

FoodBytes



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Handler certification becomes law

The much discussed and somewhat controversial “food handler certification” bill has become law, but the final version bears slight resemblance to the original bill introduced in the Indiana Senate.

The new law, which mainly impacts IC-16-42-5, went into effect immediately after Governor Frank O’Bannon signed it, but its actual impact may not be felt before July 1, 2003. The new code language contains provisions that cover how penalties may be assessed against violators, and the standards that may be set by local health departments.

The bill was sponsored by Sen. Pat Miller, Indianapolis, Sen. Earlene Rogers and Rep. Charlie Brown, both from Gary, and Rep. Vaneta Becker, Evansville. The Indiana State Dept. of Health (ISDH) did not become aware of this bill until after its introduction.

ISDH is currently seeking legal interpretations of several of the bill’s provisions so as to clearly understand the ISDH role in im-

plementing this law.

Key provisions of this bill

- ⊙ Establishes a new food handler certification requirement for Indiana. The certification must be recognized by the national Conference of Food Protection or be nationally recognized and approved by ISDH.
- ⊙ Prohibits local health departments from imposing any registration, certification, or licensing requirement on food handling or food handlers. It does not prevent the normal licensing of food establishments.
- ⊙ Exempts certain food operations from complying with the food handler certification law.
- ⊙ Prohibits a local health department from locally prescribing sanitary standards or imposing any requirement or standard for the installation of “food handling machinery” after July 1, 2003 or until the ISDH promulgates permanent rules that set up sanitary standards for food establishments.
- ⊙ Requires ISDH to promulgate a new rule to estab-

(Continued on page 5)



The new law requires consistency among local health depts. and ISDH.

What the new law may mean to local health departments

Most local health departments will be affected only in a positive way. But some of the more pro-active departments may have to alter some of their procedures to be in compliance.

For example, if the local health department has set any standards more restrictive than the current “food code,” then local rules will need to be changed so as not to exceed state requirements.

Answers to basic questions guide you to the right law

What is *food*? What is a *food establishment*? Is a *food establishment* the same as a *retail food establishment*? Is a restaurant required to have a restroom?

Answers to these questions can be found with a review of the Indiana law commonly referred to as

One function of the Food Establishment Act is to provide specific authority to ISDH to adopt rules setting minimum sanitary operating standards.

the "Food Establishment Act," (Indiana Code 16-42-5). It is distinct from the *Indiana Food Drug and Cosmetic Act*, (Indiana Code 16-42-1 through 4), examined in an earlier edition of *FoodBytes*. While the Food Drug and Cosmetic Act has food quality and labeling as its general focus, the Food Establishment Act orients toward the physical facilities and food safety practices in an establishment. The Food Establishment Act has several important functions that touch consumers every time they eat.

One important function of the law is to set general definitions for the terms "food," "food establishment" and "food handling." Retail food establishments, such as restaurants and grocery stores, are a type of food establishment under this law. Wholesale food establishments, such as canneries and warehouses, are a different type under the same law. Each type has been defined in rules adopted by the executive board of the Indiana State Department of Health (ISDH). (*Bed and Breakfast* facilities, as defined and regulated under 410 IAC 7-15.5, do not fall under the authori-

ties and requirements of the Food Establishment Act.)

Another important function of the Food Establishment Act provides specific authority for ISDH to adopt rules setting minimum sanitary operating standards and providing for efficient enforcement. The *Retail Food Establishment Sanitation Requirements*, 410 IAC 7-20, is one such rule derived from this law. Local health departments and some state agencies commonly use the provisions of this law, and its promulgated rules, during routine inspections of restaurants, grocery stores, hospitals, correctional facilities, state park inns and other food establishments within the state.

The law establishes three conditions which, when met, allow certain not-for-profit organizations to be exempt from the requirements of the law and its rules.

