



Agriculture & Rural Affairs Committee

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HOUSE BILL: 174

PRINTER'S NUMBER: 2067

AMENDMENT NUMBER: 08875

PRIME SPONSOR: SCARNATI

ANALYSIS:

A08875 updates the definition of "Potentially hazardous food" to reflect the most current edition of the Federal Food Code.

Under section 5703(b) (Exempt retail food facilities) of the bill, A08875 adds churches and other bona fide religious organizations which serve food to the public to the list of entities that a licenser may exempt from the licensing (but not inspection) provisions of the act. Further in this section, A08875 amends subsection (e) (Inspection), to establish the department's retail food facility inspection standard as the standard that must be used by all licensors, including county or city health departments, or local health authorities.

In section 5707(c) (Inspection) of the bill, A08875 clarifies that if a licenser other than the department fails to inspect a retail food facility, the department has the authority to take over inspection of all retail food facilities under the licenser's jurisdiction, and the licenser must forward to the department any fees collected by the licenser from the retail food facilities, prorated for the remainder of the license period.

A08875 includes language under new section 5712 (Applicability) allowing the sale by non-profit organizations of non-potentially hazardous foods baked in an unlicensed (home) kitchen. This language mirrors language from the recently passed Senate Bill 828, signed into law on June 3, 2010, as Act 31. This language will be repealed as part of the Public Eating and Drinking Place Law under SB 174.

The amendment adds language to clarify that a county health department that derives its authority to establish and administer a county health department (and to therefore conduct retail food facility inspections) from the First Class City Home Rule Act (Act 155 of 1949), retains the additional authorities granted under this act to those entities established under the Local Health Administration Law (Act 315 of 1951).

HB 174 is amended in Chapter 65 (Food Employee Certification) to remove provisions in section 6504 (Certification of employees) requiring a certified person in charge to be present at a retail food facility during all hours of operation. Under A08875, a retail food facility will be required to have at least one

supervisory employee who would be the person in charge when present at the facility, and who holds a valid certificate, either present at the facility or immediately accessible at all hours of operation; this is what is required under current law. Language is included which would require the adoption, through regulation, of a Federal Food Code standard requiring that a certified person in charge be present during all hours of operation, if such language is ever adopted in the Federal Food Code.

Finally, A08875 repeals two outdated acts: the Organic Food Products Standards Act (Title 3, Chapter 59; Organic Foods) is repealed as organic standards are now regulated by the Federal government, and; the Maple Products Act (Title 3, Chapter 61; Maple Products) is repealed, which established color standards for maple syrup but which subsequent study has shown are not feasible.

An extended effective date for certain sections of Food Employee Certification (Chapter 65) are removed (because the provisions establishing the new standard are removed), and the entire act will become effective in 60 days.

AMENDMENTS TO HOUSE BILL NO. 174

Sponsor:

Printer's No. 2067

1 Amend Bill, page 1, line 5, by inserting after "providing"

2 for organic foods, for maple products,

3 Amend Bill, page 2, line 13, by striking out "(Reserved)" and

4 inserting

5 Applicability

6 Amend Bill, page 2, line 17, by striking out "5716. Acts not

7 affected."

8 Amend Bill, page 4, by inserting between lines 8 and 9

9 "Potentially hazardous food." The term shall have the same
10 meaning as defined in the 2009 edition of the Food Code
11 published by the Department of Health and Human Services, Food
12 and Drug Administration or any successor document approved by
13 regulation of the department.

14 Amend Bill, page 5, by inserting between lines 27 and 28

15 (vii) A retail food facility which is owned by a
16 church, association of churches or other religious order,
17 body or institution which:

18 (A) Qualifies for exemption from taxation under
19 section 501(c)(3) or (d) of the Internal Revenue Code
20 of 1986 (Public Law 99-514, 26 U.S.C. § 501).

21 (B) Which is not subject to unrelated business
22 income taxation under sections 511, 512 or 513 of the
23 Internal Revenue Code of 1986.

