

**FOOD SAFETY CERTIFICATE**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: James R. Gowans**

AN ACT RELATING TO HEALTH; AMENDING THE EXEMPTIONS TO THE FOOD SAFETY MANAGER CERTIFICATE REQUIREMENT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**26-15a-104**, as enacted by Chapter 345, Laws of Utah 1998

**26-15a-105**, as enacted by Chapter 345, Laws of Utah 1998

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

Section 1. Section **26-15a-104** is amended to read:

**26-15a-104. Food service establishment requirements -- Enforcement -- Right of appeal.**

(1) (a) Except as provided in Subsection (1)(b), each food service establishment in the state shall~~[, on or before July 1, 1999,]~~ be managed by at least one full-time certified food safety manager at each establishment site, who need not be present at the establishment site during all its hours of operation.

(b) Food service establishments~~[, under the same ownership,]~~ that prepare and serve a total of five or fewer potentially hazardous foods ~~[shall employ at least one certified food safety manager for every ten establishment sites under common ownership]~~ are exempt from Subsection (1)(a).

(2) Within 60 days of the termination of a certified food safety manager's employment that results in the food service establishment no longer being in compliance with Subsection (1), the food service establishment shall:

(a) employ a new certified food safety manager; or

28 (b) designate another employee to become the establishment's certified food safety  
29 manager who shall commence a department-approved food safety manager training course.

30 (3) Compliance with the 60-day time period provided in Subsection (2) may be extended  
31 by the local health department for reasonable cause, as determined by the department by rule.

32 (4) (a) The local health department may determine whether a food service establishment  
33 is in compliance with this section by visiting the establishment during regular business hours and  
34 requesting information and documentation about the employment of a certified food safety  
35 manager.

36 (b) If a violation of this section is identified, the local health department shall propose  
37 remedial action to bring the food service establishment into compliance.

38 (c) A food service establishment receiving notice of a violation and proposed remedial  
39 action from a local health department may appeal the notice of violation and proposed remedial  
40 action pursuant to procedures established by the local health department, which shall be essentially  
41 consistent with the provisions of Title 63, Chapter 46b, Administrative Procedures Act.  
42 Notwithstanding the provisions of Section 63-46b-15, an appeal of a local health department  
43 decision to a district court shall be conducted as an original, independent proceeding, and not as  
44 a review of the proceedings conducted by the local health department. The district court shall give  
45 no deference to the findings or conclusions of the local health department.

46 Section 2. Section **26-15a-105** is amended to read:

47 **26-15a-105. Exemptions to food service establishment requirements.**

48 (1) The following are not subject to the provisions of Section 26-15a-104:

49 (a) special events sponsored by municipal or nonprofit civic organizations, including food  
50 booths at school sporting events and little league athletic events and church functions;

51 (b) temporary event food services approved by a local health department;

52 (c) vendors and other food service establishments that serve only commercially  
53 prepackaged foods and beverages as defined by the department by rule;

54 (d) private homes not used as a commercial food service establishment;

55 [~~(e) health care facilities licensed under Chapter 21, Health Care Facility Licensing and  
56 Inspection Act;~~]

57 [(~~f~~) (e) bed and breakfast establishments at which the only meal served is a continental  
58 breakfast as defined by the department by rule;

59            [~~g~~] (f) residential child care providers;  
60            [~~h~~] (g) child care providers and programs licensed under Chapter 39, Utah Child Care  
61 Licensing Act; and  
62            [~~i~~] (h) back country food service establishments.  
63            (2) Nothing in this section may be construed as exempting a food service establishment  
64 described in Subsection (1) from any other applicable food safety laws of this state.

65            Section 3. **Effective date.**

66            If approved by two-thirds of all the members elected to each house, this act takes effect  
67 upon approval by the governor, or the day following the constitutional time limit of Utah  
68 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
69 date of veto override.

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**Legislative Review Note**  
**as of 1-27-00 7:57 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**