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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 872 Session of  
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INTRODUCED BY KINSEY, ROZZI, DRISCOLL, BULLOCK, DONATUCCI,  
THOMAS, D. COSTA, J. HARRIS, BOBACK AND KORTZ, MARCH 16, 2017

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REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,  
MARCH 16, 2017

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AN ACT

1 Requiring food service employees to obtain emergency first aid  
2 training and certification; providing for waivers of training  
3 and certification; imposing powers and conferring duties on  
4 the Department of Health, the Department of Agriculture and  
5 local health authorities; and providing for limiting  
6 liability.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Food Service  
11 Employees First Aid Training Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Cardiopulmonary resuscitation" or "CPR." An emergency  
17 medical procedure, commonly referred to as CPR, used to restore  
18 normal heartbeat and breathing to an individual suffering  
19 cardiac or heart failure.

1 "Certification." A formal procedure verifying that a food  
2 service employee has met the standards for certification in  
3 emergency first aid.

4 "Certification organization." The American Red Cross, the  
5 American Heart Association or a similar organization or  
6 institution, including an institution of higher education.

7 "Department." The Department of Health of the Commonwealth.

8 "Emergency first aid." Training in cardiopulmonary  
9 resuscitation and the Heimlich maneuver.

10 "Food establishment." A public eating or drinking place that  
11 serves food or drink to the general public for on-premises  
12 consumption.

13 "Food service employee." The term shall include any of the  
14 following:

15 (1) the holder of a license issued in accordance with 3  
16 Pa.C.S. § 5703 (relating to license required);

17 (2) an individual in charge of or having supervisory or  
18 management duties in a food establishment;

19 (3) an individual on the payroll of a food  
20 establishment;

21 (4) an individual performing work under contractual  
22 agreement with a food establishment; or

23 (5) an individual employed by a food establishment who  
24 has been designated by the proprietor to be trained and  
25 certified in emergency first aid in accordance with section  
26 4(d)(1)(iv)(B).

27 "Heimlich maneuver." A first aid procedure for dislodging  
28 food or other obstruction from an individual's windpipe.

29 "Local health authority." Any of the following:

30 (1) The county department of health or joint-county

1 department of health whenever a food establishment is located  
2 in a political subdivision under the jurisdiction of a county  
3 department of health or joint-county department of health.

4 (2) The health authorities of cities, boroughs,  
5 incorporated towns and first class townships whenever a food  
6 establishment is located in a city, borough, incorporated  
7 town or first class township not under the jurisdiction of a  
8 city of the first class, county department of health or  
9 joint-county department of health.

10 (3) The health authorities of second class townships and  
11 second class townships which have adopted a home rule charter  
12 which elect to issue licenses under 3 Pa.C.S. § 5703,  
13 whenever a food establishment is located in a second class  
14 township or second class township which has adopted a home  
15 rule charter not under the jurisdiction of a county  
16 department of health or joint-county department of health.

17 (4) The Department of Agriculture, whenever a food  
18 establishment is located in any other area of this  
19 Commonwealth and is not licensed by a local health authority  
20 in accordance with paragraphs (1), (2) and (3).

21 "Public eating or drinking place." A place within this  
22 Commonwealth where food or drink is served or provided to the  
23 general public, with or without charge.

24 "Training program." An emergency first aid training and  
25 certification program for food service employees provided by a  
26 local health authority or a certification organization as  
27 approved by the department in accordance with this act.

28 Section 3. Emergency first aid training and certification  
29 required and methods of training, certification,  
30 renewal and exemption.

1 (a) Training required.--

2 (1) Every food establishment where food is served to the  
3 general public for on-premises consumption shall require that  
4 food service employees be trained and certified to administer  
5 emergency first aid.

6 (2) The emergency first aid training required under  
7 paragraph (1) shall meet or exceed the standards established  
8 by a certification organization and shall include basic  
9 instruction in the following:

10 (i) The Heimlich maneuver pursuant or similar to a  
11 training program described in Red Cross Manual 32-1138 as  
12 the abdominal thrust procedures, except that no  
13 instruction shall include a procedure or technique which  
14 would require a food service employee to use an  
15 instrument or device to remove food lodged in an  
16 individual's throat.