24 Amend Bill, page 6, line 30, by inserting after "of" where it
25 occurs the first time

26 the act of April 21, 1949 (P.L.665, No.155), known as the
27 First Class City Home Rule Act, or

28 Amend Bill, page 7, line 15, by inserting after "of"

29 the First Class City Home Rule Act or

1 Amend Bill, page 7, line 17, by striking out "at the
2 minimum,"

3 Amend Bill, page 7, line 17, by inserting after "meet"
4 and shall not exceed

5 Amend Bill, page 12, line 6, by striking out "minimum"

6 Amend Bill, page 12, lines 26 through 30, by striking out all
7 of said lines and inserting

8 (c) Inspection.--If a licensor fails to inspect a retail
9 food facility as required under section 5703(e) (relating to
10 license required), the department shall have the authority to
11 license and inspect all retail food facilities under that
12 licensor's jurisdiction, and the licensor that failed to

13 Amend Bill, page 13, line 2, by striking out "the"

14 Amend Bill, page 13, line 2, by striking out "facility" and
15 inserting

16 facilities

17 Amend Bill, page 14, line 22, by striking out "§ 5712.

18 (Reserved)." and inserting

19 § 5712. Applicability.

20 This subchapter shall not apply to food that meets all of the
21 following requirements:

22 (1) The food is not potentially hazardous food.

23 (2) The food is prepared in a private home.

24 (3) The food is used or offered for human consumption by
25 any of the following organizations:

26 (i) A tax-exempt organization under section
27 501(c)(3) of the Internal Revenue Code of 1986 (Public
28 Law 99-514, 26 U.S.C. § 501(c)(3)).

29 (ii) A volunteer fire company or ambulance,
30 religious, charitable, fraternal, veterans, civic,
31 sportsmen, agricultural fair or agricultural association
32 or any separately chartered auxiliary of any of these
33 associations, on a not-for-profit basis.

34 (iii) An organization that is established to promote
35 and encourage participation and support for
36 extracurricular recreational activities for youth of
37 primary and secondary public, private and parochial
38 school systems on a not-for-profit basis.

39 (4) The organization that uses or offers the food for

1 human consumption informs consumers that the organization
2 uses or offers food that has been prepared in private homes
3 that are not licensed or inspected.

4 (5) The food is donated to an organization described
5 under paragraph (3).

6 Amend Bill, page 16, lines 9 through 15, by striking out all
7 of said lines

8 Amend Bill, page 20, lines 18 through 20, by striking out "As
9 defined in the 2005 Food" in line 18, all of line 19 and "and
10 Drug Administration, or its successor document" in line 20 and
11 inserting

12 As defined in section 5702 (relating to definitions)

13 Amend Bill, page 36, line 9, by inserting after "with"
14 the act of April 21, 1949 (P.L.665, No.155), known as the
15 First Class City Home Rule Act, or

16 Amend Bill, page 36, line 12, by inserting after "with"
17 the First Class City Home Rule Act or

18 Amend Bill, page 38, line 3, by inserting after "with"
19 the act of April 21, 1949 (P.L.665, No.155), known as the
20 First Class City Home Rule Act, or

21 Amend Bill, page 40, lines 1 through 7, by striking out all
22 of lines 1 through 6 and "(3)" in line 7 and inserting

23 (2)

24 Amend Bill, page 40, by inserting between lines 8 and 9

25 Section 1.1. Chapters 59 and 61 of Title 3 are repealed:

26 [CHAPTER 59
27 ORGANIC FOODS

28 Sec.

29 5901. Short title of chapter.

30 5902. Declaration of policy.

31 5903. Definitions.

32 5904. Organic certification.

33 5905. Crop production practices and materials.

34 5906. Animal production practices and materials.

35 5907. Producer statement.

36 5908. Rules and regulations.

37 5909. Violations.

38 § 5901. Short title of chapter.

1 This chapter shall be known and may be cited as the Organic
2 Food Products Standards Act.

3 § 5902. Declaration of policy.

4 The General Assembly finds and declares as follows:

5 (1) A public benefit will be achieved by establishing
6 standards for agricultural products marketed, labeled and
7 advertised using the term "organic" or a derivative of the
8 term "organic." Standards facilitate the development of
9 intrastate and interstate markets for organically produced
10 agricultural products by providing a clear, uniform
11 definition for farmers, food processors, food distributors
12 and consumers alike.

13 (2) It is intended that private certifying agents be
14 recognized by the department to determine whether food
15 products marketed, labeled and advertised as organic conform
16 to standards set forth in the Organic Foods Production Act of
17 1990 (Public Law 101-624, 104 Stat. 3935).

18 § 5903. Definitions.

19 The following words and phrases when used in this chapter
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Agricultural product." Any agricultural commodity or
23 product, whether in raw or prepared form, including any
24 commodity or product derived from livestock that is intended for
25 human or livestock consumption or seed.

