



**H.B. 120**

123rd General Assembly  
(As Introduced)

**Reps. Barnes, Terwilleger**

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**BILL SUMMARY**

- Establishes in statute an existing prohibition against the operator of a food service operation allowing an employee to work in any capacity while the employee is infected with a disease that may be transmitted by food or the handling of food.
- Requires a food service operator to cause current and prospective employees to undergo an annual examination to test for diseases that may be transmitted to other persons by food or the handling of food.
- Requires a food service operator to pay for an examination that is not covered by an employee's health insurance and, for food service operators with fewer than ten employees, requires the Department of Health to reimburse the operator for the cost of the examination.
- Requires the Public Health Council to adopt rules that specify the diseases that may be transmitted by food or the handling of food and the type of examinations that are required by the bill.
- Provides that the law pertaining to examination of food service operation employees prevails over any conflicting provisions of an agreement between an employee organization and a public employer.

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**CONTENT AND OPERATION**

**Background**

The Public Health Council consists of seven members appointed by the Governor: three physicians, a pharmacist, registered nurse, sanitarian, and member

who represents the public and is at least age 60 (sec. 3701.33, not in bill).<sup>1</sup> The Council is required to adopt rules that apply uniformly throughout the state regarding licensing food service operations, including licensing requirements, identifying factors that contribute to foodborne disease, standards for sanitation, and any other matter the Council considers relevant to administering and enforcing the law governing food service operations (sec. 3732.02).

A "food service operation" is defined in current law as a place, location, site, or separate area where food intended to be served in individual proportions is prepared or served for a charge or required donation, including mobile food service operations, catering food service operations, temporary food service operations, seasonal food service operations, vending machine locations, and food delivery sales operations. "Food service operation" does not include, among other locations, private homes; residential facilities with fewer than 16 residents; and churches, schools, fraternal or veterans' organizations, and certain volunteer organizations that prepare or serve food no more than seven consecutive days or 52 separate days each year (sec. 3732.01, not in bill).

### **Communicable disease and food service workers**

(sec. 3732.15)

In administrative rules adopted by the Public Health Council that govern food service operations, the operator of a food service operation is prohibited from allowing a person affected with a disease in a communicable form to work in any capacity that brings the person into contact with the production, handling, storage, or transportation of foods (Ohio Administrative Code 3701-21-49). The bill establishes this prohibition in the Revised Code by requiring food service operators to cause employees to be examined for diseases that may be transmitted by food or the handling of food.

### **Examining food service operation employees for communicable diseases**

(secs. 3732.02, 3732.15, 3732.16(A) and (C), 3732.17, and 3732.18)

Under the bill, the operator of a food service operation is prohibited from allowing an employee to work in any capacity while infected with a disease that may be transmitted by food or the handling of food. The bill requires the Public

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<sup>1</sup> *The Public Health Council is part of the Department of Health. It has rule-making authority in a number of areas, including public sanitation and standards for local health departments.*

Health Council to adopt rules specifying the diseases that may be transmitted by food or the handling of food.

### **Examinations for communicable diseases**

Under the bill, a food service operator is required to cause each employee and prospective employee to undergo an examination to determine whether the employee is infected with a disease that may be transmitted to other persons by food or the handling of food. The examination must meet the requirements established in rules adopted by the Public Health Council and be conducted, for current employees, not later than 60 days after the examination requirement is effective and, for prospective employees, when the individual is under final consideration for employment.<sup>2</sup> Each employee must undergo an examination at least once every 12 months; however, an examination is not required if an employee or prospective employee presents acceptable evidence, as defined in rules adopted by the Public Health Council, of having undergone an examination in the previous 12 months.

An employee who fails to submit to an examination required by the bill may not be permitted, until the employee undergoes the examination, to work in any capacity in which there is a likelihood of the employee transmitting disease to other persons by food or the handling of food. A food service operator is prohibited from hiring an applicant who fails to submit to an examination required by the bill.

### **Written report of examination**

(sec. 3732.16(B))

Each examination must be evidenced by a written report from the person who conducted the examination. The food service operator is required to maintain with each employee's records a copy of the results of the most recent examination. Copies of the results must be made available on request to either the Director of Health or the local board of health responsible for licensing the food service operation. A food service operator is required to preserve the confidentiality of the examination results, but the Director of Health or the local board of health may use the records to determine whether the operator has complied with the examination requirement and the requirement that an employee not be permitted to work in any capacity while there is a likelihood of the employee transmitting a disease.

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<sup>2</sup> *The examination requirement and the requirement that an employee not be permitted to work in any capacity while there is a likelihood of the employee transmitting a disease take effect 120 days after the bill's effective date (Section 3).*

**Cost of examinations**

(secs. 3732.04 and 3732.19)

A food service operator is required to pay the cost of each examination that is not covered by the health insurance coverage of the employee or prospective employee. At the request of a food service operator with fewer than ten employees, the Department of Health must reimburse the operator for amounts the operator pays for examinations conducted under the bill. The reimbursements must be made from the amounts collected under current law from applicants for food service operation licenses for use by the Director of Health in administering and enforcing the food service operation law.

**Impact on collective bargaining agreements**

(sec. 4117.10)

The bill provides that the law requiring that employees of food service operations be examined for diseases prevails over conflicting provisions of agreements between employee organizations and public employers.

**Rules adopted by the Public Health Council**

(Section 4)

The Public Health Council must adopt the rules required by the bill not later than 90 days after the bill's effective date.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-28-99	p. 123

H0120-I.123/jc