

February 4, 2015

TO: Assembly Committee on State Affairs and Government Operations
Rob Swearingen, Chairman

FR: Ed Lump, President and CEO
Wisconsin Restaurant Association



- RE: Opposition of Assembly Bill 17/Senate Bill 12 This bill is a solution looking for a problem... This law only went into effect on January 1, 2015 and this bill claims to be correcting a problem that does not exist. The City of Milwaukee has had the requirement of a recertification test for Certified Food Protection Managers since 2009, without issue. We have heard there is a problem with the rule making process for Act 292 – we are interested in finding out what that problem is
- History of bill...opposition never voiced
 - Circulated in September 2013 – three parts
 - Recertification testing, **NO EXEMPTIONS FOR ANYONE**
 - **On premise requirement, with exemption for 5 or fewer employees on duty**
 - Pre-empting local ordinances (Milwaukee grandfathered in)
 - Passed Senate Health Committee and Assembly Consumer Protection committees unanimously. WRA only entity to testify at either hearing
 - Amended on premise requirement to remove servers as food handlers at the request of the Tavern League. Tavern League removes opposition to bill. (SA-1, February 16, 2014)
 - Passed Senate on voice vote (March 11, 2014)
 - Amended in Assembly to remove entire on premise requirement, with its attached exemption. Passed on voice vote (ASA-1, March 20, 2014) (Concern raised in Assembly GOP Caucus. Amendment satisfied representatives with concerns over on premise requirement)
 - Amended bill passed Senate on voice vote (April 1, 2014)
 - Signed by governor (2013 WI Act 292, April 16, 2014)
 - July 23, 2014 – received first written communication from Tavern League of dissatisfaction with the law
- Food borne illness does not discriminate – it will strike anyone, at any time. It may be caused by food eaten at home or prepared in any size of a restaurant, grocery store or event. Protecting public health and understanding the latest food safety standards are the responsibility of all restaurants and other food establishments. Why are small restaurants being singled out by this bill in a way that weakens industry accepted standards?
- One of the reasons the Food Protection Manager Certification (CFPM) exists is so a restaurant manager can prove they meet the Demonstration of Knowledge requirement in Chapter 2 of the Food Code. The Code requires a restaurant manager must demonstrate they know the 17 listed

principles of foodborne disease prevention and the requirements of the Code. If the manager is not a CFPM, they must be able to answer questions to the satisfaction of the restaurant inspector or have no serious violations during their inspection. Being a CFPM is the easiest and most fair way a manager can meet this provision, without being at risk of a bad day with an inspector

- Without an exam, there is no proof the manager has gained the knowledge outlined in the Code. National standards for CFPM's were developed in the past 15 years to make sure the certification is only given to those managers who demonstrate knowledge. National standards require an exam every five years to ensure the manager continues to learn and apply their food safety knowledge
- Wisconsin and Minnesota were some of the first states to adopt a CFPM law over 20 years ago. Now, 27 states require CFPMs, and 11 more states have large counties and cities, like Las Vegas, who require them. Minnesota is now the only jurisdiction which allows anyone to be certified without taking a test. Every other state and jurisdiction requires adhering to national standards. Why in the world would Wisconsin decide to go backwards on food safety standards?
- Over the past 10 years, our staff has had multiple conversations with state and local restaurant inspectors. Inspectors have relayed that as managers continue to recertify over and over again with class time only training, they see a decrease in knowledge of the 17 food safety principles mentioned earlier. They also see more inspection violations. Those managers who have taken the exam in five years or less have retained their knowledge and do a better job complying with the Food Code
- Two different standards for the same certification is an unworkable situation. A CFPM must be qualified to oversee foodservice operations in any restaurant. Manager certification belongs to the manager, not the food establishment. Managers in our industry do move from job to job. Manager who recertify without an exam do not have a certification that is valid at larger operations or out of state
- Because this bill has been introduced and brought to hearing all within a week, there has not been time to get input from the food safety regulators at DHS, regarding their ability to enforce the provisions outlined or the additional financial resources that will be necessary
- Act 292 created a lesser mandate and more flexibility for managers on how they get recertified. A course is no longer required, allowing managers to instead prepare themselves for the CFPM exam on their own time, in their own way. WRA charges \$60 for the exam. We use to charge \$75 for a four hour recertification course. If a WRA member wishes to take a review course to prepare for the exam, we charge \$125. However, a manager could choose to use other sources to prepare, such as their own experience, borrowing or purchasing a book or taking an online course
- Thank you for your time and I will gladly take any questions