26 "Distribute." To offer for sale, sell, barter, process or
27 otherwise supply agricultural products.

28 "Distributor." Any person who sells agricultural products to
29 consumers or other distributors. The term does not include final
30 retailers of agricultural products that do not process
31 agricultural products.

32 "Organic certification agent or agency." Private individuals
33 or organizations residing or doing business in this Commonwealth
34 who are certified by the Secretary of the United States
35 Department of Agriculture as capable of inspecting farms and
36 food distributor operations to determine whether the farms and
37 food distributor operations conform with standards set forth in
38 the Organic Foods Production Act of 1990 (Public Law 101-624,
39 104 Stat. 3935).

40 "Organically produced." Any agricultural product that is
41 produced and distributed in accordance with this chapter.

42 "Producer." Any person that grows, raises, processes or
43 produces an agricultural product and distributes the
44 agricultural product as organically produced.

45 "USDA." The United States Department of Agriculture.

46 § 5904. Organic certification.

47 (a) General rule.--The department shall designate one or
48 more organic certification agents or agencies to certify
49 organically produced agricultural products in accordance with
50 this chapter.

51 (b) Eligibility for services or certification.--An organic

1 certification agent or agency may not refuse services or
2 certification to a person who meets all of the following
3 requirements:

4 (1) The person has met certification requirements for
5 agricultural products.

6 (2) The person has paid certification fees.

7 (c) USDA seal.--Producers and distributors certified by a
8 recognized organic certification agent or agency may incorporate
9 the USDA seal in the label design of their agricultural product.

10 (d) Records.--Each organic certification agent or agency
11 designated by the department shall maintain detailed and
12 verifiable records on each producer certified for a period of
13 ten years.

14 (e) Proposed regulations.--Organic certification agents or
15 agencies may submit proposed regulations to the department.

16 § 5905. Crop production practices and materials.

17 (a) Seeds and seedlings.--To be certified under this
18 chapter, producers shall not apply materials to or engage in
19 practices on seeds or seedlings that are contrary to or
20 inconsistent with USDA standards or this chapter.

21 (b) Soil additives.--To be certified under this chapter,
22 producers shall not:

23 (1) Use any fertilizers containing synthetic ingredients
24 or any commercially blended fertilizers containing materials
25 prohibited under the Organic Foods Production Act of 1990
26 (Public Law 101-624, 104 Stat. 3935) or this chapter.

27 (2) Use phosphorus, lime or potash as a source of
28 nitrogen.

29 (c) Crop management.--To be certified under this chapter,
30 producers shall not:

31 (1) Use natural poisons such as arsenic or lead salts
32 that have long-term effects and persist in the environment,
33 as determined by the department.

34 (2) Use plastic mulches unless the mulches are removed
35 at the end of each growing or harvest season.

36 (3) Use transplants that are treated with any synthetic
37 or prohibited material.

38 § 5906. Animal production practices and materials.

39 (a) Livestock in general.--Any livestock that is to be
40 slaughtered and sold or labeled as organically produced shall be
41 raised in accordance with this chapter.

42 (b) Breeder stock.--Breeder stock may be purchased from any
43 source if the stock is not in the last third of gestation.

44 (c) Practices.--In order for livestock to be certified as
45 organically produced under this chapter producers shall not:

46 (1) Feed the livestock feed other than organically
47 produced feed that meets the requirements of this chapter.

48 (2) Use the following feed:

49 (i) Plastic pellets for roughage.

50 (ii) Manure refeeding.

51 (iii) Feed formulas containing urea.

1 (3) Use growth promoters and hormones on livestock,
2 whether implanted, ingested or injected, including
3 antibiotics and synthetic trace elements used to stimulate
4 growth or production of the livestock.

5 (d) Livestock health care.--In order for livestock to be
6 certified as organically produced under this chapter, producers
7 shall not:

8 (1) Use subtherapeutic doses of antibiotics.

9 (2) Use synthetic internal parasiticides on a routine
10 basis.

11 (3) Administer medication, other than vaccinations, in
12 the absence of illness.

13 (e) Additional standards.--

14 (1) With the exception of day-old poultry, all poultry
15 from which meat or eggs will be sold or labeled as
16 organically produced shall be raised and handled in
17 accordance with this chapter prior to and during the period
18 in which the meat or eggs are sold.

19 (2) A dairy animal from which milk or milk products will
20 be distributed as organically produced shall be raised in
21 accordance with this chapter for a period of not less than
22 the 12 months immediately prior to the sale of the milk or
23 milk products.