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Food Handler Word Search

CERTIFICA-	U S E K D V D R R J B F H R H
TION	Q R W C C D H E S S B O A G I
CERTIFIED	T Z N D N U T V I H D C N E Y
FOOD	S T A N D A R D S F O O D L N
HANDLER	B V M W I E I N E S I R L M P
PENALTIES	O V H L U M X R T T N T E U M
PROHIBITS	E G C N Q J K Q A G T U R A Q
PROMUL-	K V H V Z Z I C G V J Q L E A
GATES	Q A W K S E I T L A N E P N C
RETAIL	K W E C J F G G U R P U N L Q
	D J P K I C P O M R C M U T S
	H I S T I B I H O R P N X U C
	R X R H C K Z P R C Z V Q G T
	V E U P Q A F T P I R J E I X
	C E M U U W U Y I O W K D W Z

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Original tags, containers, for shellstock required

If a retail food establishment is providing molluscan shellfish to consumers, then the original container must be used until the product is sold or prepared.

An exception is when shellfish are displayed on drained ice, or held in a display container prior to providing it to the consumer.

Shellstock containers must have legible source identification tags, and be “reasonably free of mud, dead shellfish and shellfish with broken shells.”

Remember that the shellstock tags or labels must be kept for at least 90 days. This allows traceback should there be a problem. See code Sections 131 to 135. Note the critical areas.

“Surf” gaining on “turf” in food popularity

Supermarket shelves and restaurant menus are featuring a wider variety of seafood than ever before which is finding favor among consumers. Interest is also being peaked because seafood is generally high in protein, but usually low in fat and calories (unless it’s breaded and fried). Not only do menus feature the more traditional fish items, but more shellfish varieties are appearing.

The new food code covers requirements for evaluating the source and safety of seafood and provides guidance to inspectors. But since Indiana doesn’t border any oceans, local inspectors often are not well versed in the types of shellfish available.

Mollusk or crustacean?

Shellfish can be divided into two general categories: mollusks and crustaceans. **Mollusks** are invertebrates with soft bodies, usually covered by a shell of one or more pieces. There are three distinct groups of mollusks: two-shelled bivalves, such as clams, oysters, mussels, and scallops; gastropods (snails); and cephalopods (squid and octopus).

Crustaceans have segmented bodies covered with armor-like sections of shell. Types of crustaceans include lobster, shrimp, prawns, crab and crayfish.

Shellfish can live in both fresh and salt water and can be gathered from the wild or harvested from commercial farms.

It is commonly known that eating raw shellfish from contaminated waters can make consumers sick. These consumers can not know the condition of the waters from which the shellfish were harvested.

Eating raw shellfish always poses a risk of gastrointestinal illness and the diarrhea, abdominal cramps, nausea and vomiting that go

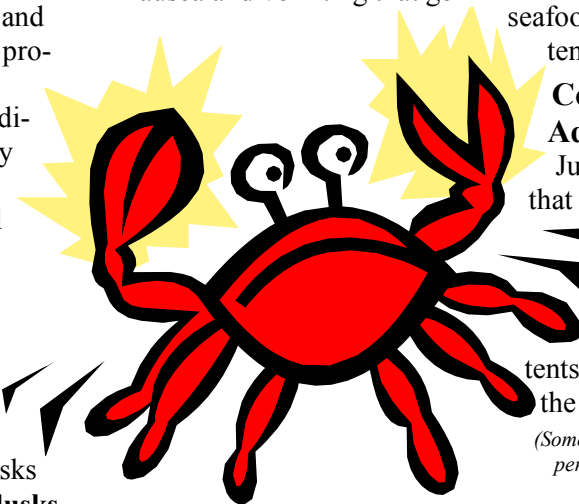
along with that. That is one reason Section 181 of the food code calls for a “consumer advisory” to be given to persons who may want to eat any raw or undercooked food of animal origin. Persons with diminished immune systems are at the greatest risk.

Many food establishment operators think of undercooked hamburger or eggs as a potential problem, but then fail to recognize the potential danger in raw seafood, especially shellfish. Advisories in grocery store seafood departments are often forgotten.

Consumer Advisory

Just about any method that provides warning information to customers is acceptable: signs, labels on menus, table tents or personally telling the customer.

