

**Senator Curtis S. Bramble** proposes the following substitute bill:

**FOOD HANDLER LICENSING AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Curtis S. Bramble**

House Sponsor: Johnny Anderson

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**LONG TITLE**

**General Description:**

This bill modifies the General Sanitation chapter in the Utah Health Code by amending provisions related to a food handler.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a person from acting as a food handler for a food service establishment unless the person successfully completes an approved food handler training program and holds a valid food handler permit;
- ▶ provides for an approved food handler training program, a certificate of completion, and a food handler permit, including content of the training, testing, and fees;
- ▶ provides that the Department of Health develop exam questions, determine information required to identify each student, establish rules for suspending or revoking a food handler permit for cause, and establish rules for preventing fraud;
- ▶ provides that the department in consultation with local health departments shall approve the content of an approved food handler training program, including approving each entity providing the program;
- ▶ requires that an instructor of an approved food handler training program be



26 registered with a local health department;

27       ▶ provides for department approval of alternative test questions requested by an  
28 approved food handler training provider;

29       ▶ provides for rulemaking by the department.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       This bill takes effect on July 1, 2013.

34 **Utah Code Sections Affected:**

35 REPEALS AND REENACTS:

36       **26-15-5**, as enacted by Laws of Utah 1981, Chapter 126



37  
38 *Be it enacted by the Legislature of the state of Utah:*

39       Section 1. Section **26-15-5** is repealed and reenacted to read:

40       **26-15-5. Requirements for food handlers.**

41       (1) As used in this section:

42       (a) "Approved food handler training program" means a training program described by  
43 this section and approved by the department.

44       (b) "Food handler" means a person who works with unpackaged food, food equipment  
45 or utensils, or food-contact surfaces for a food service establishment.

46       (c) "Food handler permit" means a permit issued by a local health department to allow  
47 a person to work as a food handler.

48       (d) "Food service establishment" has the same meaning as provided in Section  
49 26-15a-102.

50       (e) "Provider" means a person or entity that provides an approved food handler training  
51 program.

52       (2) A person may not work as a food handler for a food service establishment unless  
53 the person:

54       (a) successfully completes an approved food handler training program within 14 days  
55 after the day on which the person begins employment that includes food handler services; and

56       (b) obtains a food handler permit within 30 days after the day on which the person

57 begins employment that includes food handler services.

58 (3) An approved food handler training program shall include:

59 (a) at least 75 minutes of training time;

60 (b) an exam, which requires a passing score of 75% and, except as provided in

61 Subsection (11) ~~H→~~ [(b)] ←H , consists of:

62 (i) 40 multiple-choice questions developed by the department, in consultation with  
63 local health departments; and

64 (ii) four content sections designated by rule of the department with 10 randomly  
65 selected questions for each content section; and

66 (c) upon completion, the awarding of a certificate of completion that is valid with any  
67 local health department in the state for 30 days after the day on which the certificate is issued:

68 (i) to a student who:

69 (A) completes the training; and

70 (B) passes the exam ~~H→~~ described in this Subsection (3) or an exam approved by the  
70a department in accordance with Subsection (11) ←H ; and

71 (ii) which certificate of completion:

72 (A) includes student identifying information determined by department rule; and

73 (B) is delivered by mail or electronic means.

74 (4) (a) A person may obtain a food handler permit by:

75 (i) providing a valid certificate of completion of an approved food handler training  
76 program and an application, approved by the local health department, to a local health  
77 department; and

78 (ii) paying a food handler permit fee to the local health department.

79 (b) ~~H→~~ (i) ←H A local health department may charge a food handler permit fee that is  
79a reasonable

80 and that reflects the cost of managing the food safety program.

80a ~~H→~~ (ii) The department shall establish by rule the maximum amount a local health  
80b department may charge for the fee described in Subsection (4)(b)(i). ←H

81 (5) A person working as a food handler for a food service establishment shall obtain a  
82 food handler permit:

83 (a) before handling any food;

84 (b) within 30 days of initial employment with a food service establishment; and

85 (c) within seven days of the expiration of an existing food handler permit.

86 (6) (a) A person who holds a valid food handler permit under this section may serve as  
87 a food handler throughout the state without restriction.

88 (b) A food handler permit granted after June 30, 2013, is valid for three years from the  
89 date of issuance.

90 (7) A person may not serve as an instructor of an approved food handler training  
91 program, unless the person is registered with a local health department as an instructor.

92 (8) The department, in consultation with local health departments, shall:

93 (a) approve the content of an approved food handler training program required under  
94 Subsection (3):

95 (b) approve, as qualified, each provider; and

96 (c) in accordance with applicable rules made under Subsection (12), provide a means to  
97 authenticate:

98 (i) documents used in an approved food handler training program;

99 (ii) the identity of an approved instructor; and

100 (iii) an approved provider.