24 (f) Livestock identification.--

25 (1) To be certified under this chapter, producers must
26 keep adequate records and maintain a detailed, verifiable
27 audit trail so that each animal or, in the case of poultry,
28 each flock can be traced back to the producer.

29 (2) In order to carry out the requirements of paragraph
30 (1), each producer must keep accurate records on each animal
31 or, in the case of poultry, each flock, including amounts and
32 sources of all medications administered and all feeds and
33 feed supplements bought and fed.

34 § 5907. Producer statement.

35 A producer shall not sell to a distributor any agricultural
36 product which the producer represents as an organically produced
37 agricultural product unless the producer received certification
38 from an organic certification agency or agent prior to the sale.

39 § 5908. Rules and regulations.

40 (a) Adoption.--The department shall adopt rules and
41 regulations in conformity with the act of June 25, 1982
42 (P.L.633, No.181), known as the Regulatory Review Act, and the
43 Organic Foods Production Act of 1990 (Public Law 101-624, 104
44 Stat. 3935) as the department believes are appropriate for the
45 administration of this chapter.

46 (b) Prohibited substances.--Whenever the department believes
47 it appropriate to protect the interests of consumers of
48 organically produced agricultural products, the department may,
49 by regulation and in accordance with the Regulatory Review Act,
50 add to the list of prohibited substances under this chapter.

51 § 5909. Violations.

1 The department shall issue orders to producers or
2 distributors found violating any provision of this chapter or
3 rules or regulations adopted under this chapter to cease their
4 violations and desist from future violations. The organic
5 certification agencies, the producers and the distributors shall
6 report to the department any violations of this chapter of which
7 they are aware. Whenever the department finds that a producer or
8 distributor has committed a violation, the department shall
9 impose upon and collect from the violator a civil fine not
10 exceeding the total of the following amounts:

11 (1) The Commonwealth's estimated costs of investigating
12 and taking appropriate administrative and enforcement actions
13 in respect to the violation.

14 (2) \$1,000.

15 CHAPTER 61
16 MAPLE PRODUCTS

17 Sec.

18 6101. Short title of chapter.

19 6102. Declaration of policy.

20 6103. Definitions.

21 6104. License.

22 6105. Registration.

23 6106. Enforcement.

24 6107. Requirements and grades.

25 6108. Prohibited acts.

26 6109. Labeling of maple products.

27 6110. Detained food.

28 6111. Manufacturing and marketing practices.

29 6112. Penalties.

30 § 6101. Short title of chapter.

31 This chapter shall be known and may be cited as the Maple
32 Products Act.

33 § 6102. Declaration of policy.

34 The maple industry constitutes an important part of the
35 economy of this Commonwealth. Therefore, the purpose of this
36 chapter is to preserve and foster growth in maple products for
37 producers and ensure the quality of maple products of this
38 Commonwealth for the consumer by establishing reasonable
39 standards of identity and quality for maple products.

40 § 6103. Definitions.

41 The following words and phrases when used in this chapter
42 shall have the meanings given to them in this section unless the
43 context clearly indicates otherwise:

44 "Advertisement." Any method used to call public attention to
45 a product for the specific purpose of inducing a desire to
46 purchase that product. The term includes, but is not limited to,
47 signs, displays, radio and television broadcasts, newspapers and
48 periodicals, direct mail and other printed forms.

49 "Brix." A scale used to measure sugar solutions so graduated
50 that its readings at a specified temperature represent
51 percentages by weight of sugar in the solution.

1 "Bulk maple syrup." Maple syrup packed in containers of more
2 than five gallons.

3 "Damaged maple syrup." A maple syrup which has color,
4 appearance, flavor, aroma, edibility or shipping quality which
5 has been adversely affected by contamination of sap or syrup
6 with biological, chemical, buddy or particulate matter.

7 "Dealer," "packer" or "reprocessor." A person who annually
8 purchases, produces or otherwise acquires from another person or
9 persons at least 1,000 gallons of maple syrup for the purposes
10 of packaging for resale or for the purposes of resale in bulk.

11 "Food establishment." Shall have the meaning given to it in
12 the act of July 7, 1994 (P.L.421, No.70), known as the Food Act.

13 "Grade." The standards for maple syrup or maple sugar
14 promulgated through regulations of the department as the
15 official grades of maple syrup or maple sugar for this
16 Commonwealth.

