

CR 93-127

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to certification that the operator or manager of a restaurant has a basic knowledge of appropriate food protection practices were duly approved and adopted by this Department on February 3, 1994.

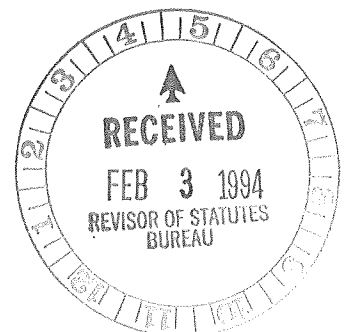
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 3rd day of February, 1994.



SEAL:

Gerald Whitburn, Secretary
Department of Health and Social Services



4-1-94

**ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
RENUMBERING, AMENDING AND CREATING RULES**

To renumber HSS 196.02 (2) and 196.19; to amend HSS 196.02 (1); and to create HSS 196.02 (2)(b), 196.03 (21m) and 196.19, relating to certification that the operator or manager of a restaurant has a basic knowledge of appropriate food protection practices.

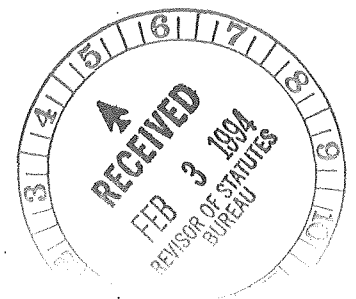
Analysis Prepared by the Department of Health and Social Services

Section 254.71, Stats., as renumbered by 1993 Wisconsin Act 27, provides that beginning January 1, 1995, a condition for operating a restaurant in Wisconsin is that the operator or manager hold a certificate issued by the Department which is evidence that the operator or manager is knowledgeable about appropriate food protection practices. The certificate is to be issued after the operator or manager successfully completes a written examination prepared by the Department that covers basic food protection practices. The certificate is valid for 5 years and may be renewed if the individual successfully completes a Department-approved recertification training course. The Department is directed to promulgate rules to establish fees for certification and standards for approval of recertification training courses.

This order amends the Department's rules for restaurants, ch. HSS 196, by adding the requirement that the operator or manager of a restaurant, except a temporary restaurant, as defined as s. HSS 196.03 (29), or a special organization serving meals, as defined in s. HSS 196.03 (27), be certified by the Department as knowledgeable about basic food protection practices. The rules provide that by January 1, 1995 the operator or manager of every existing restaurant must have obtained certification from the Department, and that beginning on that date every new restaurant has to have a certified operator or manager and every new operator or manager has to be certified. Application for certification is to be made on a Department form which is submitted to the Department along with evidence of successful completion of a Department-approved examination and a \$10.00 certification fee. Recertification is required every 5 years. For recertification, a restaurant operator or manager is required to successfully complete a training course of at least 3 hours in length, including an examination which covers 8 specified subjects such as effective cleaning and sanitizing of utensils and equipment.

The Department's authority to renumber, amend and create these rules is found in s. 254.71(6), Stats., as renumbered by 1993 Wisconsin Act 27. The rules interpret s. 254.71 Stats., as renumbered by 1993 Wisconsin Act 27.

SECTION 1. HSS 196.02 (1) is amended to read:



HSS 196.02 (1) APPLICABILITY. The provisions of this chapter apply to any regular restaurant, mobile restaurant, temporary restaurant or special organization serving meals, except that ss. HSS 196.05 to 196.15 apply only to regular restaurants, mobile restaurants and temporary restaurants, s. HSS 196.16 applies only to mobile restaurants, s. 196.17 applies only to temporary restaurants, ~~and~~ s. HSS 196.18 applies only to special organizations serving meals and s. HSS 196.19 applies only to regular restaurants and mobile restaurants.

SECTION 2. HSS 196.02 (2) is renumbered HSS 196.02 (2)(a).

SECTION 3. HSS 196.02 (2)(b) is created to read:

HSS 196.02 (2)(b). The department under s. HSS 196.19 may certify an operator or manager of a restaurant who has passed a written examination that the council on food protection practices has determined meets the examination criteria of s. HSS 196.19 (4)

SECTION 4. HSS 196.03 (21m) is created to read:

HSS 196.03 (21m) "Regular restaurant" means a restaurant other than a mobile restaurant, temporary restaurant, special organization serving meals or a prepackaged food service operation that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor as defined in s. 254.68 (1)(c) 1., Stats.

SECTION 5. HSS 196.19 is renumbered HSS 196.20.

SECTION 6. HSS 196.19 is created to read:

HSS 196.19 CERTIFICATION OF A RESTAURANT OPERATOR OR MANAGER.

(1) DEFINITIONS. In this section:

(a) "Certified manager" means the operator or a manager of a restaurant who has been certified by the department under this section.

(b) "Council on food protection practices" means the council established under s. 15.197 (21), Stats., to advise the department in regard to operation of the certification program.

(c) "Manager" means an individual who has direct authority over or exercises control or supervision over the employes and operations of a restaurant.

(d) "Testing service" means the developer of a food protection practices examination.

(2) REQUIREMENT. (a) Beginning January 1, 1995, the operator or at least one manager of a restaurant shall have a certificate issued by the department that states that the operator or manager has, after January 1, 1990, passed a department-approved written examination on food protection practices.

(b) The operator or a manager of a new or change-of-operator restaurant opening on or after January 1, 1995 shall become certified within 6 months after the restaurant opens for business.