Guest view: Wisconsin restaurants support new food safety standards

JANUARY 26, 2015 12:15 AM • ED LUMP WISCONSIN RESTAURANT ASSOCIATION

To say food safety in restaurants and other food outlets is important is an understatement. However, the public doesn't hear much about it unless there is an actual outbreak of foodborne illness. Occasionally, awareness is heightened by publication in local newspapers or TV segments about restaurant inspection reports.

What isn't widely known is that the Wisconsin Restaurant Association, with the strong support of the industry, has worked diligently throughout its history to continually raise food safety standards for our industry. We have done this to ensure that people serving food to the public know the latest science behind food safety, and laws and regulations reflect that science. We do this to protect the public as well as the integrity of our industry.

On Jan. 1, we took another big step forward as a new law (strengthening a 20-year-old existing law) went into effect. The original law requires that every restaurant in Wisconsin, regardless of size, have at least one manager on staff certified in food safety (Certified Food Protection Manager). To become certified, the manager has to pass a state approved exam.

The existing law also requires that a Certified Food Protection Manager be recertified every five years. However, recertification was accomplished by class time — no exam. Now an exam is required for both original certification and recertification. WRA feels this is the best way to ensure the manager demonstrates knowledge and is up-to-date on current science and food codes. By the way, the city of Milwaukee has required this since 2008, which our association also supported.

Keep in mind that food safety is a complex, science based issue. Attempts to simplify things, can lead to inaccurate conclusions. Also the science of food safety changes rapidly, so do the FDA and Wisconsin Food Codes, which restaurants are required to follow.

This is why food safety knowledge accountability is critical. WRA supported this stricter recertification process because it helps to protect customers, restaurants and our industry from dangerous and costly outbreaks of foodborne illness.

The Wisconsin Restaurant Association has made it our mission to help all restaurants and food establishments commit to food safety. We communicate this to our members and the restaurant industry frequently and offer tools and resources to ensure that food safety is priority No. 1.

February 4, 2015

**TO: Assembly Committee on State Affairs and Government Operations
Rob Swearingen, Chairman**

**FR: Steve Davis, Owner
Ardy and Ed's Drive-In, Oshkosh**

RE: Opposition of Assembly Bill 17/Senate Bill 12

- Good afternoon. I am Steve Davis, co-owner of Ardy and Ed's Drive-In in Oshkosh. My restaurant is (describe operation type.) I am a past chairman of the board for the Wisconsin Restaurant Association and its Education Foundation. I am still an active member of the WRA Board of Directors.
- I strongly believe that Wisconsin is, and needs to stay, a leader in food safety. That is why I oppose Assembly Bill 17.
- I have been active in the WRA for many years and was on the board of directors when we first voted to unanimously support the need for recertification testing 11 years ago. Our board is a cross section of restaurant sizes and types. I and many of my fellow board members represent smaller operations, but we also have directors who represent companies as large as Culvers and Marcus Hotels and Resorts. We all agree that testing every five years to maintain our Food Protection Manager Certification is what is appropriate for our industry.
- In my experience as a restaurant operator/manager, food safety has risen to the top as an issue of importance for the restaurant industry. Educating myself and my employees about food safety is increasingly important to my business.
- Online posting of restaurant inspection reports is now a reality in Wisconsin. Customers can look online and see how their favorite restaurants are doing in protecting the public from food borne illness. Now more than ever, it is important that our industry do what is necessary to ensure our owners and managers know and understand the most recent and relevant food safety

principles.

