
By: Delegates Nathan-Pulliam, Watson, D. Davis, Parker, C. Mitchell, Boston, Marriott, Frush, McIntosh, and E. Burns

Introduced and read first time: January 27, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Food Service Managers - Certification**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to establish
4 a certain certification program for food service managers employed in certain food
5 service facilities; altering the licensure qualifications for a food service facility;
6 requiring a food service manager to be certified by the Department within a certain
7 period after employment with a food service facility; authorizing the Department to
8 review and recommend certain certification programs and examinations offered by
9 private organizations and to accept the certified results of certain examinations
10 administered by those organizations for a certain purpose; specifying the
11 application procedure for certification as a food service manager; providing for the
12 term and renewal of a certain certificate; authorizing the Department to deny an
13 application for a certain license if the Department finds that the applicant has
14 employed a certain uncertified individual; authorizing the Department to accept
15 certain prior training and experience in satisfaction of certain certification
16 requirements for an individual who is employed as a food service manager on the
17 effective date of this Act; defining a term; and generally relating to food service
18 managers.

19 BY repealing and reenacting, without amendments,

20 Article - Health - General
21 Section 21-301(a), (e), (f), (h), and (i), 21-303, 21-304, and 21-305(a)
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article - Health - General
26 Section 21-307 and 21-311
27 Annotated Code of Maryland
28 (1996 Replacement Volume and 1996 Supplement)

29 BY adding to

30 Article - Health - General
31 Section 21-307.1

2

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1996 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article - Health - General**

6 21-301.

7 (a) In this subtitle the following words have the meanings indicated.

8 (e) "Excluded organization" means a volunteer fire company or bona fide
9 nonprofit fraternal, civic, war veterans', religious, or charitable organization or
10 corporation which does not serve food to the public more often than 4 days per week.

11 (f) "Food establishment" means:

12 (1) A food service facility; or

13 (2) A food processing plant.

14 (h) (1) "Food service facility" means:

15 (i) A place where food or drink is prepared for sale or service on the
16 premises or elsewhere; or

17 (ii) Any operation where food is served to or provided for the public,
18 with or without charge.

19 (2) "Food service facility" does not include:

20 (i) A kitchen in a private home where food is prepared at no charge
21 for guests in the home, for guests at a social gathering, or for service to unemployed,
22 homeless or other disadvantaged populations; or

23 (ii) A food preparation or serving area where only nonpotentially
24 hazardous food, as defined by the United States Food and Drug Administration, is
25 prepared or served only by an excluded organization.

26 (i) "License" means a license issued by the Department under this subtitle to
27 operate a food establishment.

28 21-303.

29 The purpose of this subtitle is to provide that all food establishments in this State
30 are constructed, operated, and maintained in a manner that assures that all food
31 manufactured, processed, stored, or prepared for human consumption is done so under
32 conditions necessary to protect the public health, safety, and welfare.

33 21-304.

34 (a) (1) The Department shall adopt rules and regulations necessary to carry out
35 the provisions of this subtitle.

36 (2) For excluded organizations, the Department:

3

1 (i) Shall adopt separate regulations that establish minimum standards
2 that:

- 3 1. Ensure food integrity and safety;
- 4 2. Preserve public health; and
- 5 3. Control foodborne illnesses; and

6 (ii) May adopt separate regulations that establish a licensing system,
7 with appropriate standards, that excluded organizations may voluntarily choose to submit
8 to as a nonrescindable alternative to regulation under subparagraph (i) of this paragraph.

9 (b) A political subdivision may not adopt a law, ordinance, rule, or regulation that
10 establishes a standard that is less stringent than rules and regulations adopted under this
11 subtitle.

12 (c) Except as otherwise provided in this section, this subtitle does not limit the
13 power of a home rule or charter county or Baltimore City to adopt and enforce laws,
14 ordinances, and regulations that are consistent with the purposes of this subtitle,
15 including the power to adopt local licensing and enforcement procedures.

16 21-305.

17 (a) Except as otherwise provided in this subtitle, a person may not operate a food
18 establishment unless the person is licensed by the Department.

19 21-307.

