

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

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



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 Section **26-15-5** is repealed and reenacted to read: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)(b), 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; 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) A local health department may charge a food handler permit fee that is reasonable
80 and that reflects the cost of managing the food safety program.

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.