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By: **Delegates Nathan-Pulliam, Hubbard, Walkup, Marriott, Goldwater,  
Watson, D. Davis, and C. Mitchell**

Introduced and read first time: February 6, 1998

Assigned to: Environmental Matters

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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  
4 establish a certain certification program for food service managers employed in  
5 certain food service facilities; altering the licensure qualifications for food  
6 service facilities in certain counties; requiring a food service manager to be  
7 certified by the Department within a certain period after employment with a  
8 food service facility; authorizing the Department to review and recommend  
9 certain certification programs and examinations offered by private  
10 organizations and to accept the certified results of certain examinations  
11 administered by those organizations for a certain purpose; specifying from  
12 whom a food service manager may receive certain training and certain locations  
13 where that training may occur; requiring a certified food service manager to  
14 provide certain documented training to certain employees; specifying the  
15 application procedure for certification as a food service manager; providing for  
16 the term and renewal of a certain certificate; authorizing the Department to  
17 deny an application for a certain license if the Department makes certain  
18 findings; authorizing the Department to accept certain prior training and  
19 experience in satisfaction of certain certification requirements for an individual  
20 who is employed as a food service manager on the effective date of this Act;  
21 defining a term; and generally relating to food service managers.

22 BY repealing and reenacting, without amendments,  
23 Article - Health - General  
24 Section 21-301(a), (e), (f), (h), and (i), 21-303, 21-304, and 21-305(a)  
25 Annotated Code of Maryland  
26 (1996 Replacement Volume and 1997 Supplement)

27 BY repealing and reenacting, with amendments,  
28 Article - Health - General  
29 Section 21-307 and 21-311  
30 Annotated Code of Maryland  
31 (1996 Replacement Volume and 1997 Supplement)

1 BY adding to  
2 Article - Health - General  
3 Section 21-307.1  
4 Annotated Code of Maryland  
5 (1996 Replacement Volume and 1997 Supplement)

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

8 **Article - Health - General**

9 21-301.

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

11 (e) "Excluded organization" means a volunteer fire company or bona fide  
12 nonprofit fraternal, civic, war veterans', religious, or charitable organization or  
13 corporation that does not serve food to the public more often than 4 days per week  
14 except that once a year an organization may serve food to the public for up to 14  
15 consecutive days.

16 (f) "Food establishment" means:

17 (1) A food service facility; or

18 (2) A food processing plant.

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

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

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

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

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

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

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

1 21-303.

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

6 21-304.

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

9 (2) For excluded organizations, the Department:

10 (i) Shall adopt separate regulations that establish minimum  
11 standards that:

12 1. Ensure food integrity and safety;

13 2. Preserve public health; and

14 3. Control foodborne illnesses; and

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

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

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

26 21-305.

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

29 21-307.

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

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

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

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

4 (4) IF THE APPLICANT IS A FOOD SERVICE FACILITY IN A COUNTY THAT  
5 DOES NOT HAVE A CERTIFICATION PROGRAM FOR FOOD SERVICE MANAGERS:

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

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

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

14 21-307.1.

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

17 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, WITHIN 60 DAYS  
18 AFTER EMPLOYMENT WITH A FOOD SERVICE FACILITY, A FOOD SERVICE MANAGER  
19 SHALL BE CERTIFIED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SECTION.

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

24 (D) THE PROGRAM ESTABLISHED BY THE DEPARTMENT UNDER SUBSECTION  
25 (C) OF THIS SECTION SHALL REQUIRE A FOOD SERVICE MANAGER TO COMPLETE  
26 SATISFACTORILY A MINIMUM OF 16 HOURS OF CLASSROOM INSTRUCTION AND TO  
27 PASS AN EXAMINATION CONCERNING:

28 (1) THE IDENTIFICATION AND PREVENTION OF FOODBORNE DISEASES,  
29 INCLUDING MEASURES RELATING TO THE SOURCE, RECEIPT, STORAGE,  
30 PREPARATION, SERVICING, AND TRANSPORTATION OF FOOD;

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

32 (3) THE SUPERVISION OF FOOD HANDLING PERSONNEL WITHIN A FOOD  
33 SERVICE FACILITY TO ENSURE THE MAINTENANCE OF PROPER PERSONAL HYGIENE  
34 AND CORRECTION OF OPERATIONAL PROBLEMS WITHIN THE FOOD SERVICE  
35 FACILITY.

36 (E) (1) THE DEPARTMENT MAY:

1 (I) REVIEW AND APPROVE CERTIFICATION PROGRAMS AND  
2 EXAMINATIONS SUBMITTED BY PRIVATE ORGANIZATIONS TO THE DEPARTMENT FOR  
3 APPROVAL; AND

4 (II) FOR PURPOSES OF THE EXAMINATION REQUIREMENT UNDER  
5 SUBSECTION (D) OF THIS SECTION, ACCEPT THE CERTIFIED RESULTS OF AN  
6 EXAMINATION ADMINISTERED BY A PRIVATE ORGANIZATION APPROVED BY THE  
7 DEPARTMENT.

8 (2) A FOOD SERVICE MANAGER MAY BE TRAINED THROUGH A  
9 CERTIFICATION PROGRAM APPROVED BY THE DEPARTMENT OR BY THE  
10 DEPARTMENT ON THE SITE OF THE FOOD SERVICE ESTABLISHMENT WHERE THE  
11 FOOD SERVICE MANAGER IS EMPLOYED OR AT ANOTHER SITE.