20 (a) To qualify for a license, an applicant shall:

21 (1) Comply with the requirements of this subtitle and the rules and
22 regulations adopted under this subtitle;

23 (2) Agree to permit access to the food establishment for the purpose of any
24 inspection permitted or required under this subtitle; [and]

25 (3) Pay the license fee assessed under § 21-308 of this subtitle, unless
26 exempted from the fee under this subtitle or any rule or regulation adopted under this
27 subtitle; AND

28 (4) IF A FOOD SERVICE FACILITY:

29 (I) ENSURE THAT EACH FOOD SERVICE MANAGER EMPLOYED BY
30 THE FOOD SERVICE FACILITY IS CERTIFIED BY THE DEPARTMENT UNDER § 21-307.1
31 OF THIS SUBTITLE; AND

32 (II) PAY THE FEE SET BY THE DEPARTMENT FOR CERTIFYING
33 EACH FOOD SERVICE MANAGER THAT THE FOOD SERVICE FACILITY EMPLOYS.

34 (b) Before issuing a license, the Department may inspect the food establishment
35 identified in the application to determine if the food establishment meets the
36 requirements for a license.

1 21-307.1.

2 (A) IN THIS SECTION, "FOOD SERVICE MANAGER" MEANS THE INDIVIDUAL
3 WHO EXERCISES OPERATIONAL SUPERVISION IN A FOOD SERVICE FACILITY.

4 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, WITHIN 90 DAYS
5 AFTER EMPLOYMENT WITH A FOOD SERVICE FACILITY, A FOOD SERVICE MANAGER
6 SHALL BE CERTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

7 (C) THE DEPARTMENT SHALL ESTABLISH A PROGRAM FOR THE
8 CERTIFICATION OF A FOOD SERVICE MANAGER AND SET A REASONABLE FEE FOR
9 THE ISSUANCE AND RENEWAL OF CERTIFICATES UNDER THIS SECTION TO BE PAID
10 BY A FOOD SERVICE FACILITY THAT EMPLOYS THE FOOD SERVICE MANAGER.

11 (D) THE PROGRAM ESTABLISHED BY THE DEPARTMENT UNDER SUBSECTION
12 (C) OF THIS SECTION SHALL REQUIRE A FOOD SERVICE MANAGER SATISFACTORILY
13 TO COMPLETE A MINIMUM OF 15 HOURS OF CLASSROOM INSTRUCTION AND TO PASS
14 AN EXAMINATION CONCERNING:

15 (1) THE IDENTIFICATION AND PREVENTION OF FOODBORNE DISEASES,
16 INCLUDING MEASURES RELATING TO THE SOURCE, RECEIPT, STORAGE,
17 PREPARATION, SERVICING, AND TRANSPORTATION OF FOOD;

18 (2) THE MAINTENANCE OF A SANITARY FOOD SERVICE FACILITY;

19 (3) THE SUPERVISION OF FOOD HANDLING PERSONNEL WITHIN A FOOD
20 SERVICE FACILITY TO ENSURE THE MAINTENANCE OF PROPER PERSONAL HYGIENE
21 AND CORRECTION OF OPERATIONAL PROBLEMS WITHIN THE FOOD SERVICE
22 FACILITY; AND

23 (4) TECHNIQUES OF FOOD SERVICE MANAGEMENT, INCLUDING
24 PERSONAL SELF-INSPECTION, EMPLOYEE MOTIVATION, AND TECHNIQUES FOR
25 TRAINING FOOD SERVICE PERSONNEL.

26 (E) THE DEPARTMENT MAY:

27 (1) REVIEW AND RECOMMEND CERTIFICATION PROGRAMS AND
28 EXAMINATIONS SUBMITTED BY PRIVATE ORGANIZATIONS TO THE DEPARTMENT
29 FOR APPROVAL; AND

30 (2) FOR PURPOSES OF THE EXAMINATION REQUIREMENT UNDER
31 SUBSECTION (D) OF THIS SECTION, ACCEPT THE CERTIFIED RESULTS OF AN
32 EXAMINATION ADMINISTERED BY A PRIVATE ORGANIZATION APPROVED BY THE
33 DEPARTMENT.

