

## **IC 16-42-5.2**

### Chapter 5.2. Food Handlers

#### **IC 16-42-5.2-1**

##### **Local regulation precluded**

Sec. 1. Except as provided in this chapter, a corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-2**

##### **Exempt food establishments**

Sec. 2. (a) Except as provided in subsection (b), this chapter does not apply to a food establishment when the food establishment's food handling activities are limited solely to one (1) or more of the following:

- (1) Heating or serving precooked foods.
- (2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.
- (3) Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice.
- (4) Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans.
- (5) Providing prepackaged food in its original package.

(b) This subsection does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale. A food establishment that has more than ten thousand (10,000) square feet in total retail sales space at the food establishment location must comply with this chapter.

*As added by P.L.266-2001, SEC.16. Amended by P.L.139-2005, SEC.1.*

#### **IC 16-42-5.2-3**

##### **Exempt entities**

Sec. 3. This chapter does not apply to the following:

- (1) Hospitals licensed under IC 16-21.
- (2) Health facilities licensed under IC 16-28.
- (3) Housing with services establishments that are required to file disclosure statements under IC 12-10-15.
- (4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.
- (5) Community mental health centers (as defined in IC 12-7-2-38).
- (6) Private mental health institutions licensed under IC 12-25.
- (7) An area agency on aging designated under IC 12-10-1 that provides food under a nutrition service program. However, the premises where the food is prepared is not exempt from the requirements under this chapter.

(8) A food pantry that:

(A) is operated or affiliated with a nonprofit organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) distributes food, which may include food from the United States Department of Agriculture, to needy persons.

However, a food bank or other facility that distributes donated food to other organizations is not exempt from the requirements of this chapter.

*As added by P.L.266-2001, SEC.16. Amended by P.L.104-2003, SEC.9; P.L.97-2004, SEC.71; P.L.139-2005, SEC.2.*

### **IC 16-42-5.2-3.5**

#### **Exempt organizations**

Sec. 3.5. (a) An organization that is exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D) is exempt from complying with the requirements of this chapter.

(b) This section does not prohibit an exempted organization from waiving the exemption and using a certified food handler.

*As added by P.L.139-2005, SEC.3.*

### **IC 16-42-5.2-4**

#### **"Certified food handler" defined**

Sec. 4. As used in this chapter, "certified food handler" means a food handler who holds a certificate described in section 7 of this chapter.

*As added by P.L.266-2001, SEC.16.*

### **IC 16-42-5.2-5**

#### **"Food handler" defined**

Sec. 5. As used in this chapter, "food handler" means an individual who:

(1) is an owner, an operator, a manager, or an employee of a food establishment; and

(2) is responsible for or oversees the storage, preparation, display, or serving of food to the public.

*As added by P.L.266-2001, SEC.16.*

### **IC 16-42-5.2-6**

#### **Certified food handler requirement**

Sec. 6. After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler.

*As added by P.L.266-2001, SEC.16.*

### **IC 16-42-5.2-7**

#### **Food borne illness prevention training requirement**

Sec. 7. A food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the state

department of health meets the food borne illness prevention training requirements established by the state department of health.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-8**

##### **Presence of certified food handler**

Sec. 8. After December 31, 2004, a food establishment must have at least one (1) certified food handler responsible for all periods of the food establishment's operation. However, a certified food handler need not be present at the food establishment during all hours of operation.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-9**

##### **Time requirements; food establishment beginning operation or changing ownership**

Sec. 9. After December 31, 2004, a food establishment that begins operation or changes ownership shall comply with section 6 of this chapter not later than six (6) months after beginning operation or changing ownership.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-10**

##### **Time requirements; certified food handler terminating employment**

Sec. 10. After December 31, 2004, if a food establishment does not have a certified food handler because a certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with section 6 of this chapter not later than three (3) months after the termination date of the previous certified food handler.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-11**

##### **Multiple food establishments on same property**

Sec. 11. After December 31, 2004, if more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler is required for the food establishments.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-12**

##### **Penalties**

Sec. 12. After December 31, 2004, an individual who violates any of the provisions of this chapter is subject to the penalties prescribed by the executive board under section 13 of this chapter.

*As added by P.L.266-2001, SEC.16.*

#### **IC 16-42-5.2-13**

##### **Adoption of rules**

Sec. 13. Not later than December 31, 2003, the executive board shall adopt rules under IC 4-22-2 establishing standards for:

- (1) the administration of this chapter; and
- (2) the imposition of penalties for violations of this chapter.

*As added by P.L.266-2001, SEC.16.*

**IC 16-42-5.2-14**

**Local licensing authority not limited**

Sec. 14. This chapter does not limit the authority of a corporation or local health department to license retail food establishments.

*As added by P.L.266-2001, SEC.16.*

**IC 16-42-5.2-15**

**Local enforcement**

Sec. 15. A corporation or local health department may, upon application to and approval of the state department, enforce the provisions of this chapter.

*As added by P.L.266-2001, SEC.16.*