



Substitute Senate Bill No. 901

Public Act No. 17-93

**AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATION REGARDING ADOPTION OF A MODEL FOOD
CODE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 19a-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The Commissioner of Public Health shall establish a Public Health Code and, from time to time, amend the same. The Public Health Code may provide for the preservation and improvement of the public health.

[(1) Said code may include regulations pertaining to retail food establishments, including, but not limited to, food service establishments, catering food service establishments and itinerant food vending establishments and the required permitting from local health departments or districts to operate such establishments.]

[(2)] (1) Drainage and toilet systems to be installed in any house or building arranged or designed for human habitation, or field sanitation provided for agricultural workers or migratory farm laborers, shall conform to minimum requirements prescribed in said

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code.

[(3)] (2) Said code may include regulations requiring toilets and handwashing facilities in large stores, as defined in such regulations, in shopping centers and in places dispensing food or drink for consumption on the premises, for the use of patrons of such establishments, except that the provisions of such regulations shall not apply to such establishments constructed or altered pursuant to plans and specifications approved or building permits issued prior to October 1, 1977.

[(4)] The provisions of such regulations (A) with respect to the requirement of employing a qualified food operator and any reporting requirements relative to such operator, shall not apply to an owner or operator of a soup kitchen who relies exclusively on services provided by volunteers, and (B) shall not prohibit the sale or distribution of food at a noncommercial function such as an educational, religious, political or charitable organization's bake sale or potluck supper provided the seller or person distributing such food maintains such food under the temperature, pH level and water activity level conditions that will inhibit the rapid and progressive growth of infectious or toxigenic microorganisms. For the purposes of this section, a "noncommercial function" means a function where food is sold or distributed by a person not regularly engaged in the for profit business of selling such food.

(5) The provisions of such regulations with respect to qualified food operators shall require that the contents of the test administered to qualified food operators include elements testing the qualified food operator's knowledge of food allergies.]

[(6)] (3) Each regulation adopted by the Commissioner of Public Health shall state the date on which it shall take effect, and a copy of the regulation, signed by the Commissioner of Public Health, shall be

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filed in the office of the Secretary of the State and a copy sent by said commissioner to each director of health, and such regulation shall be published in such manner as the Commissioner of Public Health may determine.

[(7)] (4) Any person who violates any provision of the Public Health Code shall be guilty of a class C misdemeanor.

Sec. 2. (NEW) (*Effective October 1, 2017*) As used in this section and sections 3 to 10, inclusive, of this act:

(1) "Catering food service establishment" means a business that is involved in the (A) sale or distribution of food and drink prepared in bulk in one geographic location for retail service in individual portions in another location, or (B) preparation and service of food in a public or private venue that is not under the ownership or control of the operator of such business;

(2) "Certified food protection manager" means a food employee that has supervisory and management responsibility and the authority to direct and control food preparation and service;

(3) "Class 1 food establishment" means a food establishment that only offers for retail sale (A) prepackaged food that is not time or temperature controlled for safety, (B) commercially processed food that (i) is time or temperature controlled for safety and heated for hot holding, but (ii) is not permitted to be cooled, or (C) food prepared in the establishment that is not time or temperature controlled for safety;

(4) "Class 2 food establishment" means a retail food establishment that does not serve a population that is highly susceptible to food-borne illnesses and offers a limited menu of food that is prepared, cooked and served immediately, or that prepares and cooks food that is time or temperature controlled for safety and may require hot or cold holding, but that does not involve cooling;

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(5) "Class 3 food establishment" means a retail food establishment that (A) does not serve a population that is highly susceptible to food-borne illnesses, and (B) has an extensive menu of foods, many of which are time or temperature controlled for safety and require complex preparation, including, but not limited to, handling of raw ingredients, cooking, cooling and reheating for hot holding;

(6) "Class 4 food establishment" means a retail food establishment that serves a population that is highly susceptible to food-borne illnesses, including, but not limited to, preschool students, hospital patients and nursing home patients or residents, or that conducts specialized food processes, including, but not limited to, smoking, curing or reduced oxygen packaging for the purposes of extending the shelf life of the food;

(7) "Cold holding" means maintained at a temperature of forty-one degrees Fahrenheit or below;