(c) If more than one restaurant operated by the same person is located on the same property or contiguous properties, only the operator or one manager is required to be certified.

(3) APPLICATION FOR CERTIFICATION. (a) Application for certification shall be made on a form provided by the department.

(b) A completed application form shall be submitted to the department along with a certification fee of \$10.00 and evidence that the applicant has successfully completed a written examination that meets the criteria under sub. (4).

Note: To obtain a copy of the application form, write Environmental Sanitation Unit, Bureau of Public Health, P. O. Box 309, Madison, Wisconsin.

(4) EXAMINATION CRITERIA. Criteria for department approval of a written examination on food protection practices may include the following:

(a) The testing service is:

1. Experienced in examination development and administration on a statewide or multi-state basis;

2. Experienced in the development of an examination pertaining to food service protection practices; and

3. Qualified in examination development, administration and measurement;

(b) The examination is currently being used by trade or regulatory organizations;

(c) The examination is accepted by public health officials and has been administered on a statewide basis;

(d) The examination and correct answers to examination questions have been reviewed by members of the council on food protection practices. Review includes a statistical summary of mean, standard deviation, mode, range, minimum and maximum scores, coefficient and number and percentage of applicants passing and failing the original and retake examinations;

(e) The questions and answers are consistent with the examination requirements of this chapter;

(f) Security procedures are in place which protect the examination from compromise in preparation, printing, and transportation of the examination;

(g) The examination will be administered by a person certified by the testing service to administer the examination, to ensure that the examination taker and the applicant are the same person;

(h) General analyses of examination results will be available annually on or about January 1, 1996;

(i) The examination is available and may be taken at locations geographically accessible to persons who want to take it;

(j) There is advance notice of examination dates available;

(k) An examination that is given under contract with a testing service for a specified period of time is subject to review by the council on food protection practices upon renewal;

(l) A designated examination coordinator or contact person is available;

(m) The examination has undergone and continues to undergo appropriate screening for reading and writing levels by the American psychological association (APA);

(n) The examination is developed with representation from affected groups;

(o) The needs of special populations for accommodation to be able to take the examination are addressed by the testing service;

(p) A study guide and list of resources is available to persons who are preparing to take the examination;

(q) A proposed examination is consistent with already approved examinations in regard to rigor and types of questions; and

(r) The proposed examination will permit reciprocity between states.

Note: The food protection practices examinations developed by the Educational Foundation of the National Restaurant Association, the National Assessment Institute, the Educational Testing Service and Marathon County Health Department meet these criteria. Other exam services may be approved by the department if it is demonstrated that they meet the criteria.

(5) ACTION BY THE DEPARTMENT. Within 30 days after receiving a complete application for certification, payment of the certification fee and receipt of evidence that the applicant has successfully completed a written examination which meets the applicable criteria of sub. (4), the department shall approve the application and issue a numbered certificate. If the application for a certificate is denied, the department shall give the applicant reasons, in writing, for the denial.

(6) POSTING. A restaurant shall post a certificate issued by the department under this section in a conspicuous place on the premises of the restaurant.

(7) NOTIFICATION OF CHANGE IN CERTIFIED MANAGER. The operator of a restaurant shall promptly notify the department when the certified manager terminates employment with the restaurant and shall supply the department with the name and state certificate number of the new certified manager within 6 months after the termination date of the previous certified manager.

(8) RECERTIFICATION. (a) A certificate issued under this section shall expire 5 years after the date of issue and may be renewed if the certified manager successfully

completes a recertification training course approved by the department under sub. (9). The recertification training course shall be completed prior to issuance of a new certificate.

(b) Application for recertification shall be made on a form provided by the department. The application form shall be submitted to the department at least 30 days before expiration of the certificate, along with evidence of successful completion of the recertification training course and payment of a \$10.00 recertification fee.

Note: To obtain a copy of the recertification application form, write Environmental Sanitation Unit, Bureau of Public Health, P. O. Box 309, Madison, Wisconsin 53701.

(9) RECERTIFICATION TRAINING COURSE APPROVAL. (a) Training courses in food protection practices to prepare certified managers for recertification are subject to approval by the department in accordance with this subsection.

(b) A course shall consist of at least 3 hours of instruction time and include an examination on the information presented.

(c) A course shall cover the following subjects:

1. Temperature control of potentially hazardous food during preparation, storage, transportation and service;
2. Effective cleaning and sanitizing of utensils and equipment;
3. Food protection, including the shelf life for foods;
4. Food worker personal hygiene;
5. Effective handwashing techniques;
6. Identification of potentially hazardous food;
7. Storage and use of toxic products; and
8. Special problems in food service sanitation.

(d) The department, on written request of a training course provider and on recommendation of the council on food protection practices, may authorize modification of course content.

(e) A request for approval of a recertification training course shall be submitted to the department in writing along with the proposed curriculum. Within 30 days after receiving a request for approval, the department shall either approve the course and notify the training course provider in writing of the approval or deny approval in which case the department shall give the training course provider reasons, in writing, for the denial.

(f) The department may cancel its approval of a training course at any time if its investigation reveals that the criteria in this subsection are not being met.

Note: To request approval of a recertification training course, write Environmental Sanitation Unit, Bureau of Public Health, P. O. Box 309, Madison, Wisconsin 53701.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health
and Social Services

DATED: February 3, 1994

By:



Gerald Whitburn
Secretary

SEAL:

