

Tenn. Code Ann. § 68-14-301

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*** Current through the 2014 Regular Session ***

Title 68 Health, Safety and Environmental Protection
Health

Chapter 14 Hotels, Food Service Establishments and Swimming Pools
Part 3 Hotel, Food Service Establishment and Public Swimming Pool Inspection Act of 1985
[Effective until July 1, 2015. See the version effective on July 1, 2015.]

Tenn. Code Ann. § 68-14-301 (2014)

68-14-301. Short title. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

This part shall be known and may be cited as the "Hotel, Food Service Establishment and Public Swimming Pool Inspection Act of 1985."

68-14-302. Part definitions. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

As used in this part, unless the context otherwise requires:

(1) "Alteration" shall be defined by rule, but does not mean function replacement that equals or makes better the existing operation of the facility;

(2) "Auxiliary food service operation" means a designated area located within or adjacent to a food service establishment sharing common ownership or management and whose primary purpose is serving beverages. For determining the amount of the permit fee for the food service establishment associated with the auxiliary food service operation, all seating in the auxiliary food service operation shall be included in the seating count of the primary food service establishment;

(3) "Commissioner" means the commissioner of health, the commissioner's duly authorized representative, and in the event of the commissioner's absence or vacancy in the office of commissioner, the deputy commissioner;

(4) "Critical items" means those aspects of operation or conditions of facilities or equipment that, if in violation, constitute the greatest hazards to health and safety, including imminent health hazards. These include:

(A) Approved food sources with no spoilage -- (food service);

(B) Approved temperatures for potentially hazardous food -- (food service);

(C) Facilities to maintain proper food temperatures -- (food service);

- (D)** No reservice of unwrapped or potentially hazardous food -- (food service);
- (E)** Restriction of employees with infection -- (food service, hotels, pools);
- (F)** Proper cleanliness and good hygiene practices of employees -- (food service, hotels);
- (G)** Proper sanitizing of utensils, equipment -- (food service, hotels);
- (H)** Approved water supply, hot and cold running water under pressure -- (food service, hotels, pools);
- (I)** Sewage, liquid waste disposal -- (food service, hotels, pools);
- (J)** No cross connection, backsiphonage -- (food service, hotels, pools);
- (K)** Toilet and handwashing facilities for employees -- (food service, hotels);
- (L)** Insects and rodents -- (food service, hotels);
- (M)** Toxic items properly stored, labeled -- (food service, hotels);
- (N)** Fire safety -- (hotels);
- (O)** Safety -- (pools);
- (P)** Excessive turbidity -- (pools);
- (Q)** Total absence of approved sanitizing residuals -- (pools);
- (R)** Failure or lack of filtration, sanitizing and cleaning equipment and chemicals -- (pools);
and
- (S)** Absence or lack of required supervisory personnel -- (pools);
- (5)** "Department" means the department of health;
- (6) (A)** "Food service establishment" means any establishment, place or location, whether permanent, temporary, seasonal or itinerant, where food is prepared and the public is offered to be served, or is served, food, including, but not limited to, foods, vegetables, or beverages not in an original package or container, food and beverages dispensed at soda fountains and delicatessens, sliced watermelon, ice balls, or water mixtures;
- (B) (i)** "Food service establishment" includes any such places regardless of whether there is a charge for the food;
- (ii)** "Food service establishment" does not include private homes where food is prepared or served and not offered for sale, retail food store operation other than delicatessen, the

location of vending machines, and supply vehicles;

(iii) (a) "Food service establishment" does not include churches, temples, synagogues or other religious institutions, civic, fraternal, or veteran's organizations where food is prepared, served, transported, or stored by volunteer personnel only on non-consecutive days;

(b) "Stored" does not include the storage of unopened, commercially canned food, packaged bulk food that is not potentially hazardous, or dry goods for the purposes of this sentence;

(iv) (a) "Food service establishment" does not include grocery stores that may, incidentally, make infrequent casual sales of uncooked foods for consumption on the premises, or any establishment whose primary business is other than food service, that may, incidentally, make infrequent casual sales of coffee or prepackaged foods, or both, for consumption on the premises;