(8) "Commissioner" means the Commissioner of Public Health or the commissioner's designee;

(9) "Contact hour" means a minimum of fifty minutes of a training activity;

(10) "Department" means the Department of Public Health;

(11) "Director of health" means the director of a local health department or district health department appointed pursuant to section 19a-200 or 19a-242 of the general statutes;

(12) "Food code" means the food code administered under section 3 of this act;

(13) "Food establishment" means an operation that (A) stores, prepares, packages, serves, vends directly to the consumer or

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otherwise provides food for human consumption, including, but not limited to, a restaurant, catering food service establishment, food service establishment, temporary food service establishment, itinerant food vending establishment, market, conveyance used to transport people, institution or food bank, or (B) relinquishes possession of food to a consumer directly, or indirectly through a delivery service, including, but not limited to, home delivery of grocery orders or restaurant takeout orders or a delivery service that is provided by common carriers. "Food establishment" does not include a vending machine, as defined in section 21a-34 of the general statutes, a private residential dwelling in which food is prepared under section 21a-62a of the general statutes or a food manufacturing establishment, as defined in section 21a-151 of the general statutes;

(14) "Food inspector" means a director of health, or his or her authorized agent, or a registered sanitarian who has been certified as a food inspector by the commissioner;

(15) "Food inspection training officer" means a certified food inspector who has received training developed or approved by the commissioner and been authorized by the commissioner to train candidates for food inspector certification;

(16) "Food-borne illness" means illness, including, but not limited to, illness due to heavy metal intoxications, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium perfringens* intoxication and hepatitis A, acquired through the ingestion of a common-source food or water contaminated with a chemical, infectious agent or the toxic products of a chemical or infectious agent;

(17) "Food-borne outbreak" means illness, including, but not limited to, illness due to heavy metal intoxications, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium*

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perfringens intoxication and hepatitis A, in two or more individuals, acquired through the ingestion of common-source food or water contaminated with a chemical, infectious agent or the toxic products of a chemical or infectious agent;

(18) "Hot holding" means maintained at a temperature of one hundred thirty-five degrees Fahrenheit or above;

(19) "Itinerant food vending establishment" means a vehicle-mounted, self-contained, mobile food establishment;

(20) "Permit" means a written document issued by a director of health that authorizes a person to operate a food establishment;

(21) "Temporary food service establishment" means a food establishment that operates for a period of not more than fourteen consecutive days in conjunction with a single event or celebration;

(22) "Time or temperature controlled for safety" means maintained at a certain temperature or maintained for a certain length of time, or both, to prevent microbial growth and toxin production; and

(23) "Variance" means a written document issued by the commissioner that authorizes a modification or waiver of one or more requirements of the food code.

Sec. 3. (NEW) (*Effective October 1, 2017*) (a) Not later than July 1, 2018, the commissioner shall adopt and administer by reference the United States Food and Drug Administration's Food Code, as amended from time to time, and any Food Code Supplement published by said administration as the state's food code for the purpose of regulating food establishments.

(b) The commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the

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provisions of this section and sections 4 to 8, inclusive, of this act.

Sec. 4. (NEW) (*Effective October 1, 2017*) On and after July 1, 2018:

(1) No person, firm or corporation shall operate or maintain any food establishment where food or beverages are served or sold to the public in any town, city or borough without obtaining a valid permit or license to operate from the director of health of such town, city or borough, in a form and manner prescribed by the director of health. The director of health shall issue a permit or license to operate a food establishment upon receipt of an application if the food establishment meets the requirements of this section. All food establishments shall comply with the food code.

(2) All food establishments shall be inspected by a certified food inspector in a form and manner prescribed by the commissioner. The Commissioner of Public Health may, in consultation with the Commissioner of Consumer Protection, grant a variance for the requirements of the food code if the Commissioner of Public Health determines that such variance would not result in a health hazard or nuisance.

(3) No permit to operate a food establishment shall be issued by a director of health unless the applicant has provided the director of health with proof of registration with the department and a written application for a permit in a form and manner prescribed by the department. Temporary food establishments and certified farmers' markets, as defined in section 22-6r of the general statutes, as amended by this act, shall be exempt from registering with the Department of Public Health.