34 (F) TO APPLY FOR CERTIFICATION AS A FOOD SERVICE MANAGER, AN
35 INDIVIDUAL SHALL SUBMIT:

36 (1) AN APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE
37 DEPARTMENT REQUIRES; AND

38 (2) AN APPLICATION FEE IN AN AMOUNT SET BY THE DEPARTMENT
39 AND PAID BY THE FOOD SERVICE FACILITY THAT EMPLOYS THE APPLICANT.

5

1 (G) (1) THE TERM OF A CERTIFICATION IS 1 YEAR.

2 (2) A CERTIFICATION EXPIRES AT THE END OF ITS TERM UNLESS THE
3 CERTIFICATION IS RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN THIS
4 SECTION.

5 (3) AT LEAST 1 MONTH BEFORE A CERTIFICATION EXPIRES, THE
6 DEPARTMENT SHALL SEND TO EACH CERTIFICATE HOLDER, BY FIRST CLASS MAIL
7 TO THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL FORM
8 AND A RENEWAL NOTICE THAT STATES:

9 (I) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;

10 (II) THAT THE RENEWAL APPLICATION AND FEE MUST BE
11 RECEIVED BY THE DEPARTMENT ON OR BEFORE THE DATE THE CERTIFICATE
12 EXPIRES; AND

13 (III) THE AMOUNT OF THE RENEWAL FEE.

14 (4) A CERTIFICATE HOLDER MAY RENEW A CERTIFICATE FOR AN
15 ADDITIONAL TERM IF THE CERTIFICATE HOLDER:

16 (I) OTHERWISE IS ENTITLED TO BE CERTIFIED; AND

17 (II) SUBMITS TO THE DEPARTMENT:

18 1. A RENEWAL APPLICATION ON THE FORM THAT THE
19 DEPARTMENT REQUIRES;

20 2. SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE
21 CONTINUING EDUCATION REQUIREMENTS SET BY THE DEPARTMENT UNDER THIS
22 SUBSECTION FOR CERTIFICATE RENEWAL; AND

23 3. A RENEWAL FEE IN AN AMOUNT SET BY THE
24 DEPARTMENT AND PAID BY THE FOOD SERVICE FACILITY THAT EMPLOYS THE
25 CERTIFICATE HOLDER.

26 (5) AS A CONDITION TO THE RENEWAL OF A CERTIFICATE UNDER THIS
27 SUBSECTION, THE DEPARTMENT SHALL ESTABLISH ANNUAL CONTINUING
28 EDUCATION REQUIREMENTS WHICH REFLECT CURRENT METHODS OF FOOD
29 SERVICE SANITATION.

30 (6) THE DEPARTMENT SHALL RENEW THE CERTIFICATE OF AND ISSUE
31 A RENEWAL CERTIFICATE TO EACH CERTIFICATE HOLDER WHO MEETS THE
32 REQUIREMENTS OF THIS SUBSECTION.

33 21-311.

34 (a) The Department must deny an application for a food establishment license
35 issued under this subtitle if the Department finds that the applicant:

36 (1) Does not meet the requirements of this subtitle or any rules or
37 regulations adopted under this subtitle; [or]

38 (2) Fraudulently or deceptively attempts to obtain a license; OR

6

1 (3) EMPLOYS AN INDIVIDUAL AS A FOOD SERVICE MANAGER WHO IS
2 NOT CERTIFIED IN ACCORDANCE WITH § 21-307.1 OF THIS SUBTITLE.

3 (b) Within 30 days of receipt of the completed application, the Department shall
4 notify the applicant in writing:

5 (1) That the application has been denied;

6 (2) The specific reasons for the denial of the application; and

7 (3) If any, the actions that must be taken by the applicant to qualify for a
8 license.

9 (c) After a notice of denial is issued, the Department may issue a license to an
10 applicant if the applicant:

11 (1) Takes all actions specified in the notice of denial; and

12 (2) Meets the requirements of this subtitle and all rules and regulations
13 adopted under this subtitle.

14 (d) An applicant who is denied a license is entitled to:

15 (1) A hearing before the Secretary under § 21-316 of this subtitle; and

16 (2) Judicial review under § 21-317 of this subtitle.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Health
18 and Mental Hygiene may accept prior training and experience as a food service manager
19 in satisfaction of the requirements specified in § 21-307.1(d) of the Health - General
20 Article, as enacted by this Act, for an individual who is employed as a food service
21 manager on the effective date of this Act.

22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1997.