17 "Hydrometer." A floating instrument which measures the
18 specific gravities of liquid solutions and which contains a
19 scale designed to determine the density of maple sap or maple
20 syrup.

21 "Inspector." A person with knowledge of the maple syrup
22 industry designated by the Department of Agriculture to carry
23 out the duties described in this chapter.

24 "Maple products." Maple syrup, maple sugar, maple cream or
25 any other product in which the sugar content is entirely derived
26 from pure maple sap and to which nothing has been added unless
27 allowed under section 6107 (relating to requirements and
28 grades).

29 "Maple sap." The unprocessed liquid derived from the maple
30 tree.

31 "Maple sugar." The solid, crystalline product of maple sap.

32 "Maple syrup." The liquid derived by concentration and heat
33 treatment of maple sap.

34 "Maple syrup confectionery." A product consisting of maple
35 syrup and other food products that does not contain artificial
36 flavors or colors.

37 "Packaged maple syrup." Maple syrup packed in containers of
38 five gallons or less.

39 "Producer." A person who collects maple sap for the
40 production of maple syrup or maple products for sale in retail
41 or wholesale markets.

42 § 6104. License.

43 (a) General rule.--A person may not purchase, produce or
44 otherwise acquire 1,000 gallons of maple syrup or more annually
45 for the purposes of packaging for sale or resale or for the
46 purposes of sale or resale in bulk without possessing a current
47 valid dealer's license issued by the department or a current
48 valid registration as a food establishment issued by the
49 department under the act of July 7, 1994 (P.L.421, No.70), known
50 as the Food Act.

51 (b) Optional licensure.--A person who purchases, produces or

1 otherwise acquires less than 1,000 gallons of maple syrup
2 annually for the purposes of packaging for sale or resale or for
3 the purposes of sale or resale in bulk may apply for and be
4 issued a dealer's license by the department. A person who is
5 licensed pursuant to this subsection shall be subject to the
6 same requirements applicable to a person licensed pursuant to
7 subsection (a).

8 (c) Application for license.--A person seeking to be
9 licensed pursuant to either subsection (a) or (b) shall apply on
10 or before December 31 for a license for the succeeding year. The
11 application shall be on a form prescribed by the department and,
12 together with any other information which the department may
13 require, shall include:

14 (1) The name and address of the applicant or, if the
15 applicant is an association or partnership, the name and
16 address of each member of the association or partnership or,
17 if the applicant is a corporation, the name and address of
18 each officer of the corporation.

19 (2) The name and address of the person, if other than
20 the applicant, whose name will appear on the label of any
21 maple product which the person intends to sell.

22 (3) The location of all places at which the applicant
23 intends to do business.

24 (d) Issuance of license.--Except as provided in subsection
25 (e), the department shall issue a dealer's license to a person
26 who submits a completed application pursuant to subsection (c)
27 and pays the annual license fee of \$35. A person who pays the
28 annual registration fee pursuant to section 14(c) of the Food
29 Act shall not be subject to the license fee imposed by this
30 subsection.

31 (e) Right to refuse, suspend or revoke license.--The
32 department may refuse to issue a license or may suspend or
33 revoke a previously issued license if the department determines
34 that the applicant or licensee has done any of the following:

35 (1) Failed to provide any information which the
36 department has reasonably requested.

37 (2) Made a false or misleading statement in the
38 application for a license or the renewal of a license.

39 (3) Committed an act prohibited under section 6108
40 (relating to prohibited acts).

41 (f) Appeals.--Any person refused a license or a license
42 renewal or any person whose license is suspended or revoked may
43 appeal the refusal, suspension or revocation in accordance with
44 Title 2 (relating to administrative law and procedure).

45 § 6105. Registration.

46 Subject to regulations promulgated by the department, a
47 licensee may label a maple product as having been registered by
48 the department. "Reg. Penna. Dept. Agr." shall be the approved
49 abbreviation.

50 § 6106. Enforcement.

51 (a) General rule.--A maple product shall be subject to the

1 act of July 7, 1994 (P.L.421, No.70), known as the Food Act, and
2 the regulations promulgated under that act, except to the extent
3 that this chapter or the regulations promulgated under this
4 chapter are inconsistent with those statutes and regulations.

5 (b) Inspectors.--Inspectors shall have the power and duty
6 to:

7 (1) Administer and enforce the provisions of this
8 chapter.