(4) Each class 2 food establishment, class 3 food establishment and class 4 food establishment shall employ a certified food protection manager. No person shall serve as a certified food protection manager

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unless such person has satisfactorily passed a test as part of a food protection manager certification program that is evaluated and approved by an accrediting agency recognized by the Conference for Food Protection as conforming to its standards for accreditation of food protection manager certification programs. A certified food inspector shall verify that the food protection manager is certified upon inspection of the food establishment.

Sec. 5. (NEW) (*Effective October 1, 2017*) (a) On and after July 1, 2018, no person shall engage in the practice of a food inspector unless such person has obtained a certification from the commissioner in accordance with the provisions of this section. The commissioner shall develop a training and verification program for food inspector certification that shall be administered by the food inspection training officer at a local health department.

(1) Each person seeking certification as a food inspector shall submit an application to the department on a form prescribed by the commissioner and present to the department satisfactory evidence that such person (A) is sponsored by the director of health in the jurisdiction in which the applicant is employed to conduct food inspections, (B) possesses a bachelor's degree or three years of experience in a regulatory food protection program, (C) has successfully completed a training and verification program, (D) has successfully completed the field standardization inspection prescribed by the commissioner, and (E) is not involved in the ownership or management of a food establishment located in the applicant's jurisdiction.

(2) Each director of health sponsoring an applicant for certification as a food inspector shall submit to the commissioner a form documenting the applicant's qualifications and successful completion of the requirements described in subdivision (1) of this subsection.

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(3) Certifications issued under this section shall be subject to renewal once every three years. A food inspector applying for renewal of his or her certification shall demonstrate successful completion of twenty contact hours in food protection training, as approved by the commissioner, and reassessment by the food inspection training officer.

(b) A certified food inspector shall conduct an inspection of a food establishment in a form and manner prescribed by the commissioner to determine compliance with the food code. The director of health shall ensure all food establishments are inspected at a frequency determined by their risk classification. Such director of health shall evaluate the food establishment's risk classification on an annual basis to determine accuracy. More frequent inspections may be conducted to ensure compliance with the food code. Each food establishment classification shall be inspected pursuant to the following schedule:

(1) Class 1 food establishments shall be inspected at intervals not to exceed three hundred sixty days.

(2) Class 2 food establishments shall be inspected at intervals not to exceed one hundred eighty days.

(3) Class 3 food establishments shall be inspected at intervals not to exceed one hundred twenty days.

(4) Class 4 food establishments shall be inspected at intervals not to exceed ninety days.

(5) Temporary food service establishments shall be inspected prior to the issuance of a permit to operate and as often as necessary to ensure compliance with the food code.

Sec. 6. (NEW) (*Effective October 1, 2017*) If a director of health has reasonable cause to suspect the possibility of a food-borne illness or

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food-borne outbreak, such director shall complete an investigation and take action to control the illness or outbreak. Such action may include, but shall not be limited to, securing employee morbidity histories, requiring medical and laboratory examinations of an employee, modification of a menu and any other restriction or action deemed necessary by such director of health to control the illness or outbreak. A person who violates any provision of sections 3 to 8, inclusive, of this act, section 22-6r of the general statutes, as amended by this act, or section 22-6s of the general statutes, as amended by this act, or who provides false information during an investigation, refuses to cooperate with an investigation or otherwise impedes an investigation that is conducted under this section or section 4 or 5 of this act shall be guilty of a class C misdemeanor.

Sec. 7. (NEW) (*Effective October 1, 2017*) The owner or operator of a food establishment aggrieved by an order to correct any inspection violations identified by the food inspector or to hold, destroy or dispose of unsafe food may appeal such order to the director of health not later than forty-eight hours after issuance of such order. The director of health shall review the request for an appeal and, upon conclusion of the review, may vacate, modify or affirm such order. If affirmed by the director of health, the corrective actions specified by the food inspector shall be so ordered by the director of health. An owner or operator of a food service establishment who is aggrieved by the affirmation or modification of an order by the director of health, including, but not limited to, an order to suspend the permit or license to operate the food service establishment, may appeal to the department pursuant to section 19a-229 of the general statutes. During such appeal, the order shall remain in effect unless the commissioner orders otherwise.

