

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 357 OF 1977, AS AMENDED [ARK. STAT. 82-997 ET SEQ.], THE FOOD SERVICE PERMIT ACT, TO BROADEN THE DEFINITION OF FOOD SERVICE ESTABLISHMENT, TO ADD TWO MEMBERS TO THE PUBLIC HEALTH ADVISORY BOARD; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1 of Act 357 of 1977, as amended, the same being Arkansas Statute 82-997, is hereby amended to read as follows:

"Section 1. (a) 'Food service establishment' means any place where food is prepared, processed, stored or intended for use or consumption by the public regardless of whether there is a charge for the food. The term includes wholesale and retail food stores, convenience stores, food markets, delicatessens, restaurants, food processing or manufacturing plants, bottling and canning plants and food warehouses. The term does not include ice manufacturing plants, supply vehicles or location of vending machines.

The following are also exempt:

- (1) group homes routinely serving ten (10) or fewer persons;
- (2) day-care centers routinely serving ten (10) or fewer persons;
- (3) potluck suppers, community picnics or other group gatherings where food is served, but not sold;
- (4) nonprofit organizations that sell food, on a temporary basis, for fund-raising events;

(b) 'Food service industry' means the aggregate of food service establishments."

SECTION 2. Section 2 of Act 357 of 1977, as amended, the same being Arkansas Statute 82-997.1, is hereby amended to read as follows:

"Section 2. There is hereby created the Public Health Advisory Board to be composed of nine (9) members to be selected as hereinafter provided. The Board shall be advisory to the Division of Sanitarian Services for the purpose of recommending rules and regulations concerning food and other health code standards within the food service industry. The State Board of Health shall not adopt rules or regulations concerning food service or other health code standards related to the food service industry until such rules or regulations have been reviewed by the advisory board in a regular or specially called meeting; however, if a meeting is not held within forty-five (45) days after a written notice by the Board of Health of intent to promulgate rules and regulations, the review by the advisory board will be deemed to be waived. The

Director of the Department of Health and/or the State Board of Health may adopt rules and regulations pertaining to the food service industry in times of emergency or natural disaster without notice to the advisory board.

Three (3) of the members of the advisory board shall be appointed by the Governor from the food service industry, one (1) member shall be appointed by the Governor from the grocery industry, one (1) member shall be appointed by the Governor from the oil marketing industry, and three (3) members shall be appointed by the Governor from the Division of Sanitarian Services who shall be the Director of Sanitarian Services, the Food Service Sanitarian Program Administrator and one (1) area Sanitarian Supervisor. One (1) member shall be appointed by the Governor who shall be a physician with the Arkansas Department of Health. Two (2) of the initial members shall serve for two (2)

years, two (2) for four (4) years, and two (2) for six (6) years. Thereafter, those members of the advisory board who represent the food service industry, the grocery industry and the oil marketing industry shall be appointed for terms of six (6) years, and they shall hold office until the appointment and qualification of their successors.

No member of the advisory board shall be entitled to any per diem or expense allowance or any other remuneration for attending regular and special meetings of an advisory board meeting."

SECTION 3. Section 3 of Act 357 of 1977, as amended, the same being Arkansas Statute 82-997.2, is hereby amended to read as follows:

"Section 3. (a) No food service establishment shall be allowed to operate unless it has procured a food establishment permit from the Division of Sanitarian Services of the Department of Health. Permits issued under this Act shall be nontransferable, shall be renewed annually, and shall expire on July 1 of each year. A late fee equal to one-half (|) of the renewal fee for any type of establishment shall be charged to renew a permit after the July 1 expiration date. Any food service establishment may obtain a food service permit by paying an annual permit fee of fifteen dollars (\$15.00)to the Department of Health and by meeting the minimum requirements established by the rules and regulations for food service establishments. Each distinctively separate food establishment type and class as defined in this Act shall be required to procure a permit for that type or class per each location not to exceed a total of seventy-five dollars (\$75.00). On and after July 1, 1989, the fee provisions as set forth in this subsection shall be null and void and any food service establishment may obtain a food service permit by meeting the minimum requirements established by the rules and regulations for food service establishments.

(b) A temporary food establishment permit shall be procured from the Division of Sanitarian Services of the Department of Health by any temporary facility operating at a fixed location for a period of not more than fourteen (14) consecutive days in conjunction with a single event or celebration. The fee of fifteen dollars (\$15.00 shall be charged for each temporary food establishment permit. Such permit shall be non-renewable.

(c) Public school cafeterias shall be exempt from payment of the fifteen dollars (\$15.00) permit fee but shall submit to inspection pursuant to the rules and regulations of the State Board of Health.

(d) The following shall not be required to obtain permits, pay fees, or submit to inspections by the State Health Department, but may seek the advice and assistance of the Health Department: (1) pot luck suppers, community picnics, or other group gatherings where food is served, but not sold, and (2) non-profit organizations that sell food on a temporary basis, for fund raising events."

(e) Any retail food store having gross annual sales of less than \$150,000 must obtain a food service permit but shall be exempt from payment of the \$15.00 permit fee.

SECTION 4. Section 4 of Act 357 of 1977, the same being Arkansas Statutes 82-997.3, is hereby amended to read as follows:

"(A) All fees levied and collected under the provisions of this Act are hereby declared to be 'special revenues' and shall be deposited in the State Treasury, there to be credited to the Public Health Fund.

(B) Subject to such rules and regulations as may be implemented by the Chief Fiscal Officer of the State, the Disbursing Officer for the Department of Health is hereby authorized to transfer all unexpended funds relative to the Food Service Program that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available

for expenditures for the same purpose for any following fiscal year."

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that due to current revenue shortfalls the services offered by the Department of Health to the citizens of this State are threatened; that due to recent developments in the food service industry it is necessary to expand the coverage of regulations to protect the health and safety of the public of this State; that the immediate enactment of this bill upon passage is necessary to assure the safety and well-being of the public. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: April 13, 1987