12 (F) (1) WITHIN THE FOOD SERVICE ESTABLISHMENT WHERE A CERTIFIED  
13 FOOD SERVICE MANAGER IS EMPLOYED, THE FOOD SERVICE MANAGER SHALL  
14 PROVIDE THE TRAINING SPECIFIED IN PARAGRAPH (2) OF THIS SUBSECTION DURING  
15 AN ORIENTATION PERIOD FOR NEWLY EMPLOYED FOOD HANDLING PERSONNEL.

16 (2) THE TRAINING REQUIRED UNDER PARAGRAPH (1) OF THIS  
17 SUBSECTION AT A MINIMUM SHALL CONSIST OF INSTRUCTION THROUGH PERSONAL  
18 DEMONSTRATION, FILM, VIDEO, OR PRINTED MATERIALS CONCERNING THE PROPER  
19 TECHNIQUES OF:

20 (I) FOOD HANDLING;

21 (II) HAND WASHING; AND

22 (III) FOOD REFRIGERATION AND STORAGE.

23 (3) FOR EACH TRAINING SESSION A CERTIFIED FOOD SERVICE  
24 MANAGER CONDUCTS UNDER THIS SUBSECTION, THE FOOD SERVICE MANAGER  
25 SHALL DOCUMENT:

26 (I) THE DATE OF THE TRAINING SESSION;

27 (II) THE SPECIFIC TOPICS COVERED BY THE TRAINING SESSION;

28 AND

29 (III) THE NAME OF THE EMPLOYEE WHO RECEIVED THE TRAINING.

30 (4) THE TRAINING THAT A CERTIFIED FOOD SERVICE MANAGER  
31 PROVIDES UNDER THIS SUBSECTION SHALL BE APPROPRIATE FOR THE LEVEL OF  
32 UNDERSTANDING, INCLUDING THE READING LEVEL OF UNDERSTANDING, OF THE  
33 EMPLOYEES WHO RECEIVE THE TRAINING.

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

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

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

5 (H) (1) THE TERM OF A CERTIFICATION IS 3 YEARS.

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

9 (3) AT LEAST 1 MONTH BEFORE A CERTIFICATION EXPIRES, THE  
10 DEPARTMENT SHALL SEND TO EACH CERTIFICATE HOLDER, BY FIRST-CLASS MAIL  
11 TO THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL FORM  
12 AND A RENEWAL NOTICE THAT STATES:

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

14 (II) THAT THE RENEWAL APPLICATION AND FEE MUST BE  
15 RECEIVED BY THE DEPARTMENT ON OR BEFORE THE DATE THE CERTIFICATE  
16 EXPIRES; AND

17 (III) THE AMOUNT OF THE RENEWAL FEE.

18 (4) A CERTIFICATE HOLDER MAY RENEW A CERTIFICATE FOR AN  
19 ADDITIONAL TERM IF THE CERTIFICATE HOLDER:

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

21 (II) SUBMITS TO THE DEPARTMENT:

22 1. A RENEWAL APPLICATION ON THE FORM THAT THE  
23 DEPARTMENT REQUIRES;

24 2. SATISFACTORY EVIDENCE OF COMPLIANCE WITH A  
25 MINIMUM OF 6 CONTINUING EDUCATION REQUIREMENTS SET BY THE DEPARTMENT  
26 UNDER THIS SUBSECTION FOR CERTIFICATE RENEWAL; AND

27 3. A RENEWAL FEE IN AN AMOUNT SET BY THE  
28 DEPARTMENT AND PAID BY THE FOOD SERVICE FACILITY THAT EMPLOYS THE  
29 CERTIFICATE HOLDER.

30 (5) AS A CONDITION TO THE RENEWAL OF A CERTIFICATE UNDER THIS  
31 SUBSECTION, THE DEPARTMENT SHALL ESTABLISH CONTINUING EDUCATION  
32 REQUIREMENTS WHICH REFLECT CURRENT METHODS OF FOOD SERVICE  
33 SANITATION.

34 (6) THE DEPARTMENT SHALL RENEW THE CERTIFICATE OF AND ISSUE A  
35 RENEWAL CERTIFICATE TO EACH CERTIFICATE HOLDER WHO MEETS THE  
36 REQUIREMENTS OF THIS SUBSECTION.

1 21-311.

2 (a) The Department may deny an application for a food establishment license  
3 issued under this subtitle if the Department finds that the applicant:

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

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

7 (3) EMPLOYS AN INDIVIDUAL AS A FOOD SERVICE MANAGER WHO IS  
8 NOT CERTIFIED IN ACCORDANCE WITH § 21-307.1 OF THIS SUBTITLE; OR

9 (4) FAILS TO ENSURE THAT A CERTIFIED FOOD SERVICE MANAGER IS  
10 PRESENT ON THE SITE OF THE FOOD SERVICE FACILITY AT ALL TIMES WHEN THE  
11 FOOD SERVICE FACILITY SERVES FOOD.

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

14 (1) That the application has been denied;

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

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

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

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

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

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

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

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

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

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 October 1, 1998.