101 (9) An approved food handler training program shall:

102 (a) provide basic instruction on the Centers for Disease Control and Prevention's top  
103 five foodborne illness risk factors, including:

104 (i) improper hot and cold holding temperatures of potentially hazardous food;

105 (ii) improper cooking temperatures of food;

106 (iii) dirty or contaminated utensils and equipment;

107 (iv) poor employee health and hygiene; and

108 (v) food from unsafe sources;

109 (b) be offered through:

110 (i) a trainer-led class;

111 (ii) the Internet; or

112 (iii) a combination of a trainer-led class and the Internet;

113 (c) maintain a system to verify a certificate of completion of an approved food handler  
114 training program issued under Subsection (3) to the department, a local health department, and  
115 a food service establishment; and

116 (d) provide to the department unrestricted access to classroom training sessions and  
117 online course materials at any time for audit purposes.

118 (10) (a) A provider that provides an approved food handler training program may

119 charge a reasonable fee.

120 (b) If a person or an entity is not approved by the department to provide an approved  
121 food handler training program, the person or entity may not represent, in connection with the  
122 person's or entity's name or business, including in advertising, that the person or entity is a  
123 provider of an approved food handler training program or otherwise represent that a program  
124 offered by the person or entity will qualify an individual to work as a food handler in the state.

125 (11) (a) Subject to the approval of the department every three years, a provider may use  
126 an exam that consists of questions that do not conform with the provisions of Subsection

127 (3)(b), if:

128 (i) the provider complies with the provisions of this Subsection (11);

129 (ii) the provider pays a fee every three years to the department, which fee shall be  
130 determined by the department and shall reflect the cost of the review of the alternative test  
131 questions; and

132 (iii) an independent instructional design and testing expert provides a written report to  
133 the department containing a positive recommendation based on the expert's analysis as  
134 described in Subsection 11(b).

135 (b) (i) A provider may request approval of a different bank of test questions other than  
136 the questions developed under Subsection (3) by submitting to the department a proposed bank  
137 of at least 200 test questions organized by learning objective in accordance with Subsection  
138 (9)(a).

139 (ii) A provider proposing a different bank of test questions under this Subsection (11)  
140 shall contract with an independent instructional design and testing expert approved by the  
141 department at the provider's expense to analyze the provider's bank of test questions to ensure  
142 the questions:

143 (A) effectively measure the applicant's knowledge of the required learning objectives;  
144 and

145 (B) meet the appropriate testing standards for question structure.

146 (c) If the department provides written notice to a provider that any test question of the  
147 provider's approved exam under this Subsection (11) inadequately tests the required learning  
148 objectives, the provider shall make required changes to the question within 30 days after the  
149 day on which written notice is received by the provider.

- 150 (d) A food handler exam offered by a provider may be:  
151 (i) a written exam;  
152 (ii) an online exam; or  
153 (iii) an oral exam, if circumstances require, including when an applicant's language or  
154 reading abilities interfere with taking a written or online exam.
- 155 (e) A provider shall routinely rotate test questions from the test question bank, change  
156 the order of test questions in tests, and change the order of multiple-choice answers in test  
157 questions to discourage cheating.
- 158 (12) (a) When exercising rulemaking authority under this section the department shall  
159 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 160 (b) The department shall, by rule, establish requirements designed to inhibit fraud for  
161 an approved food handler training program described in this section.
- 162 (c) The requirements described in Subsection (12)(b) may include requirements to  
163 ensure that:
- 164 (i) an individual does not attempt to complete the program or exam in another  
165 individual's place;
- 166 (ii) an individual taking the approved food handler training program is focused on  
167 training material and actively engaged throughout the training period;
- 168 (iii) if the individual is unable to participate online because of technical difficulties, an  
169 approved food handler training program provides technical support, such as requiring a  
170 telephone number, email, or other method of communication to allow an individual taking the  
171 online course or test to receive assistance;
- 172 (iv) an approved food handler training program provider maintains a system to reduce  
173 fraud as to who completes an approved food handler training program, such as requiring a  
174 distinct online certificate with information printed on the certificate that identifies a person  
175 taking an online course or exam, or requiring measures to inhibit duplication of a certificate of  
176 completion or of a food handler permit;
- 177 (v) the department may audit an approved food handler training program;
- 178 (vi) an individual taking an online course or certification exam has the opportunity to  
179 provide an evaluation of the online course or test;
- 180 (vii) an approved food handler training program provider track the Internet protocol

181 address or similar electronic location of an individual who takes an online course or  
182 certification exam;

183 (viii) an individual who takes an online course or exam uses an electronic signature; or

184 (ix) if the approved food handler training program provider learns that a certificate of  
185 completion does not accurately reflect the identity of the individual who took the online course  
186 or certification exam, an approved food handler training program provider invalidates the  
187 certificate of completion.

188 Section 2. **Effective date.**

189 This bill takes effect on July 1, 2013.