(Some information from Nancy Cooper, Diabetes Nutrition Specialist, International Diabetes Center)



Food seminar dates, place set

The time and place for the first ISDH-sponsored food safety seminar have been announced. The seminar is now slated for March 12, 13, and 14, 2002, in the Westin Hotel in downtown Indianapolis.

An additional highlight of the seminar will be the offering of the Certified Food Safety Professional (CFSP) examination prior to the start of the seminar

on March 11.

The tentative schedule calls for the seminar to start late morning on Tuesday, and wrap up around noon on Thursday. A planning committee is busy setting the schedule of topics and arranging the speakers.

Specific information will be sent to each local health department when plans are completed.

Spread the word about jams and jellies

What are you spreading on your toast for breakfast? Are those jams or jellies considered a *potentially hazardous food*? What regulatory agency inspects the processing of jams and jellies? What are the requirements that the processor needs to follow? These are questions often asked by the local health departments (LHD) and others.

Jams and jellies as well as fruit butters, conserves, marmalades, and preserves are considered “soft spreads.” They are all made of four main ingredients: fruit, sugar, pectin and acid. The consistency ranges from a firm set for jellies to a soft, honey-like consistency for preserves.

Jams and jellies and the other soft spreads mentioned are typically not considered to be a potentially hazardous food. Section 59 of the Indiana State Department of Health (ISDH) Rule 410 IAC 7-20 defines potentially hazardous food.



The term does not include a food with a water activity (a_w) value of eighty-five hundredth (0.85) or less or a food with a pH level of four and six-tenths (4.6) or below when measured at 75° Fahrenheit. Jams and jellies have a low pH because they are made from fruit that naturally have a pH of 4.6 or below (*acid food*). The water activity of a jam or jelly is low because of the amount of sugar in the mixture (*brix*).

Which regulatory agency is responsible for inspecting the process would be answered by this question, “Who buys the products?”

If the answer is “the consumer,” the responsibility of evaluating the process would be the local health department. If the final product is resold to another business *prior* to being sold to the consumer, the Wholesale Food Program, at ISDH, would have jurisdiction over evaluating the process. But if the establishment's business is less than 25% wholesale, the local health department should inspect the facility.

The regulations that govern establishments wishing to produce the soft spreads would be Indiana Code 16-42-1 through 16-42-2; IC 16-42-5 and 21 Code of Federal Regulation (CFR) Part 150 Subpart B, *Requirements for Specific Standardized Fruit Butters, Jellies, Preserves, and Related Products*. If the establishment is a *retail food establishment* as defined in 410 IAC 7-20, the require-

(See Jams continued on page 5)

What should inspectors look for?

If an inspector spots canned soft spread products for sale, he should first check the label for the four necessary components. If the jam or jelly has a “commercial” label, then it is likely that it is inspected by another state or federal agency.

But if the product seems to be produced in the establishment, then the inspector must ask about the source. Think HACCP, and determine if proper retail good manufacturing practices (GMPs) are being followed. Ask questions to determine the process being used to make the jam or jelly (ingredients, sanitizing practices, utensils used, amount made at a time, and storage practices).

(Laws continued from page 2)

Some general requirements of the Food Establishment Act include:

- © *Equipment, walls, floors and vehicles must be easily cleanable and kept clean.*
- © *Pests & domestic animals must be prevented or eliminated from food areas.*
- © *Wastes must be removed regularly.*
- © *Restrooms must be pro-*

vided for employees.

- © *Food is prohibited from being handled or stored in living areas.*
- © *Ill food employees are prohibited from working.*

To learn more about laws relating to food in Indiana, contact your regional ISDH representative or visit the ISDH website at “www.state.in.us/isdh”.

Dan Miller

Food Protection Plan Review documents have been sent to all local health departments. Included were an Application For Plan Review and a related Plan Review checklist.

Each item on the checklist shows the applicable code cite.

Local health departments may copy these forms as needed.

(Jams continued from page 4)

ments specified in 410 IAC 7-20 would also apply. If the establishment is under the jurisdiction of the Wholesale Food Program, 21 (CFR) 110 *Good Manufacturing Practices (GMP's)* as well as the laws stated above, would apply.

