

75-25. State Food Protection Practices Certificate Required for Food Service Operations.

1. DEFINITIONS. In this section:

- a. "Certificate holder" means a person who holds a valid, current certificate of food protection practices issued by the Wisconsin department of health and social services under s. 254.71, Wis. Stats.
- b. "Food handler" means a person engaged in the preparation, processing or service of food.
- c. "Food protection practices certificate" means a current, valid certificate of food protection practices issued by the Wisconsin department of health and social services under s. 254.71, Wis. Stats.
- d. "Food service operation" means a regular restaurant, as that term is defined under ch. HFS 196, Wis. Adm. Code, or a retail food establishment, as that term is defined under s. 97.30, Wis. Stats., except that the term does not include a retail food establishment that processes non-potentially hazardous food or sells prepackaged potentially hazardous food obtained from an approved source.
- e. "Potentially hazardous food" has the meaning given to that term under ch. ATCP 75, appendix, and ch. HFS 196, appendix, of the Wis. Adm. Code.
- f. "Ready-to-eat food" means restaurant-style food that is offered or prepared for sale and is ready for consumption, regardless of whether consumption is on the premises where the food is sold.
- g. "Serious food-handling sanitation violation" means a violation that is the basis of a citation by the department and that involves a potentially hazardous food temperature violation,

a food or equipment cross-contamination violation, a poor hygienic practice by a food handler violation or a confirmed case of food-borne illness.

2. CERTIFICATE HOLDER REQUIREMENT.

- a. Each person who is licensed to operate a food service operation shall employ, or shall personally be, a person who is a certificate holder.
 - b. Whenever potentially hazardous food is being processed at a retail food establishment or being prepared or served at a regular restaurant, the person who is licensed to operate the food service operation shall have a certificate holder on the premises, unless the food service operation is exempted from this requirement under sub. 3.
 - c. Whenever a certificate holder is complying with the certificate holder requirement of this subsection, the certificate holder shall have in his or her possession a photo identification that verifies his or her identity.
 - d. The food protection practices certificate of a certificate holder shall be either posted on the premises of the food service operation or readily accessible to the commissioner upon request.
- 2.5. RECERTIFICATION.** As provided in s. 254.71, Wis. Stats., each certificate issued by the Wisconsin department of health services upon a satisfactory completion of a written examination, approved by the department, shall be valid for 5 years from the date of issuance and, except as provided in s. 250.041, Wis. Stats., may be renewed by the certificate holder if he or she satisfactorily passes a Conference for Food Protection - accredited examination.

3. EXEMPTIONS. a. The requirement of sub. 2-b does not apply to a food service operation whenever the food service operation meets all of the following conditions:

a-1. The food service operation has no

more than 5 food handlers working.

a-2. The food service operation has not had a serious food-handling sanitation violation at 2 consecutive inspections on or after January 1, 1996.

a-3. The food service operation has at least one operator or manager who is a certificate holder.

b. The requirement of sub. 2-b does not require a food service operation that includes one or more push carts to have a certificate holder at each push cart, if the food service operation:

b-1. Has an owner, operator or manager who is a certificate holder who is held accountable for training each cart operator in food sanitation practices before operating a cart and who routinely monitors each cart during all periods of food service.

b-2. Consists of one or more push carts that operate only during the summer season.

b-3. Limits food preparation to hot dogs or similar precooked heated food items.

c. These exemptions do not apply to any certificate holder requirement set forth by s. 254.71, Wis. Stats., or by any regulation implementing the terms of that statute.

4. TEMPORARY WAIVERS.

a. Whenever the commissioner finds that a food service operation does not meet the certificate holder requirements of subs. 2-a, 2-b or 3-a-3, the commissioner may:

a-1. Temporarily waive those requirements for up to a maximum of 6 months if the commissioner finds that a person is not a certificate holder because of the person's difficulty with the English language or other disability as determined by the commissioner.

a-2. Temporarily waive those requirements for up to a maximum of 6 months if the commissioner finds that a food service operation does not have a certificate holder because the food service operation has been sold or because a certificate holder has ceased employment with that food service operation.

a-3. Temporarily waive those requirements on a case-by-case basis when the commissioner determines that the violations were due to sickness, emergency or other good cause.

b. The commissioner may not waive a certificate holder requirement included within the terms of subs. 2-a, 2-b or 3-a-3 that is also required either under s. 254.71, Wis. Stats., or under any regulation implementing that statute.

5. PENALTIES. a. Any person that violates or fails to comply with this section shall be subject to a penalty under s. 61-15.

b. Non-compliance with this section may be cause for the commissioner or the department to not renew a license or permit, deny a license or permit, suspend a license or permit or revoke a license or permit. The commissioner or department may take such action concerning a license or permit regardless of whether a penalty for non-compliance has been imposed under par. a