



Ohio Legislative Service Commission

122nd House Bill Analysis

Am. H.B. 113

122nd General Assembly
(As Reported by H. Commerce & Labor)

Reps. Terwilleger, Cates, Schuler, Opfer, Padgett, Roman, Hood, Mallory

- Specifies that a food service operation that includes the preparation and serving of bakery products is regulated only under the law governing food service operations.
- Removes a bakery that is part of an establishment licensed as a food service operation from the law governing bakeries.
- Creates the Food Safety Council to study the inspection and licensing requirements of retail food establishments and food service operations and report its findings to the General Assembly, and "sunsets" the Council six months after it issues the report.

CONTENT AND OPERATION

Regulation of bakeries and food service operations

The Bakery Law (R.C. Chapter 911.) currently requires every person, firm, partnership, or corporation that owns or operates a bakery to register the bakery with the Director of Agriculture (R.C. § 911.02, not in the bill). Similarly, the Food Service Operations Law (R.C. Chapter 3732.) prohibits any person or government entity from operating a food service operation without a license (R.C. § 3732.03(A), not in the bill).

The Bakery Law defines a "bakery" as a building or part of a building wherein is carried on the production, preparation, packing, storing, display, or sale of bread, cake, pies, cookies, crackers, doughnuts, noodles, waffle cones, pizza crusts for resale, or other bakery products, whether frozen, fried, deep fried, or partially or completely baked (R.C. § 911.01). The bill further permits bakeries to sell stuffed breads. The Food Service Operations Law defines a "food service operation" as a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation (R.C. § 3732.01(A), not in the bill). An establishment licensed as a food service operation that includes a bakery as part of that establishment apparently falls within the definitions of both "bakery" and "food service operation." Consequently, such a food service operation is concurrently regulated under both the Bakery Law and the Food Service Operations Law.

The bill specifically excludes a licensed food service operation that includes the preparation or serving of bakery products from the definition of "bakery." The bill further specifies that the preparation of bakery products by a food service operation is regulated solely under the Food Service Operations Law and not under the Bakery Law. Under the bill, a bakery is to be regulated only under the Bakery Law when either of the following applies:

- (1) The bakery only serves bakery products on its premises;
- (2) The bakery serves bakery products for consumption on its premises and also serves frozen desserts, beverages, nuts, popcorn, candy or similar confections, dairy products, or any combination of those items for consumption on its premises. (R.C. §§ 911.01(B), 911.011, and 3732.07(A).)

Food Safety Council

Purpose

The bill creates the Food Safety Council to study the inspection and licensing requirements in the Revised Code and make recommendations for eliminating duplicative or concurrent inspections and licensing of retail food establishments and food service operations. The Council also must study and make recommendations for the establishment of statewide uniform standards for food safety and sanitation for retail food establishments and food service operations. In making its recommendations, the Council must consider whether one agency should be designated, where appropriate, to enforce any statewide uniform standards that are adopted.

The Council is required to issue a report of its findings and any recommendations to the President of the Senate and the Speaker of the House of Representatives within 120 days after the date of its initial organizational meeting. The Council ceases to exist six months after the issuance of its report.

Composition

The Council consists of the Director of Agriculture, or the Director of Agriculture's designee, the Director of Health, or the Director of Health's designee, and, except as provided below, seven members appointed jointly by the Director of Agriculture and the Director of Health as follows:

- (1) Two representatives of the food service industry appointed from among restaurant operators, mobile food service operators, vending machine location operators, fast food restaurant operators, and institutional food service operators;
- (2) Two representatives of retail food establishments appointed from among retail merchants, bakers, and grocers;
- (3) One representative of a health commissioner association;
- (4) One representative of an environmental health or public health association who is a registered sanitarian;
- (5) One representative of consumers who is not employed by the state or any of its subdivisions and who does not have a pecuniary interest in a food service operation or a food establishment.

Within 30 days after the bill's effective date, the Director of Health and the Director of Agriculture must make their appointments to the Council. If the Director of Agriculture and the Director of Health fail to make their appointments, the appointments will be made jointly by the Speaker of the House of Representatives and the President of the Senate.

The Director of Health and the Director of Agriculture, or their designees, serve as co-chairpersons of the Council. The Council members are required to meet, organize, and begin their work. Vacancies occurring on the Council are filled in the same manner as the initial appointments. Five members of the Council constitute a quorum and six votes are necessary to validate an action. Members of the Council serve without compensation.

HISTORY

ACTION DATE JOURNAL ENTRY

Introduced 01-21-97 p. 113

Reported, H.

Commerce & Labor 05-07-97 p. 727

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State of Ohio