(b) For the purposes of this subdivision (6)(B);

(v) "Infrequent casual sales" means sales not in excess of fifty dollars (\$50.00) per day on any particular day;

(vi) "Food service establishment" does not include a location from which casual, occasional food sales are conducted solely in connection with youth-related amateur athletic or recreational activities or primary or secondary school-related clubs by volunteer personnel and that are in operation for twenty-four (24) consecutive hours or less;

(vii) "Food service establishment" does not include a catering business that employs no regular, full-time employees, the food preparation for such business is solely performed within the confines of the principal residence of the proprietor, and the catering business makes only "occasional sales" during any thirty-day period;

(viii) "Food service establishment" does not include a house or other residential structure where seriously ill or injured children and their families are provided temporary accommodations in proximity to their treatment hospitals and where food is prepared, served, transported or stored by volunteer personnel; provided, that the house or structure is supported by a § 501(c)(3) organization, as defined in 26 U.S.C. § 501(c)(3), that has as a component of its mission the support of programs that directly improve the health and well-being of children;

(7) "Homeowners' association" means a nonprofit corporation that manages or contracts for the management of the common areas of a residential multi-family housing development. A homeowners' association is governed by a board of directors elected by a majority vote of the individual homeowners;

(8) "Hotel" means any building or establishment kept, used, or maintained as, or advertised as, or offered to the public to be, a place where sleeping accommodations are furnished for pay to transients or travelers, whether or not meals are served to transients or travelers;

(9) "Imminent health hazard" means any condition, deficiency, or practice that, if not corrected, is very likely to result in illness, injury, or loss of life to any person;

(10) "Multi-family residential housing" means condominiums, subdivisions and individual residential housing developments that share common grounds, parking facilities, tennis courts, swimming pools and similar recreational facilities that are operated by a homeowners' association;

(11) "Multi-family residential housing swimming pool" means a private swimming pool maintained by a homeowners' association solely for the use and benefit of the members of the homeowners' association and their guests;

(12) "Person" means any individual, partnership, firm, corporation, agency, municipality, state or political subdivision, or the federal government and its agencies and departments;

(13) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, in a form capable of supporting rapid and progressive growth of infections or toxigenic microorganisms;

(14) "Public swimming pools" means a structure of man-made materials, located either indoors or outdoors, used for bathing or swimming, or for instructional purposes in swimming, diving, or other aquatic activities by humans, together with buildings, appurtenances, and equipment used in connection with the structure. "Public swimming pools" includes spa-type, wading, special purpose pools or water recreation attractions, including, but not limited to, those operated at camps, child care facilities, cities, clubs, subdivisions, apartment buildings, counties, institutions, schools, motels, hotels, and mobile home parks to which admission may be gained with or without payment of a fee; and

(15) "Temporary food service establishment" means a food service establishment that operates at a fixed location in conjunction with an organized temporary event for more than one (1) day and not more than fourteen (14) consecutive days.

68-14-303. Authority of commissioner. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

The commissioner is authorized to:

(1) Carry out or cause to be carried out all provisions of this part;

(2) Collect all fees provided for in this part and apply the fees in accordance with the procedures of the department of finance and administration to the necessary and incidental costs of administration of this part. Nothing in this subdivision (2) shall be construed to prohibit the department from receiving by way of general appropriation such sums as may be required to fund adequately the implementation of this part, as recommended in the annual budget by the governor to the general assembly;

(3) Prescribe rules and regulations governing the alteration, construction, sanitation, safety and operation of hotels, food service establishments and public swimming pools, as may be necessary to protect the health and safety of the public, and require every hotel, food service establishment and public swimming pool to comply with these rules and regulations and grant variances and waivers for public swimming pools from the requirements of this part or applicable rules and regulations; provided, that such variance or waiver shall not constitute a health or safety hazard as determined by the commissioner. A non-elected body of any municipality, county, or metropolitan government shall not enact any ordinance or issue any rule or regulation pertaining to the provision of food nutritional information or otherwise regulate menus at food service establishments. If, subsequent to February 8, 2010, the federal government takes action regarding the provision of food nutritional information at food service establishments, and the federal action specifically authorizes state departments to enforce such action, then the department of health shall be the department that is primarily responsible for the implementation and supervision of any new requirements and shall have the authority to promulgate rules and regulations, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to effectuate the purposes of such requirements. The rules or regulations prohibiting live animals in the presence of dining facilities shall be waived if an adequately engineered forced air exhaust system is installed for the permitted facility. The rules or regulations requiring that food be obtained from sources that comply with all laws relating to food and food labeling shall be waived for churches, temples, synagogues or other religious institutions, civic, fraternal or veteran's organizations, if the food is served only to the homeless and the food is prepared in a church, temple, synagogue or other religious institution, civic, fraternal, or veteran's organization or in a private home or homes by persons who have successfully completed a training course of at least two (2) hours, conducted by the department, and the consumer is informed by a clearly visible placard, readily understandable to the average person, stating that the food may have been prepared in a facility that is not subject to regulation or inspection by the department. The commissioner shall not prescribe any such rules and regulations in conflict with the minimum statewide building construction standards established by the state fire marshal pursuant to § 68-120-101;

(4) Inspect or cause to be inspected at least once every six (6) months, and as often as the commissioner may deem necessary, every hotel and food service establishment in the state, with the exception of those food service establishments licensed by the department of mental health and substance abuse services, and inspect or cause to be inspected at least once per month, and as often as the commissioner deems necessary, every public swimming pool in the state to determine compliance with this part and rules and regulations;

(5) Issue or cause to be issued, suspend and revoke permits to operate hotels, food service establishments and public swimming pools as provided in this part;

(6) Notify the owner, proprietor, or agent in charge of any hotel, food service establishment or public swimming pool of such changes or alterations as may be necessary to effect complete compliance with this part and rules and regulations governing the construction, alteration and operation of the facilities, and close the facilities for failure to comply within specified times as provided in this part and rules and regulations;

(7) Enter into an agreement or contract with county health departments whereby the departments would implement this part or its equivalent in their respective areas of jurisdiction, if the commissioner deems it to be appropriate; provided, that the following conditions shall apply:

(A) State reporting requirements must be met by the county health department or departments;

(B) The county health department program standards must be at least as stringent as those of the state law and regulations;

(C) The commissioner shall retain the right to exercise oversight and evaluation of performance of the county health department or departments and terminate the agreement or contract for cause immediately, or otherwise upon reasonable notice;

(D) The commissioner may set such other fiscal, administrative, or program requirements as the commissioner deems necessary to maintain consistency and integrity of the statewide program;

(E) Staffing and resources must be adequate to implement and enforce the program in the local jurisdiction;

(F) All permit fees, fines, and penalties shall be deposited directly into the state treasury;

(G) Beginning with fiscal year 2004-2005, all fees under this chapter shall be reviewed biennially to determine the appropriateness and amount relative to the overall cost of the program; and

(H) (i) Ninety-five percent (95%) of permit fees collected within a contract county pursuant to §§ 68-14-312 -- 68-14-314 shall be conveyed by contract to the respective county health department to assist such county health department in implementing the program in the local jurisdiction. This amount shall be calculated based upon fees collected in the contract county during the state's fiscal year multiplied by ninety-five percent (95%);

(ii) No contract county shall charge a local permit fee. By July 30 of each year, each contract county shall provide a report to the commissioner for the preceding fiscal year documenting the total cost relative to carrying out the provisions of the contract and the amount of state and local permit fees collected. The report shall be on a form provided by the commissioner;

(8) Enter into an agreement or contract with the Tennessee department of agriculture whereby it would enforce this part and regulations promulgated under this part regarding delicatessens in grocery stores; and

(9) Levy and collect fees for inspections of food service establishments; provided, that no fee shall be charged for reinspections of such establishments; and provided further, that in no event shall an inspection or reinspection fee be levied or collected from a child care

center, a group child care home, or a family child care home, as defined by § 71-3-501.

68-14-304. Hotels, food service establishments and swimming pools fund -- Unexpended balance.

All moneys coming into the state treasury under this part from fees, fines, and penalties shall be appropriated to the department of health for the payment of necessary expenses incident to the administration of this part, as determined by the commissioner. Any unexpended balance of such fund in any fiscal year shall be retained by the department to be used to provide and/or expand training for food service operators and the department's environmentalists.

68-14-305. Permits -- General. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) No person shall operate a hotel or food service establishment who does not hold a valid permit issued to the person by the commissioner on or before July 1 of each year.

(b) No person shall operate a public swimming pool who does not hold a valid permit issued to the person by the commissioner on or before April 1 of each year.

(c) Every person now engaged in the business of operating a hotel, food service establishment or public swimming pool, and every person who shall thereafter engage in such a business, shall procure a permit from the commissioner for each hotel, food service establishment or public swimming pool so operated or proposed to be operated.

(d) Each permit for hotels and food service establishments shall expire on June 30 next following its issuance.

(e) Each permit for public swimming pools shall expire on March 31 next following its issuance.

(f) No permit shall be transferred from one (1) location or person to another.

(g) Permits shall be posted in a conspicuous manner.

68-14-306. Permits -- Application, issuance, renewals. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) (1) Any person planning to operate a hotel, food service establishment or public swimming pool shall make written application for a permit on forms provided by the commissioner. Such applications shall be completed and returned to the commissioner with the proper permit fee.

(2) Prior to approval of the application for a permit, the commissioner shall inspect the proposed facility to determine compliance with requirements of this part and rules and regulations. The commissioner shall issue a permit to the applicant if the inspection reveals that the facility is in compliance with the requirements of this part and rules and

regulations.

(b) Applications for renewal of permits for existing hotels and food service establishments will be mailed to the operators prior to July 1 of each year. Applications for renewal of permits for existing public swimming pools shall be mailed to the operator prior to April 1 of each year. When completed applications and the proper permit fees are returned, the commissioner shall issue new permits to applicants.

68-14-307. Permit suspension. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) The commissioner has the authority to suspend any permit to operate a hotel, food service establishment or public swimming pool issued pursuant to this part, if the commissioner has reasonable cause to believe that the permittee is not in compliance with this part; provided, that the permittee shall be given the opportunity to correct violations as provided in § 68-14-318.

(b) Suspension of permits, other than those for temporary food service establishments, shall be of two (2) types, one (1) with an opportunity for a hearing prior to the effective time, and one (1) to be effective immediately with an opportunity for a hearing afterward. Notice of either type of suspension may be given by the inspector on the inspector's regular inspection form or by letter from the commissioner. When a permit suspension is effective, all operations shall cease. Suspensions to be effective immediately upon receipt of notice prior to any hearing may only be made if an imminent health hazard exists.

(c) A written request for a hearing on either type of suspension shall be filed by the permittee within ten (10) days of receipt of notice. This ten-day period may run concurrently with the ten-day period set forth in § 68-14-318(b). If a hearing is requested, it shall be commenced within a reasonable time of the request. If no request for a hearing is made within ten (10) days of receipt of notice, the suspension becomes final and not subject to review.

(d) The commissioner may end the suspension at any time if reasons for suspension no longer exist.

68-14-308. Permit revocation.

(a) The commissioner may, after providing opportunity for hearing, revoke a permit for serious or repeated violations of requirements of this part or for interference with the commissioner in the performance of the commissioner's duty.

(b) Prior to revocation, the commissioner shall notify, in writing, the permittee of the specific reason or reasons for which the permit is to be revoked, and that the permit shall be revoked at the end of ten (10) days following service of such notice, unless a written request for a hearing is filed with the commissioner within the ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

68-14-309. Service of notice.

A notice provided for in this part is properly served when it is delivered to the permittee or person in charge, or when it is sent by certified mail, return receipt requested, to the last known address of the permittee. A copy of the notice shall be filed in the records of the commissioner.

68-14-310. Hearings.

(a) The hearings provided for in this part shall be conducted by the commissioner in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Appeals from any final decision after a hearing shall be pursued in accordance with the Uniform Administrative Procedures Act.

(c) Subsections (a) and (b) do not apply in a county in which the health department is operating a program under § 68-14-303(7) that meets the minimum requirements of due process; provided, that appeals from final decisions made under such programs may be made to the commissioner, for the limited purpose of determining whether a material error of law was made at the county level. Such appeal to the commissioner shall not be de novo, but shall be limited to a review of the record of the hearing at the county level.

68-14-311. Application after revocation. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

Whenever revocation of a permit becomes final, the holder of the revoked permit may make written application for a new permit.

68-14-312. Permit fee for hotels.

(a) The permit fee to operate a hotel shall be in accordance with the following schedules: [Click here to view image.](#)

(b) If the permit fee is delinquent for more than thirty (30) calendar days, a penalty fee of one half (1/2) the permit fee shall be added to the permit fee. If a check is returned for any reason, a penalty of one half (1/2) the permit fee shall be added to the permit fee. Each permit fee plus any penalty must be paid before the permit is issued.

(c) The permit fee, plus any penalty shall be paid to the commissioner before the permit is issued. The permit shall be kept and displayed, in a conspicuous manner, properly framed, in the office or lobby of the hotel for which it is issued.

68-14-313. Permit fee for food service establishments. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) (1) The permit fee to operate a food service establishment shall be in accordance with

the following schedule:

(A) [Click here to view image.](#)

(B) Auxiliary food service operations shall pay a permit fee of one hundred dollars (\$100);

(C) Temporary food service establishments shall pay a permit fee of thirty dollars (\$30.00);

(D) Child care center food service establishments and congregate meal sites funded through the commission on aging and disability that are food service establishments shall pay according to the following schedule: [Click here to view image.](#)

(E) School food services establishments shall pay a permit fee of eighty dollars (\$80.00).

(2) This section shall not apply to family child care homes, as defined by § 71-3-501.

(b) If the permit fee is delinquent for more than thirty (30) calendar days, a penalty of one half (1/2) the permit fee shall be added to the permit fee. If a check is returned for any reason, a penalty of one half (1/2) the permit fee shall be added to the permit fee. The permit fee, plus any penalty, must be paid before the permit is issued.

(c) The permit shall be kept and displayed in a conspicuous manner, properly framed, and visually available to the public in the food service establishment for which it is issued.

(d) Where an institution operates several group homes within close proximity to each other, the permit fee established in this section shall be assessed only against the institution and not against each individual group home.

(e) This section does not apply to a blind vendor subject to § 71-4-501.

68-14-314. Permit fees for public swimming pools. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) (1) The permit fee to operate a public swimming pool shall be three hundred forty dollars (\$340).

(2) If the permit fee is delinquent for more than thirty (30) calendar days, a penalty of one half (1/2) the permit fee shall be added to the permit fee. If a check is returned for any reason, a penalty of one half (1/2) the permit fee shall be added to the permit fee. The permit fee, plus any penalty, must be paid to the commissioner before the permit is issued.

(b) The permit fee, plus any penalty, shall be paid to the commissioner before a permit is issued, and the permit shall be kept and displayed in a conspicuous manner, properly framed, at the pool for which it was issued. The permit fee shall not be collected by the commissioner if the permit is not issued in the calendar year in which the swimming pool is operated.

68-14-315. Exemptions from payment of permit fees. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) Churches, schools, civic, fraternal or veterans' organizations serving food are exempt from the payment of food service establishment permit fees; provided, that food is served on no more than fifty-two (52) separate days in one (1) fiscal year. Institutions and organizations that have received a determination of exemption from the internal revenue service under § 501(c)(19), of the Internal Revenue Code, codified in 26 U.S.C. § 501(c)(19), and that are currently operating under it shall also be exempt from the payment of the permit fees required for a public swimming pool. The exemption is expressly limited to the payment of fees and does not exempt these organizations from any other provisions of this part.

(b) In addition to the exemption established in subsection (a), churches involved in the sale of food at a four-day, multi-regional event sponsored by a local chamber of commerce, whose primary purpose is to generate economic interest in the regions, shall further be exempt from the payment of food service establishment permit fees for the event.

(c) A bona fide charitable or nonprofit organization that operates a food bank and an on-site feeding program, for free distribution of food to combat poverty and hunger, shall be exempt from the payment of food service establishment permit fees.

68-14-316. Fractional permit fees. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) When application is made for a permit to operate any hotel or food service establishment after January 1 of any year, the fee charged for the permit shall be one half (1/2) the annual rate.

(b) When application is made for a permit to operate any public swimming pool after October 1 of any year, the fee charged for the permit shall be one half (1/2) the annual rate.

(c) However, where the hotel or food service establishment was subject to permit requirements prior to January 1 of any year, or where the public swimming pool was subject to permit requirements prior to April 1 of any year, no such fractional rate shall be allowed.

68-14-317. Inspection results -- Reporting and scoring. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) Inspection results for hotels, food service establishments and swimming pools shall be recorded on standard departmental forms that summarize the requirements of the law and rules and regulations.

(b) (1) The scoring system shall include a weighted point value for each requirement in which critical requirements are assigned values of four (4) and five (5) points, with less critical items having assigned values of one (1) and two (2) points.

(2) The rating score of the facilities shall be the total of the weighted point values for all violations subtracted from one hundred (100).

(c) A copy of the completed inspection report shall be furnished to the person in charge of the facility at the conclusion of the inspection.

(d) The most current inspection report furnished to the operator or person in charge of the establishment shall be posted in a conspicuous manner. If any violation noted on the report is required to be corrected within ten (10) days of the issuance of the report and a routine follow-up inspection shows that the violation has been corrected within the period of time, then a final report without notation of the violation shall be furnished to the operator or person in charge of the restaurant and the report shall be posted in lieu of the original report.

68-14-318. Violation correction. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

(a) (1) The completed inspection report shall specify a reasonable period of time for correction of violations found.

(2) If after the first reinspection the item or items noted in violation remain in violation, according to the inspection report, the department shall provide for the supervisor of the employee making the prior inspections to accompany the employee for the second and any subsequent reinspections required for the same continuing item or items in violation.

(3) Correction of violations shall be accomplished within the period specified in accordance with the following:

(A) If an imminent health hazard exists, such as complete lack of refrigeration, sewage back-up into the facility, contaminated water supply, or inability to sanitize dishes and silverware, the facility shall immediately cease operations until authorized to reopen by the commissioner;

(B) All violations of critical items shall be corrected as soon as possible and in any event within ten (10) days following inspection. Within fifteen (15) days after inspection, the permittee shall notify the commissioner stating that critical item violations have been corrected. A follow-up inspection may be made for confirmation;

(C) All other items should be corrected as soon as possible, but in any event by the time of the next routine inspection;

(D) When the overall rating score of any facility is less than seventy (70) on forms prepared pursuant to § 68-14-317, the facility shall initiate corrective action on all identified violations within forty-eight (48) hours. One (1) or more inspections shall be conducted at reasonable intervals to assure correction; and

(E) In the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours,

the establishment shall immediately cease food service operations until authorized to resume by the commissioner.

(b) The inspection report shall state that failure to comply with any time limits specified by the commissioner for correction may result in cessation of operations. An opportunity for a hearing on the ordered corrective action shall be provided, if a written request is filed with the commissioner within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within a reasonable time after receipt of the request.

(c) Whenever a facility is required under this section to cease operations, it shall not resume operations until it is shown on reinspection that conditions responsible for the order to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

68-14-319. Examination and condemnation of food -- Hold orders. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

Food may be examined or sampled by the commissioner as deemed necessary for the enforcement of this part. The commissioner may place a hold order on any food that the commissioner believes is in violation of this part or rules or regulations, upon written notice to the operator specifying particular reasons for the hold order. The commissioner shall tag, label, or otherwise identify any food subject to a hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The hold order may state that the food be held while confirmation is obtained that the condition violates this part or rules or regulations. The hold order may also order the operator to destroy food that violates this part or rules or regulations. The commissioner shall permit storage of the food under the conditions specified in the hold order, unless storage is not possible without risk to the health of the public, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for a hearing may be filed within ten (10) days. If a request for a hearing is received, the hearing shall be held within a reasonable time after receipt of the request. On the basis of evidence produced at the hearing, the hold order may be rescinded, or the owner or person in charge may be directed by written order to denature or destroy such food or to bring it into compliance with this part.

68-14-320. Submission of plans and specifications -- Review -- Approval. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

Whenever a hotel, food service establishment or swimming pool is constructed, extensively remodeled and whenever an existing structure is converted to use as a hotel or food service establishment, plans and specifications shall be submitted to the commissioner for review and approval before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials and work areas, and the type and model of proposed fixed equipment and facilities. The commissioner shall approve the plans and specifications, if they meet the requirements of this part and rules and regulations. No hotel, food service establishment, or

swimming pool shall be constructed, extensively remodeled or converted, except in accordance with plans and specifications approved by the commissioner.

68-14-321. Employee health. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

When the commissioner has reasonable cause to suspect possible disease transmission by an employee of the facility, the commissioner may secure a morbidity history of the employee or make other investigations as may be indicated. The commissioner may require any of the following:

- (1) The immediate exclusion of the employee from employment in the hotel, food service establishment or public pool;
- (2) The immediate closing of the facility until, in the commissioner's opinion, no further danger of disease outbreak exists;
- (3) Restricting the employee's service to some area of the facility where there would be little likelihood of transmitting disease; or
- (4) Adequate medical and laboratory examinations of the employee and of other employees.

68-14-322. Penalties. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

Any person operating a hotel, food service establishment, or public swimming pool who fails or refuses to comply with any of this part or rules and regulations, or obstructs or hinders the regulatory authority in the discharge of the regulatory authority's duties or otherwise operates a hotel, food service establishment or swimming pool in violation of this part or rules and regulations commits a Class C misdemeanor. Each day after sufficient notice has been given constitutes a separate offense.

68-14-323. Injunctions. [Effective until July 1, 2015. See the version effective on July 1, 2015.]

When the commissioner has reason to believe that a person is causing or is about to cause or has caused a violation of this part or the rules and regulations promulgated under this part, the commissioner may initiate proceedings in either the chancery court of Davidson County or the chancery court of the county where the violation is occurring, for injunctive relief to prevent the continuance of the violation or to correct the conditions resulting in, or about to result in, the violation.

68-14-324. Sales by children. [Effective until July 1, 2015.]

Notwithstanding the provisions of this part to the contrary, children sixteen (16) years of age or less do not need a license or permit to sell bakery goods, homemade or otherwise,

soft drinks or other similar food commodities at public events, if the child does not sell these goods more than three (3) times a year.

68-14-325. Inapplicable to certain privately owned swimming facilities. [Effective until July 1, 2015.]

This part does not apply to privately owned swimming facilities that are constructed upon private property by a group of not more than twenty (20) households.

68-14-326. Commissioner -- Rules and regulations -- Waivers. [Effective until July 1, 2015.]

The commissioner may grant waivers from rules and regulations governing public swimming pools in excess of fifty thousand square feet (50,000 sq. ft.), or may promulgate additional rules and regulations governing such pools. Waivers or regulations shall be designed to protect the health, safety and welfare of patrons where adequate standards do not exist to provide sufficient guidance regarding preventive maintenance, pool structure, operating systems, water turnover, circulatory systems or innovative designs due to the size of the public swimming pools or due to the source of water supply for such pools.