

Act 106 of 2010*Raising the Bar for Food Safety in Pennsylvania*

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 takes effect Jan. 22, 2011.**

Under Act 106:

Inspection

- 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 food code will be the state minimum and maximum standard and can be found at www.EatSafePA.com.
- **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 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.
- The Pennsylvania Department of Agriculture may charge **re-inspection fees** for second and third re-inspections at state-inspected retail food facilities. Fees are \$150 for the second re-inspection and \$300 for the third re-inspection. Re-inspection may also result in civil or criminal action. Local jurisdictions may continue to set re-inspection fees at their discretion.
- Penalties for non-compliance have been increased to up to \$300 for criminal penalties and up to \$10,000 for civil penalties.

Licensing

- All retail food facilities holding a Pennsylvania Department of Agriculture license must pay an **\$82 annual renewal fee**. If your establishment currently pays a \$35 annual fee, the next renewal form will reflect the increase.
- Retail food facilities in a local health jurisdiction will no longer be inspected by the Pennsylvania Department of Agriculture, and as such, local health authorities will license all retail food facilities in their jurisdiction. Licensing fees may vary.
- All farmers market stands that sell food to the public are considered individual food retail facilities and must each pay the \$82 annual renewal fee unless considered exempt. **A farmers market will no longer be considered the license holder.**

- Some retail food facilities are **exempt from licensing but not inspection**, including the following:
 - Those that sell only raw agricultural commodities, like produce;
 - Soup kitchens and food banks operated by charitable non-profit organizations;
 - Those that operate three or fewer calendar days each year;
 - Those that operate to support youth extracurricular activities on a non-profit basis, such as booster clubs;
 - Non-profits only offering non-potentially hazardous foods or beverages, such as at bake sales; and
 - Those that sell only pre-packaged, non-potentially hazardous food.

Certification

- Each retail food facility must have **one certified food employee who is accredited (and maintains accreditation) by a nationally recognized program**, including National Restaurant Association Solutions, LLC (ServSafe), Thomson Prometrics, Inc., or the National Registry of Food Safety Professionals, Inc. For an up-to-date list of trainers, visit www.EatSafePA.com.
- The **certified food employee must be the “person in charge”** when at the facility and accessible at all times (in person or by phone) during the facility’s hours of operation.
- 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.
- After Jan. 22, 2011, 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.
- Certification exemptions include retail food facilities that are:
 - 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.

Questions about Act 106 may be directed to the Pennsylvania Department of Agriculture Bureau of Food Safety and Laboratory Services at 717-787-4315 or local health jurisdictions where applicable. More information is also available online at www.EatSafePA.com.