17 (ii) Cardiopulmonary resuscitation pursuant to a  
18 training program approved by the department and provided  
19 by a certification organization or local health  
20 authority. Training under this paragraph may include  
21 instruction in the operation and use of automated  
22 external defibrillators (AED) for food service employees  
23 of a food establishment that voluntarily has an AED  
24 accessible on the establishment's premises.

25 (b) Methods of training and certification.--The department  
26 or a local health authority may ensure that emergency first aid  
27 training is met by:

28 (1) developing and offering an emergency first aid  
29 training program for food service employees, which may be  
30 provided by the local health authority or a certification

1 organization; or

2 (2) accepting emergency first aid certification awarded  
3 by a certification organization offered by the certification  
4 organization through either an in-person or online first aid  
5 certification program.

6 (c) Certification renewal.--The department shall require  
7 proprietors of food establishments to provide for the renewal of  
8 food service employees' emergency first aid certification. The  
9 following shall apply:

10 (1) Renewal of first aid certification may be provided  
11 by the local health authority or a certification  
12 organization, as approved by the department.

13 (2) Emergency first aid certification shall be in effect  
14 for the certification period prescribed by the certification  
15 organization and the timing of certification renewal shall  
16 coincide with the requirements of the certification  
17 organization.

18 Section 4. Duties of department.

19 (a) Administration and enforcement.--The department shall  
20 administer and enforce the provisions of this act. To carry out  
21 the provisions of this act the department shall:

22 (1) Develop guidelines it determines necessary and  
23 appropriate to carry out the provisions of this act.

24 (2) Consult with the Department of Agriculture and local  
25 health authorities to develop guidelines in accordance with  
26 paragraph (1).

27 (3) Coordinate with local health authorities to develop  
28 uniform standards for emergency first aid training and  
29 certification, including procedures for verifying emergency  
30 first aid training.

1           (4) Publish the names and locations of all approved  
2 certification organizations and emergency first aid training  
3 programs on its publicly accessible Internet website.

4           (b) Guidelines.--The guidelines developed by the department  
5 in accordance with subsection (a) shall include, but are not  
6 limited to, the following:

7           (1) procedures for verifying first aid training and  
8 certification;

9           (2) explanation of the roles of local health authorities  
10 under this act;

11           (3) procedures for waiving emergency first aid training  
12 and certification in accordance with subsection (d);

13           (4) the fee which may be charged for issuing  
14 verification of emergency first aid training and  
15 certification, which shall not exceed \$35; or

16           (5) any other information the department determines  
17 necessary and appropriate to administer the provisions of  
18 this act.

19           (c) Collaboration with Department of Agriculture.--The  
20 department shall collaborate with the Department of Agriculture  
21 to administer and enforce the provisions of this act. The  
22 department shall:

23           (1) Consult with the Department of Agriculture to  
24 determine the food establishment licensed by the Department  
25 of Agriculture under 3 Pa.C.S. § 5703 (relating to license  
26 required), which should be exempt from the requirements of  
27 this act.

28           (2) Collaborate with the Department of Agriculture to  
29 obtain licensure data on food establishments licensed by the  
30 Department of Agriculture or local health authorities under 3

1 Pa.C.S. § 5703.

2 (3) Consult with the Department of Agriculture to  
3 develop a first aid training and certification program for  
4 charitable and nonprofit organizations, which may be deemed  
5 exempt from the requirements of this act under paragraph (1),  
6 but which elect to voluntarily seek emergency training and  
7 certification for their food service employees.

8 (d) Waiver of training requirement.--

9 (1) The department may waive in writing the emergency  
10 first aid training and certification requirements of this act  
11 under the following circumstances:

12 (i) In cases of undue hardship based on criteria  
13 developed by the department in consultation with local  
14 health authority.

