174) Speaking Points – DRAFT

Background – How did we get here?

- In December 2003, the Department adopted the FDA Model Food Code as a first step toward statewide uniformity.
- In 2003 and 2004, the department was working on implementing the digital health department program for food safety inspections. The system went live in January 2006, displaying inspection results from every state-completed inspection. Today, in addition to state inspections, the system has approximately 45 local health users.
- In 2005, Auditor General Jack Wagner completed an audit of the state's food safety program, shining light on several improvements that should be made to increase food safety oversight in the commonwealth.
- Other food safety efforts include the SAFE initiative and the Governor's Food Safety Council.

What does it mean?

- As a result of this good work, for the first time Pennsylvania now has a **legally mandated state standard for food safety inspections**. Regardless of where you eat, each **retail food facility** (restaurant and store) in the state will be held to the same standards – raising the bar for food safety in the state.
- HB 174 is a balanced approach to food safety and establishes a **state standard for food safety inspections, provides greater transparency and streamlines inspection responsibilities**.
- HB 174 changes three laws related to food safety, food facility regulation and food handling. By bringing together the Public Eating and Drinking Place Law and the state's Food Act, and making amendments to the Food Employee Certification Act, HB 174 strengthens food safety inspections.
- There is a great deal of common ground between these three statutes, and HB 174 brings together good food safety practices for public eating and drinking places and retail food establishments in a **single set of regulations**. There was a great deal of confusion in determining by which law some facilities were regulated, and often by which licensing jurisdiction, but HB174 brings **clarity and clear distinction** between retail food facilities, which have a single set of regulations modeled on national standards, and wholesale food establishments.
- This legislation is 6 ½ years in the making, and we're going to work to implement it as fast and as well as we can.

Key Changes

- Current Act 369 allows for local jurisdictions to complete their own food safety inspections. There are 190 such jurisdictions in the state, and they each have different inspection procedures and reporting mechanisms. HB 174 creates **greater transparency** by requiring certain

information to be collected at each of the states more than **60,000** retail food establishments (includes state and local), regardless of what jurisdiction inspects. The legislation also requires monthly reporting to the department. All inspection results will be easily accessible on an online inspection database.

- HB 174 has **non-compliance implications**, by allowing PDA to charge for re-inspection (locals can charge for re-inspections but must put in their own local fee ordinance.). For example, a restaurant is inspected and has violations that require an inspector to revisit. An inspector re-inspects and finds that the violations have not been corrected or new violations, requiring another visit. Under the new law, the department will charge a \$150 re-inspection fee for the second re-inspection. In the event of a third re-inspection, the fee will be \$300.
- After the third re-inspection, the department could prosecute. Under the law, enforcement ability for retail food facility non-compliance was strengthened by raising criminal fines to \$100 - \$300, and provisions were added to allow from PDA to issue civil penalties up to \$10,000.
- HB 174 **streamlines inspection responsibility** by reducing the number of duplicate inspections performed by both state and local sanitarians. For example, in a grocery store with an eating bar in a local jurisdiction, the eating bar would be inspected by a local sanitarian while the grocery area would be inspected by a state sanitarian. This scenario occurred in approximately 10,000 locations. Under HB 174, retail inspections fall on local jurisdictions where they exist.
- HB 174 allows for regulations to be drafted that allow for inspections to be completed using a level of **risk assessment** – *therefore, those facilities with more risk will see a food inspector more frequently while those with low risk will see us less frequently* (licensing periods to be established). Previously, inspections were calendar-driven and were completed annually.
- HB 174 further defines a **“person-in-charge”** and a retail food facility must have at least one certified supervisory employee either present at the facility or immediately accessible at all hours of operation. This person would be the person-in-charge when physically present and on duty at the establishment.
- HB 174 also ensures **consistency with Act 31 of 2010**, which allows non-profit organizations licensed as retail food facilities to sell non-potentially hazardous food prepared in private homes and donated to the organization as long as the non-profit organization informs its consumers that the food is prepared in a private home that is not licensed or inspected.
- HB174 establishes the sole authority for the Department to develop uniform regulations with respect to Retail Food Facilities. County and local health Departments under HB174 will be required to use those statewide regulations when conducting inspections of Retail Food Facilities within their jurisdictions. HB174 says the Department shall be guided by the FDA National Model Retail Food Code when developing regulations.

Training

- We have 60 days from the signing of the law to train local and regional state sanitarians before the law is in effect.