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CH. 23 EATING AND DRINKING ESTABLISHMENTS

CHAPTER 23
EATING AND DRINKING ESTABLISHMENTS

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§ 23101. Definitions.

As used in this Chapter:

(a) *eating and drinking establishment* means any food service establishment, mobile food service establishment or vending machine;

(b) *food service establishment* means any restaurant, coffee shop, public or private school cafeteria, lunchroom, luncheonette, lunchstand, lunch-counter, in-plant or employee eating establishment, soda fountain, bar, café, tavern, short order café, sandwich stand, drink stand, temporary food service establishment, mobile food service establishment, any cafeteria or similar facility connected with any institution defined in Chapter 24 and any other eating establishment, organization, club, including veteran's club, boardinghouse, guesthouse or political subdivision, any stall stand, booth or concession within any public market which gives, sells or offers for sale food or beverage to the public, guests, patrons or employees as well as kitchens in which food is prepared on the premises for serving elsewhere including catering functions. The term *food service establishment* shall not include vending machines, vehicles, cooperative arrangements by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangement or private homes nor shall the term *food service establishment* include churches, church societies, private clubs or other non-profit associations of a religious, philanthropic, civic

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improvement, social, political or educational nature, which purchase food, food products or beverage, for service without charge to their members;

(c) *vending machine* means any self-service device which, upon insertion of a coin, coins or token or by similar means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation, but not including devices dispensing peanuts, wrapped candy, gum, ice and canned or bottled beverage exclusively;

(d) *machine location* means the room enclosure, space or area where one (1) or more vending machines are installed and operated;

(e) *employee* means any person working in an establishment covered by this Chapter who transports food or food containers, who engages in food preparation or service or who comes in contact with any food utensils or equipment;

(f) *utensil* means any kitchenware and tableware used in the preparation, conveying or serving of food;

(g) *single service articles* means cups, containers, lids or closures; plates, knives, forks, spoons, stirrers, paddles; straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are wholly or in part from paper, paper-board, molded pulp, foil, wood, plastic, synthetic or other readily destructible materials and which are intended by manufacturers and generally recognized by the public as for one usage only, then to be discarded;

(h) *product contact surface* means any surface of the vending machine, appurtenances or containers which comes into direct contact with any food, beverage or ingredient; and

(i) *new* as used in reference to new eating and drinking establishments applies to eating and drinking establishments constructed or machines or equipment installed after the effective date of this Chapter.

SOURCE: GC § 6530.

CROSS-REFERENCE: See 10 GCA § 24101 re subsection (b).

§ 23102. Examination and Condemnation of Unwholesome or Adulterated Food or Drink; Examination of Utensils.

Samples of food, drink or other substances may be taken and examined by the Director as often as may be necessary for the detection of unwholesomeness or adulteration. The Director may condemn and forbid the sale of, or cause to be seized, removed or destroyed, any food or drink which is unwholesome or adulterated. Specimen of utensils may be taken for bacterial examination.

SOURCE: GC § 6530.1.

CROSS-REFERENCE: *See* 10 GCA § 24103.

§ 23103. Disease Control.

No person managing an eating and drinking establishment shall permit an employee to work knowing or having reason to know that such employee has a communicable disease or is a carrier of such disease. No employee shall work in an eating and drinking establishment knowing himself to have or having reason to believe that he has any communicable disease or is a carrier of any such disease. If a person in charge or control suspects that any employee has any communicable disease or is a carrier of such disease, he shall notify the Director immediately. No employee shall handle food if he has an open sore and may contaminate food because of the sore.

SOURCE: GC § 6530.2.

CROSS-REFERENCE: *See* 10 GCA § 24104.

§ 23104. Placarding Employee Areas.

A placard containing a copy of § 23103 shall be posted in all toilet rooms used by any employee.

SOURCE: GC § 6530.3.

§ 23105. Procedure When Infection Suspected.

When suspicion arises as to the possibility of transmission of infection from any employee, the Director is authorized to require:

- (a) the immediate exclusion of the employee from all eating and drinking establishments;
- (b) the immediate closing of the establishment until no further danger of disease outbreak exists; or

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(c) medical examination of the employee and his fellow employees, with such laboratory examinations as may be indicated.

SOURCE: GC § 6530.4.

2013 NOTE: Subsection designations were altered to adhere to the the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 23106. Grading of Food Service Establishment.

(a) Every food service establishment shall display in a place designated by the Director, a placard approved by him stating the grade received at the time of the most recent inspection of the establishment. Only the Director or his designee may remove such placard.

(b) Itinerant food service establishments shall not be subject to grading.

(c) Grades of Establishments shall be as follows:

Grade A. An establishment having a demerit score of not more than ten (10).

Grade B. An establishment having a demerit score of more than ten (10) but not more than twenty (20).

Grade C. An establishment having a demerit score of more than twenty (20) but not more than forty (40).

Grade D. An establishment having a demerit score of more than forty (40).

Notwithstanding the grade criteria established above, whenever a second consecutive violation of the same item of 2, 4 or 6 demerit points is discovered, the permit may be suspended or in lieu thereof, the establishment shall be downgraded to the next lower grade.

(d) Immediately following such inspection, the Director shall post the appropriate notice in accordance with § 21107 of Chapter 21. The permit holder or operator of any establishment, the grade of which has been lowered, may, at any time, request an inspection for the purpose of regrading the establishment. Within ten (10) days following receipt of a request including a signed statement that the conditions responsible for the lowering of the grade have, in the applicant's opinion, been corrected, the Director shall make an inspection; and thereafter, as many additional inspections as he may deem necessary to assure himself that the applicant is complying

with the higher grade requirements; and, if the findings indicate compliance shall award the higher grade.

SOURCE: GC § 6530.5.

§ 23107. New Building; Remodeling; Reconstruction.

When any eating and drinking establishment is constructed or extensively remodeled or when an existing structure is converted for use as an eating and drinking establishment, then the owner or person in charge or control shall comply with the provisions of § 23102 of this Chapter and the regulations promulgated thereunder.

SOURCE: GC § 6530.6.

§ 23108. Disclosure of MSG Required.

(a) All food service establishments engaged in the business of selling food that use food enhancers, commonly known as MSG, or Monosodium Glutamate, are required to disclose such information to all prospective customers.

Such disclosure shall include the posting of a sign at the entrance of the business area that is clearly visible to the customers and a notice on all menus.

(b) Rules and Regulations. The Director of the Department of Public Health and Social Services shall have one hundred eighty (180) days from the enactment of this Act to promulgate the rules and regulations in accordance with the procedures prescribed by the Administrative Adjudication Law necessary to carry out the intent of this Act.

(c) Penalty. Any violation of this Chapter shall be fined in an amount *not* to exceed One Hundred Dollars (\$100.00).

SOURCE: Added by P.L. 25-15:2-4. Section number assigned by Compiler in accordance with the Title of P.L. 25-15.

§ 23109. Vending Machines, Mobile Food Service Establishments, and Food and Beverage Vendors Utilizing Fixed Structures on Government Premises.

The Department, in the regular conduct of inspections of vending machines pursuant to this Chapter, *shall* additionally inspect vending machines on government of Guam premises for compliance with § 22420.1 of Article 4, Chapter 22, Title 5, Guam Code Annotated - Policy in Favor of Healthy

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Food and Beverage Products in all Vending Machines Located within Government Facilities; and as further provided pursuant to § 22420.2 of Article 4, Chapter 22, Title 5, Guam Code Annotated, which *shall* apply to all mobile food service establishments(also commonly referred to or known as mobile canteens), or food and beverage vendor activities within fixed structures wherein foods and beverages are prepared and served.

SOURCE: Added by P.L. 31-141:3 (Nov. 17, 2011). Amended by P.L. 32-085:7 (Nov. 27, 2013).