9 (2) Periodically inspect dealers, producers and other
10 food establishments for compliance with this chapter. An
11 inspector may enter upon any public or private premises
12 during hours of their operation and other reasonable times
13 without prior notice to inspect, conduct tests, collect
14 samples and examine records as he considers necessary to
15 determine compliance with this chapter.

16 (c) Regulations.--The department shall promulgate such
17 regulations as are necessary to carry out this chapter.

18 § 6107. Requirements and grades.

19 (a) General rule.--

20 (1) A food product shall not be described as "maple" or
21 "maple flavored" unless it contains maple syrup as the sole
22 source of maple flavor and color, provided that a food
23 product which contains maple syrup as the sole source of
24 maple flavor but which is artificially colored may be
25 described as "maple flavored, artificially colored."

26 (2) No person shall sell or offer for sale in this
27 Commonwealth maple syrup which does not comply with the
28 grades, density, flavor and other requirements of this
29 section.

30 (b) Processing.--Maple syrup shall not be processed in any
31 manner which adds or removes naturally occurring soluble
32 materials. This limitation shall not preclude the use of
33 approved filter aids used for the sole purpose of assisting the
34 removal of suspended material or the use of defoaming agents
35 approved by the department.

36 (c) Ingredients.--The only ingredients which may be added to
37 maple sap in the production of maple syrup are:

38 (1) Salt.

39 (2) Chemical preservatives and defoaming agents approved
40 under the Federal Food, Drug, and Cosmetic Act (52 Stat.
41 1040, 21 U.S.C. § 301 et seq.).

42 (d) Density.--

43 (1) Unless otherwise established by regulations
44 promulgated by the department, the minimum density of maple
45 syrup shall be 66 degrees Brix at 60 degrees Fahrenheit.

46 (2) Except as provided in paragraph (3), no person shall
47 place maple syrup in retail or wholesale containers if it
48 does not comply with the density standards of this chapter or
49 sell, exchange, offer for sale or expose for sale packaged
50 maple syrup which does not meet the density requirements of
51 this chapter.

1 (3) If the density of bulk maple syrup does not exceed
2 the minimum density set forth in paragraph (1), the container
3 shall be conspicuously marked:

4 NOTICE

5 The syrup in this container has a density of (number)
6 degrees Brix at 60 degrees Fahrenheit.

7 (e) Labeling.--

8 (1) Packaged maple syrup shall be conspicuously labeled
9 as to grade at the time of packaging.

10 (2) Packaged maple syrup shall be labeled in accordance
11 with department requirements.

12 (3) Maple products labeled as "organic" shall comply
13 with organic food labeling laws.

14 (4) A product or package containing a product made by
15 combining maple sap, maple sugar or maple syrup with any
16 other sugar or other substance shall be clearly and
17 conspicuously marked as to indicate the accurate and
18 descriptive name of the added substance and the amount of
19 maple sugar, maple syrup or other substance contained in the
20 product.

21 (5) A product or package containing a product made by
22 using an artificial maple flavoring or artificial coloring
23 shall be clearly and conspicuously marked "artificially
24 flavored" or "artificially colored," as the case may be.

25 (f) Grade.--Unless otherwise established by regulations
26 promulgated by the department, the grades of maple syrup shall
27 be as follows:

28 (1) "Grade A Light Amber" shall have a color no darker
29 than the United States Department of Agriculture's visual
30 color standard of light amber and a delicately sweet,
31 original maple flavor characteristic of a light amber maple
32 syrup. Light amber maple syrup shall be free of sugar
33 crystals and shall not be damaged in any way.

34 (2) "Grade A Medium Amber" shall have a color no darker
35 than the United States Department of Agriculture's visual
36 color standard of medium amber and a flavor which is more
37 pronounced than that of light amber but which is not strong
38 or unpleasant and is characteristic of medium amber maple
39 syrup. Medium amber maple syrup shall be free of sugar
40 crystals and shall not be damaged in any way.

41 (3) "Grade A Dark Amber" shall have a color no darker
42 than the United States Department of Agriculture's visual
43 color standard of dark amber and a flavor which is stronger
44 than that of medium amber but which is not sharp, bitter,
45 buddy or off-flavor and is characteristic of dark amber. Dark
46 amber maple syrup shall be free of sugar crystals and shall
47 not be damaged in any way.

48 (4) "Grade B" shall have a color darker than the United
49 States Department of Agriculture's visual color standard of
50 dark amber which nonetheless permits light transmission
51 through standard comparator containers and a flavor which is

1 stronger than that of medium amber but which is not sharp,
2 bitter, buddy or off-flavor and is characteristic of dark
3 amber. Grade B maple syrup shall be free of sugar crystals
4 and shall not be damaged in any way.