Sec. 8. (NEW) (*Effective October 1, 2017*) (a) Nothing in this section or sections 3 to 7, inclusive, of this act shall limit the authority of directors

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of health under chapter 368e or 368f of the general statutes.

(b) For purposes of this section and sections 3 to 7, inclusive, of this act, the provisions of the general statutes and regulations of Connecticut state agencies pertaining to certified farmers' markets shall not limit the authority of the Commissioner of Agriculture and the director of health to require a farmer to comply with the requirements of sections 22-6r and 22-6s of the general statutes, as amended by this act.

(c) The provisions of the food code that concern the employment of a certified food manager and any reporting requirements relative to such certified food manager (1) shall not apply to (A) an owner or operator of a soup kitchen that relies exclusively on services provided by volunteers, (B) any volunteer who serves meals from a nonprofit organization, including a temporary food service establishment and a special event sponsored by a nonprofit civic organization, including, but not limited to, school sporting events, little league food booths, church suppers and fairs, or (C) any person who serves meals to individuals at a registered congregate meal site funded under Title III of the Older Americans Act of 1965, as amended from time to time, that were prepared under the supervision of a certified food manager, and (2) shall not prohibit the sale or distribution of food at (A) a bed and breakfast establishment that prepares and offers food to guests, provided the operation is owner-occupied and the total building occupant load is not more than sixteen persons, including the owner and occupants, has no provisions for cooking or warming food in the guest rooms, breakfast is the only meal offered and the consumer of such operation is informed by statements contained in published advertisements, mailed brochures and placards posted in the registration area that the food is prepared in a kitchen that is not regulated and inspected by the local health director, and (B) a noncommercial function, including, but not limited to, an educational,

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religious, political or charitable organization's bake sale or potluck supper, provided the seller or person distributing the food maintains the food at the temperature, pH level and water activity level conditions that will inhibit the growth of infectious or toxigenic microorganisms. For the purposes of this subsection, "noncommercial function" means a function where food is sold or distributed by a person not regularly engaged in the business of selling such food for profit.

Sec. 9. (NEW) (*Effective October 1, 2017*) Notwithstanding any provision of the general statutes, the Commissioner of Public Health may announce to the public, at the commissioner's sole discretion, the identity of the food establishment that was the source of any food-borne illness or food-borne outbreak that has been verified by the department for the purpose of reducing morbidity and mortality from any cause or condition of such illness or outbreak. The commissioner shall make every effort to limit the disclosure of personally identifiable health data to the minimal amount necessary to accomplish such purpose.

Sec. 10. (NEW) (*Effective from passage*) Notwithstanding any provision of the general statutes, from the effective date of this section until June 30, 2018, a food service establishment may request a variance from the Commissioner of Public Health from the requirements of the Public Health Code, established under section 19a-36 of the general statutes, to utilize the process of sous vide and acidification of sushi rice, as defined in section 3-502.11 of the United States Food and Drug Administration's Food Code, as amended from time to time. The Commissioner of Public Health shall review the request for a variance and provide the food establishment with notification regarding the status of its request not later than thirty days after the commissioner receives such request. The commissioner may grant such variance if he or she determines that such variance would

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not result in a health hazard or nuisance.

Sec. 11. Subsection (d) of section 22-6r of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(d) A food [service] establishment, as defined in section [19-13-B42 of the regulations of Connecticut state agencies] 2 of this act, may purchase farm products that have been produced and are sold in conformance with the applicable regulations of Connecticut state agencies at a farmers' market, provided such establishment requests and obtains an invoice from the farmer or person selling farm products. The farmer or person selling farm products shall provide to the food service establishment an invoice that indicates the source and date of purchase of the farm products at the time of the sale.

Sec. 12. Section 22-6s of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) For purposes of this section: (1) "Certified farmers' market" has the same meaning as provided in section 22-6r, as amended by this act, and (2) ["food service establishment"] "food establishment" has the same meaning as provided in section [19-13-B42 of the regulations of Connecticut state agencies] 2 of this act.