15 (ii) Where the department or local authority  
16 determines that the food service employee's work  
17 assignment renders the training impracticable or  
18 unnecessary.

19 (iii) The food service employee holds a valid first  
20 aid or CPR certification issued by a certification  
21 organization.

22 (iv) In cases where the proprietor of a food  
23 establishment:

24 (A) has designated one or more food service  
25 employees to receive emergency first aid training and  
26 certification; and

27 (B) requires at least one designated employee  
28 who holds a valid emergency first aid training  
29 certificate to be present at all hours of operation  
30 during which food or beverages are sold or offered

1 for sale to patrons of the food establishment.

2 (2) Nothing under paragraph (1) shall preclude a  
3 proprietor of a food establishment from providing training to  
4 other food service employees.

5 (e) Fees.--

6 (1) The department may establish reasonable fees to  
7 cover actual expenses for issuing verification of emergency  
8 first aid training and certification to food service  
9 employees.

10 (2) A fee established under paragraph (1) shall not  
11 exceed \$35.

12 Section 5. Local health authorities.

13 (a) Duties of local health authority.--Each local health  
14 authority shall do the following:

15 (1) Collaborate and cooperate with the department in  
16 carrying out the provisions of this act.

17 (2) Require food establishments under the authority's  
18 jurisdiction to ensure emergency first aid training and  
19 certification of food service employees at reasonable  
20 intervals in accordance with the requirements of this act.

21 (3) Collaborate with the department to develop uniform  
22 procedures to govern the approval of emergency first aid  
23 training and certification programs and for issuing  
24 verifications of training.

25 (4) Publish the names and locations of all approved  
26 certification organizations and emergency first aid training  
27 and certification programs under the authority's jurisdiction  
28 on its publicly accessible Internet website.

29 (b) Establishment of program.--A local health authority may  
30 establish an emergency first aid training and certification



1 program for food service employees under the authority's  
2 jurisdiction and may provide emergency first aid training and  
3 certification programs for the food service employees. A local  
4 health authority desiring to provide an emergency first aid  
5 training program in accordance with this act shall consult with  
6 the department for approval of the program and for the issuing  
7 of verifications of emergency first aid training.

8 Section 6. Departmental cooperation.

9 Notwithstanding any other provision of law or regulation to  
10 the contrary, the Department of Agriculture shall cooperate with  
11 the department to facilitate the implementation of the  
12 provisions of this act. The Department of Agriculture shall  
13 provide the department with all licensure information it  
14 maintains on retail food facilities under 3 Pa.C.S. Ch. 57  
15 (relating to food protection) and may provide other pertinent  
16 information requested by the department to carry out the  
17 provisions of this act.

18 Section 7. Heimlich maneuver display required.

19 All food establishments shall have posted in the premises of  
20 a food establishment in a conspicuous place a graphic display of  
21 the Heimlich maneuver or similar antichoking maneuver. The  
22 display shall not be less than 8 inches by 11 inches in size and  
23 shall contain at least the following:

24 (1) a description in both words and pictures of what to  
25 look for to determine if a person is choking;

26 (2) a description in both words and pictures of how to  
27 perform the Heimlich maneuver or similar antichoking maneuver  
28 on a choking victim in order to expel the object from the  
29 victim's breathing passages; and

30 (3) any other information necessary to adequately

1       determine whether a patron is choking and to instruct a food  
2       service employee or other rescuer in the proper procedure to  
3       aid a choking victim.

4   Section 8.   Immunity from liability.

5       No food establishment, proprietor of a food establishment or  
6       food service employee shall be civilly or criminally liable for  
7       a good faith administration of emergency first aid by a food  
8       service employee who holds a valid certification of training in  
9       emergency first aid in accordance with the provisions of this  
10      act.

11   Section 9.   Construction.

12      Nothing in this act shall be construed to impose upon a food  
13      establishment, proprietor of a food establishment or food  
14      service employee a legal duty to render emergency first aid.

15   Section 10.  Effective date.

16      This act shall take effect in 90 days.