5 (5) "Grade C" shall be any maple syrup which does not
6 meet the grade standards for Grade A light, medium or dark or
7 Grade B maple syrup. Grade C maple syrup shall not be
8 packaged for retail or wholesale sales except for sale
9 directly between the producer and the consumer.

10 (g) Hydrometers.--The department shall promulgate
11 regulations to establish standards for hydrometers used to
12 determine the density of maple sap or maple syrup. The
13 regulations shall include a procedure for certifying the
14 accuracy of hydrometers.

15 § 6108. Prohibited acts.

16 The following acts are prohibited:

17 (1) Manufacture, sale, delivery, consignment, bailment,
18 holding or offering for sale of any maple product that is
19 adulterated or misbranded, except where a person in good
20 faith delivers or offers to deliver the food and furnishes
21 shipping documents to the department.

22 (2) Knowing receipt or delivery or offer to receive or
23 deliver in commerce any maple product which is adulterated or
24 misbranded, for pay or otherwise.

25 (3) Sale, delivery for sale, holding for sale or
26 offering for sale any maple product in violation of the
27 provisions of this chapter.

28 (4) Refusal to permit entry to and inspection of a food
29 establishment during normal business hours.

30 (5) Refusal to permit the taking of samples or copying
31 of records related to the production, distribution or sale of
32 maple products.

33 (6) Removal or disposal of a detained or embargoed maple
34 product in violation of this chapter.

35 (7) Failure to acquire a license if required by this
36 chapter.

37 (8) Alteration, mutilation, destruction, obliteration or
38 removal, in whole or in part, of a maple product label while
39 the product is held for sale if, as a result, the maple
40 product is adulterated or misbranded.

41 (9) Forging, counterfeiting, simulating, falsely
42 representing or using without proper authority any mark,
43 stamp, tag, label or other identification device authorized
44 or required by this chapter or by regulations promulgated
45 pursuant to this chapter.

46 § 6109. Labeling of maple products.

47 Any syrup, confection or product containing maple syrup and
48 artificial ingredients shall have all artificial ingredients
49 clearly identified on the label. Any syrup, confection or
50 product not containing maple syrup or maple products shall not
51 be labeled as a maple syrup or maple product or maple.

1 § 6110. Detained food.

2 If the department has probable cause to believe that a maple
3 product is adulterated or misbranded, the maple product shall be
4 detained and subsequently disposed of in accordance with the act
5 of July 7, 1994 (P.L.421, No.70), known as the Food Act, and the
6 regulations promulgated under that act.

7 § 6111. Manufacturing and marketing practices.

8 (a) Water supply.--The water supply used in the processing
9 of maple products shall be potable, sufficient for the
10 operations intended and derived from an adequate source. Private
11 water supplies shall be tested annually no more than 30 days
12 before the start of any operations.

13 (b) Physical structure of facilities.--Floors, walls and
14 ceilings of food establishments in which maple products are
15 processed or packaged shall be in good repair and properly
16 cleaned. Drip and condensate from fixtures, ducts and pipes
17 shall not contaminate food, food contact surfaces or food
18 packaging materials.

19 (c) Lighting.--Adequate lighting shall be provided in food
20 establishments in which maple products are processed or
21 packaged. Food shall be protected against contamination in case
22 of glass breakage.

23 (d) Ventilation.--Adequate ventilation shall be provided in
24 food establishments in which maple products are processed or
25 packaged to minimize vapors, including steam, in areas where
26 they may contaminate food. Screens or other means shall be
27 provided where necessary to prevent pests from entering the
28 establishment.

29 (e) Pest control.--The use of insecticides, rodenticides and
30 other pest control measures shall be permitted in food
31 establishments in which maple products are processed or packaged
32 only under such precautions and restrictions as will prevent
33 contamination of food, food contact surfaces and food packaging
34 materials.

35 (f) Personal sanitation.--Proper sanitary practices shall be
36 followed in food establishments in which maple products are
37 processed or packaged. Toilet facilities shall be available. No
38 licensee, employee or other person shall use tobacco in the
39 establishment or while in contact with food or equipment.
40 Licensees, employees and other persons in such establishment
41 shall be free of communicable diseases and shall wear clean
42 outer garments which will not contribute to the contamination of
43 the maple product.