If an inspector finds a jam, jelly or any of the other soft spreads mentioned, and there is a question as to whether it meets the above criteria, sampling of the product is always an option. Better to be safe than sorry.

Questions about soft spreads and whether inspected products are potentially hazardous can be directed to your ISDH field contact.

Margaret Voyles

Handler certification law (continued)

(Continued from page 1)



At least one food handler in each retail food establishment must be "certified" beginning mid 2003.

lish standards for the administration of the food handler certification chapter and the imposition of penalties for viola-

tions of this chapter.

⊙ Requires the ISDH to promulgate a new rule to establish a schedule of civil penalties that may be imposed to enforce either this chapter or any rules adopted under this chapter.

⊙ Prohibits local health departments from imposing locally prescribed fines or civil penalties after July 1, 2003 unless the ISDH has not promulgated a new permanent rule for the administration of civil penalties.

The law also allows local health departments to adopt the new ISDH civil penalty rule for use in compliance actions against food establishments. Civil penal-

ties collected by local health departments from establishments for violations of this chapter shall be deposited in the general fund of the local health department.

- ⊙ Creates authority for the ISDH to grant a variance, with "good cause," from a sanitary standard for a food establishment or food handling machinery.
- ⊙ Allows for local health departments to petition the ISDH to hold a public hearing to hear reasons for a change or modification to a food rule.

The Retail Food Division at ISDH plans to keep local health department food inspectors informed about the progress of implementing the law's provisions. Interpretations will be offered on key aspects of the law.

Proper utensil storage often overlooked

Are food service operators paying as much attention to the in-use utensils used for handling potentially hazardous foods as they are to the foods themselves? When it comes to food safety, it makes little sense to protect the food (proper hot or cold holding temperatures) but then ignore the food residue on the utensil, by laying the same utensil next to its food container at room temperature.

Section 146 of the food code indicates how such

utensils must be stored. Note that utensils may now be stored in hot water (140° F. or above), a change in the current code. But in-use utensils may *never* be stored in standing water at room temperature. This is true even if the water contains "sanitizer solution." Such violations should be marked, and depending upon the inspector's observation, sec-



tion 138 might also apply.

"Ask Scott"

Q. When will we have more code books?

A. The second printing order is being completed now. (There were some delays beyond our control.) Since we've passed the first anniversary of the new code, unless you're out of books, all establishments should have been given a copy by the end of April. Of course, you can make your own copies as needed.

Q. If a ready-to-eat, potentially hazardous food prepared in advance is then frozen, does the date marking requirement still apply?

A. As in Section 174, foods must be date-marked if stored for greater than 24 hours. However freezing stops the clock. Once the food is thawed, the clock starts again. Note that the time accumulates. Once the clock starts on a time control, it continues. In other words, freezing stops the clock, but the clock doesn't

reset.

Q. Are dry wiping cloths viewed differently than wet cloths?

A. Yes. Wet wiping cloths need to be stored in a proper sanitizing solution as per Sections 148 and 257. Dry cloths can be used for wiping up food spills, but need to be changed.



Education

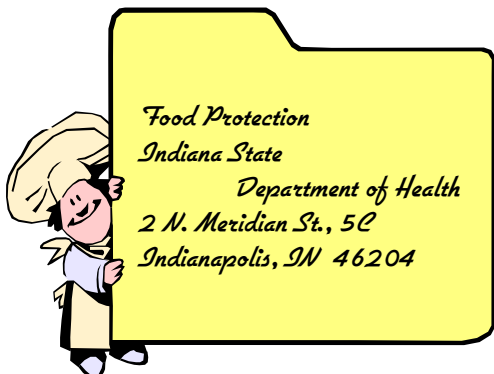
Regulation

The delicate balance inspectors must achieve

Tip of the month

Inspectors set the "standard" for food operators and food handlers. He should be prepared to do anything he asks the employees to do. The inspector must wash his hands, wear a hair restraint, and be certain that his inspection equipment is working correctly. (When was your thermometer last calibrated?)

Send your questions to Scott Gilliam at <food@isdh.state.in.us>, or use the address on page 2.



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