



Reprinted
April 6, 2005

**ENGROSSED
HOUSE BILL No. 1056**

DIGEST OF HB 1056 (Updated April 5, 2005 3:51 pm - DI 110)

Citations Affected: IC 16-42.

Synopsis: Food handler exemption. Changes the food requirements for a food establishment to be exempt from being required to have a certified food handler. Provides that a food establishment that is more than 10,000 square feet in retail sales space must have a certified food handler. Provides that the certified food handler requirements do not apply to food provided by an area agency on aging's nutrition service program or by a food pantry. Provides that certain nonprofit organizations are not required to use certified food handlers.

Effective: January 1, 2005 (retroactive).

Duncan, Budak, Cherry, Austin

(SENATE SPONSORS — WEATHERWAX, JACKMAN, SIPES, ALTING,
CRAYCRAFT, HEINOLD)

January 4, 2005, read first time and referred to Committee on Public Health.
January 11, 2005, amended, reported — Do Pass.
January 18, 2005, read second time, amended, ordered engrossed.
January 19, 2005, engrossed.
January 24, 2005, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 14, 2005, read first time and referred to Committee on Health and Provider Services.
March 31, 2005, amended, reported favorably — Do Pass.
April 5, 2005, read second time, amended, ordered engrossed.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1056

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-42-5.2-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
3 Sec. 2. **(a) Except as provided in subsection (b)**, this chapter does not
4 apply to a food establishment when the food establishment's food
5 handling activities are limited solely to one (1) or more of the
6 following:
7 (1) Heating or serving precooked ~~hot dog or sausage products;~~
8 ~~popcorn, nachos, pretzels, or frozen pizza.~~ **foods.**
9 (2) Preparing or serving a continental breakfast such as rolls,
10 coffee, juice, milk, and cold cereal.
11 (3) Preparing or serving nonalcoholic or alcoholic beverages **that**
12 **are not potentially hazardous beverages** or ice.
13 ~~(4) Grinding coffee beans.~~
14 ~~(5) Packaging~~ **(4) Preparing or serving packaged or**
15 **unpackaged** foods that are not potentially hazardous foods, in
16 accordance with rules adopted by the executive board: **including**
17 **elephant ears, funnel cakes, cotton candy, confectionaries,**

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1 **baked goods, popcorn, and chips and grinding coffee beans;**
 2 ~~(6)~~ Heating when it is the only preparation step for a bakery
 3 product.
 4 ~~(7)~~ **(5)** Providing prepackaged food in its original package.
 5 **(b) This subsection does not apply to a pharmacy that is a food**
 6 **establishment that provides only prepackaged food products for**
 7 **sale. A food establishment that has more than ten thousand**
 8 **(10,000) square feet in total retail sales space at the food**
 9 **establishment location must comply with this chapter.**
 10 SECTION 2. IC 16-42-5.2-3 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
 12 Sec. 3. This chapter does not apply to the following:
 13 (1) Hospitals licensed under IC 16-21.
 14 (2) Health facilities licensed under IC 16-28.
 15 (3) Housing with services establishments that are required to file
 16 disclosure statements under IC 12-10-15.
 17 (4) Continuing care retirement communities required to file
 18 disclosure statements under IC 23-2-4.
 19 (5) Community mental health centers (as defined in
 20 IC 12-7-2-38).
 21 (6) Private mental health institutions licensed under IC 12-25.
 22 **(7) An area agency on aging designated under IC 12-10-1 that**
 23 **provides food under a nutrition service program. However,**
 24 **the premises where the food is prepared is not exempt from**
 25 **the requirements under this chapter.**
 26 **(8) A food pantry that:**
 27 **(A) is operated or affiliated with a nonprofit organization**
 28 **that is exempt from federal income taxation under Section**
 29 **501(c)(3) of the Internal Revenue Code; and**
 30 **(B) distributes food, which may include food from the**
 31 **United States Department of Agriculture, to needy persons.**
 32 **However, a food bank or other facility that distributes**
 33 **donated food to other organizations is not exempt from the**
 34 **requirements of this chapter.**
 35 SECTION 3. IC 16-42-5.2-3.5 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: **Sec. 3.5. (a) An**
 38 **organization that is exempt from the state gross retail tax under**
 39 **IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or**
 40 **IC 6-2.5-5-21(b)(1)(D) is exempt from complying with the**
 41 **requirements of this chapter.**
 42 **(b) This section does not prohibit an exempted organization**

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1 **from waiving the exemption and using a certified food handler.**
2 **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1056, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-42-5.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:
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."**

Page 1, line 16, delete "The" and insert "**Except for food that is prepared on site, the**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1056 as introduced.)

BECKER, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1056 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new line block indented and insert:

"(8) A food pantry that:

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**(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."**

(Reference is to HB 1056 as printed January 12, 2005.)

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SENATE MOTION

Madam President: I move that Senator Alting be added as cosponsor of Engrossed House Bill 1056.

WEATHERWAX

COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1056, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 14, delete "and that offers food for sale to the final".

Page 2, line 15, delete "consumer at an event held for the benefit of the organization".

Page 2, line 16, delete "chapter that" and insert "**chapter**".

Page 2, delete lines 17 through 26.

and when so amended that said bill do pass.

(Reference is to HB 1056 as reprinted January 19, 2005.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Madam President: I move that Senators Craycraft and Heinold be added as cosponsors of Engrossed House Bill 1056.

WEATHERWAX

SENATE MOTION

Madam President: I move that Engrossed House Bill 1056 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-42-5.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]:

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 ~~hot dog or sausage products; popcorn, nachos, pretzels, or frozen pizza.~~ **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) Grinding coffee beans.~~
- ~~(5) Packaging~~ **(4) Preparing or serving packaged or unpackaged** foods that are not potentially hazardous foods, in accordance with rules adopted by the executive board: **including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans;**
- ~~(6) Heating when it is the only preparation step for a bakery product.~~
- ~~(7)~~ **(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."

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Renumber all SECTIONS consecutively.

(Reference is to EHB 1056 as printed April 1, 2005.)

WEATHERWAX

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