44 (g) Cleaning equipment.--An effective cleaning schedule
45 shall be maintained at all times for a food establishment in
46 which maple products are processed or packaged. All equipment
47 and utensils shall be maintained in good repair. At the end of
48 the season, equipment and lines shall be thoroughly cleaned with
49 an approved sanitizing agent. Filtering, bottling and canning
50 operations shall be performed according to established maple
51 industry standards.

1 (h) Storage.--Facilities for storage of maple products shall
2 be maintained in a clean and dry condition. All maple products
3 which are not bottled or canned shall be adequately protected
4 and covered to prevent contamination and adulteration. Products
5 shall be stored off the floor and away from walls. All packaged
6 products shall be stored in an acceptable sanitary manner. All
7 containers and equipment associated with the production of maple
8 products shall be maintained and stored in an acceptable
9 sanitary manner.

10 (i) Toxic items.--Toxic cleaning compounds, sanitizing
11 agents and pesticide chemicals used in or in conjunction with a
12 food establishment in which maple products are processed or
13 packaged shall be identified, held and stored in a manner that
14 protects against contamination of food, food contact surfaces or
15 food packaging materials.

16 (j) Containers.--In addition to any other information
17 required by the provisions of this chapter or by the regulations
18 promulgated pursuant to this chapter, the label on a container
19 of maple syrup shall convey information to the consumer to
20 adequately protect the maple syrup from deterioration, if any,
21 which could reasonably be expected to result from the container.
22 § 6112. Penalties.

23 (a) Criminal penalties.--A person who violates any provision
24 of this chapter or any rule, regulation, standard or order made
25 under this chapter commits a summary offense for the first or
26 second offense. A person who violates any provision of this
27 chapter or any rule, regulation, standard or order made under
28 this chapter commits a misdemeanor of the third degree if the
29 violation is a third or subsequent offense and if the violation
30 occurs within two years of the date of the last previous
31 offense.

32 (b) Civil penalties.--In addition to proceeding under any
33 other remedy available at law or in equity for a violation of
34 this chapter or a regulation promulgated under this chapter, the
35 secretary may assess a civil penalty not to exceed \$10,000 upon
36 a person who knowingly and intentionally violates section 6104
37 (relating to license), 6105 (relating to registration), 6107
38 (relating to requirements and grades), 6108 (relating to
39 prohibited acts), 6109 (relating to labeling of maple products),
40 6110 (relating to detained food) or 6111 (relating to
41 manufacturing and marketing practices) or any regulation or
42 order promulgated pursuant to those sections.]

43 Amend Bill, page 41, line 22, by striking out "5722" and
44 inserting

45 5702

46 Amend Bill, page 42, by inserting between lines 1 and 2
47 "Proprietor." As defined in section 5702 (relating to

1 definitions).

2 Amend Bill, page 45, lines 7 through 25, by striking out all
3 of said lines and inserting

4 (a) General rule.--[Food establishments shall maintain
5 certification records on respective supervisory employees. Each
6 food establishment shall employ a person having supervisory
7 authority who holds a valid department food employee
8 certificate.] A retail food facility shall have at least one
9 supervisory employee who holds a valid certificate present at
10 the retail food facility or immediately accessible at all hours
11 of operation and who is the person in charge of the retail food
12 facility when physically present and on-duty.

13 (a.1) Multiple retail food facilities.--

14 (1) Except as provided under paragraph (2), a person who
15 meets the requirements of subsection (a) may only be the
16 required certified supervisory employee for a single retail
17 food facility.

18 (2) If a proprietor operates more than one retail food
19 facility at a temporary fair, festival or other temporary
20 event, a person who meets the requirements of subsection (a)
21 may be the certified supervisory employee for all of those
22 temporary retail food establishments.

23 (a.2) Federal recommended standards.--Notwithstanding this
24 chapter, if, after the effective date of this subsection, the
25 Food Code published by the United States Department of Health,
26 Food and Drug Administration recommends that a person in charge
27 hold a certificate or recommends that a certificate holder with
28 supervisory authority be present during hours of operation at a
29 retail food facility, the department shall, by regulation,
30 establish this recommended standard as the standard for retail
31 food facilities.

32 Amend Bill, page 52, lines 28 through 30; page 53, lines 1
33 through 3, by striking out "as follows:" in line 28, all of
34 lines 29 and 30 on page 52, all of lines 1 and 2 and "(2) The
35 remainder of this act shall take effect" in line 3 on page 53