- I believe that education of managers and employees plays a key part in preventing food borne illness. However, without testing there is no guaranteed learning. I believe that it is important a Certified Food Protection Manager should take an approved test in order to maintain their certification.
- I recertify every 5 years by taking the exam, even though I did not have to by law. I knew that if I just went to the mandatory course and sat through the training, I would not feel the same urgency to make sure I understood what was being taught. Taking the exam made me learn and made me accountable.
- As a small independent operator, I need to remain competitive and keep up with all of the restaurants in my area. Unlike a franchisee, I do not have a corporate food safety director to help me with my food safety plans for my restaurant; I need to develop it myself. Recertification through testing keeps me and my fellow small operators sharp and competitive.
- The foodservice industry is made up of professionals, regardless of restaurant size. As professionals we must be accountable for protecting the public who patronize our establishments. This is a serious issue and our industry realizes the importance of food safety and the need for maintaining our level of food safety knowledge, which outweighs any inconvenience caused by taking an exam every five years.
- I take food safety and professionalism in our industry very seriously. In order to protect the restaurant and tourism industry in Oshkosh and the rest of Wisconsin, I need to be assured the restaurant; tavern or grocery store deli down the road takes food safety as seriously as I do.
- If there is a food borne illness outbreak in my town that could have been prevented by the food establishment, all of us pay for it. I pay for it with reduced business because local patrons will think they are safer eating at home and tourists will avoid our area. *(tell Oshkosh convention outbreak example)*
- Keeping the recertification testing requirement for all operators, regardless of restaurant size, is the right thing to do - for both the consumer and the food industry.
- Thank you for your time



Tom Barrett
Mayor

Bevan K. Baker, FACHE
Commissioner of Health

Joe'Mar Hooper, MPA
Health Operations Administrator

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February 4, 2015

Assembly Committee on State Affairs and Government Operations
Wisconsin State Capital
2 East Main Street
Madison, WI

Dear Chair and Committee Members:

Thank you for the opportunity to discuss the City of Milwaukee's concerns with Assembly Bill 17.

As the largest municipal agent of the State for food inspection, The City of Milwaukee Health Department is opposed to the proposed changes in AB-17 which will remove the requirement that small restaurant operators to demonstrate they have been adequately trained in food safety by passing an examination with the proposed amendment to instead accept documentation of course completion.

When you dine at a restaurant or when an inspector performs a routine inspection at a food establishment, the expectation is that the person operating that establishment is not only knowledgeable about safe food handling practices but has sufficient depth of understanding that they are able to translate that knowledge into the requisite actions necessary to operate safely.

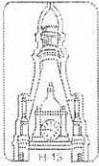
Inspectors have limited opportunities to observe restaurant operator knowledge and practice first hand, with most operators receiving only one full inspection every year. Requiring someone onsite to have a valid certificate of food protection practices (FPP Certificate) implies that on a routine basis a person is at that establishment who has demonstrated essential food safety knowledge and is available to apply that knowledge in the day-to-day operations of the establishment in order to provide consumers with safe food.

The science of food safety in the restaurant industry is ever evolving. Recertification of the FPP Certificate assures that the operator not only retained adequate food safety knowledge but remains up to date on changes in practice and is aware of how food safety applies to current culinary trends.

In small restaurants the responsibility to have adequate food safety knowledge falls exclusively on the operator as they are not as likely to have external or corporate resources taking on all or part of the food safety responsibilities. It is therefore equally if not more important that these operators obtain and maintain adequate food safety knowledge.

Examination assures that a minimum amount of food safety knowledge was obtained as a result of taking the course. The only thing that can be concretely determined from receiving a certificate of course completion, as proposed in the bill, is that the operator was successful in showing up for the course.





**City
of
Milwaukee**

Tom Barrett
Mayor

Bevan K. Baker, FACHE
Commissioner of Health

Health Department Office of the Commissioner

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In Milwaukee we have had operators who have struggled to pass the certification exam, however, through inspectional policy we take into account an operator's good faith attempt to meet the requirement when determining the appropriate enforcement action to take. Typically extending the deadline to obtain compliance and allowing the operator another opportunity to take the course.

It is for these reasons that the City of Milwaukee Health Department cannot support AB-17. We would be happy to discuss our concerns at your convenience.

Thank you for the opportunity to testify before the committee today.

Sincerely,

Angie Hagy
Director of Consumer and Environmental Health
Milwaukee Health Department