(b) Any permit or license to operate a food [service] establishment that is issued by a municipal health department or health district to a farmer for the purpose of such farmer's participation in a certified farmers' market within the jurisdiction of such municipal health department or health district shall be valid for the purpose of operating a food [service] establishment at any certified farmers' market in the state, provided (1) such operation is in accordance with the menu items and food preparation processes approved by such issuing municipal health department or health district, or (2) such

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operation utilizes menu items or food preparation processes that are substantially similar to the menu items and food preparation processes approved by such issuing municipal health department or health district. Not later than fourteen days prior to commencing the operation of a food [service] establishment in a municipality that is within the jurisdiction of a municipal health department or health district that did not issue a permit or license to such farmer, a notice of intent to commence such operation shall be sent by such farmer to the municipal health department or health district with such jurisdiction. Such notice shall contain a copy of the municipal health department or health district permit or license issued in accordance with this section and a copy of any food service plan developed as part of the application for such permit or license. Any permit or license issued in accordance with the provisions of this section shall be valid for the duration of the calendar year in which such permit or license was issued.

(c) Any local director of health may take any regulatory action such director deems necessary against any farmer who operates a food [service] establishment within the jurisdiction of such health department or district, as applicable, in order to ensure that such farmer is in compliance with the Public Health Code, provided no local director of health shall require any farmer to apply for or purchase a permit or license to operate a food [service] establishment if such farmer holds a valid permit or license issued by another municipal health department or health district and is in compliance with the provisions of subsection (b) of this section.

(d) Any farmer who operates a food [service] establishment in a certified farmers' market in accordance with this section and the menu items and food preparation processes approved by the municipal health department or health district that issued such permit or license, or who utilizes menu items or food preparation processes that are

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substantially similar to the menu items and food preparation processes approved by such issuing municipal health department or health district, shall be exempt from the provisions of any ordinance of any municipality or health district concerning the operation of a food [service] establishment. No municipal health department or health district shall require any farmer who applies for a permit or license to operate a food [service] establishment at a certified farmers' market to submit information regarding such farmer's ability to comply with any ordinance of any municipality or health district concerning the operation of such food [service] establishment.

Sec. 13. Subsection (a) of section 19a-36f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) No person shall use or require the use of disposable, nonsterile or sterile natural rubber latex gloves at a retail food establishment, including, but not limited to, a food [service] establishment, catering food service establishment or itinerant food vending establishment.

Sec. 14. Subdivision (2) of subsection (a) of section 38a-313b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(2) The provisions of subdivision (1) of this subsection shall apply to an insurance policy or rider delivered, issued for delivery, renewed, amended or continued in this state for a food establishment classified as a class [III or class IV] 3 or class 4 food establishment pursuant to regulations adopted under section [19a-36] 3 of this act.

Sec. 15. Subsections (a) and (b) of section 52-557l of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2017*):

(a) Notwithstanding any provision of the general statutes, any

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person, including but not limited to a seller, farmer, processor, distributor, wholesaler or retailer of food, who donates an item of food for use or distribution by a nonprofit organization, [or] nonprofit corporation, political subdivision of the state or senior center and any nonprofit organization or nonprofit corporation that collects donated food and distributes such food to other nonprofit organizations or nonprofit corporations or a political subdivision of the state or senior center free of charge or for a nominal fee shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition or packaging of the food, unless it is established that the donor, at the time of making the donation, or the nonprofit organization or nonprofit corporation, at the time of distributing the food, knew or had reasonable grounds to believe that the food was (1) adulterated, as defined in section 21a-101, or (2) not fit for human consumption.

(b) Notwithstanding any provision of the general statutes, any food establishment classified as a class [III or class IV] 3 or class 4 food establishment pursuant to regulations adopted under section [19a-36] 3 of this act, that donates perishable food for use or distribution by a temporary emergency shelter in accordance with the provisions set forth in section 38a-313b, as amended by this act, shall not be liable for civil damages or criminal penalties resulting from the nature, age, condition or packaging of the food, unless it is established that the donor, at the time of making the donation, knew or had reasonable grounds to believe that the food was (1) embargoed or ordered destroyed by the Department of Public Health or a local director of health, or an authorized agent thereof, (2) adulterated, as defined in section 21a-101, or (3) not fit for human consumption.

Sec. 16. Sections 19a-36c, 19a-36d and 19a-36e of the general statutes are repealed. (*Effective October 1, 2017*)

Approved June 30, 2017