

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Sanitary Vending of Food and Beverages
- 2) Code Citation: 77 Ill. Adm. Code 743
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
743.10	Repealed
743.20	Repealed
743.30	Repealed
743.40	Repealed
743.50	Repealed
743.60	Repealed
743.70	Repealed
743.80	Repealed
743.90	Repealed
- 4) Statutory Authority: Sanitary Food Preparation Act [410 ILCS 650]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because all relevant items are addressed in the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750).

The economic effect of this proposed repealer is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this repealer approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after this issue of the *Illinois Register* to:

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Assistant General Counsel/Rules Coordinator
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Illinois Department of Public Health
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13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2016

The full text of the Proposed Repealer begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 743

SANITARY VENDING OF FOOD AND BEVERAGES (REPEALED)

Section

743.10	Definitions
743.20	Food, Consumer Containers, Equipment Maintenance and Operations
743.30	Machine Location
743.40	Exterior Construction and Maintenance
743.50	Interior Construction and Maintenance
743.60	Water Supply
743.70	Waste Disposal
743.80	Delivery of Food, Equipment, and Supplies to Machine Location
743.90	Personal Cleanliness, Health and Disease Control

AUTHORITY: Sanitary Food Preparation Act [410 ILCS 650]

SOURCE: Filed October 17, 1968, effective November 4, 1968; codified at 8 Ill. Reg. 8925; repealed at 40 Ill. Reg. _____, effective _____.

Section 743.10 Definitions

"Adulterated or Misbranded." The terms "adulterated" or misbranded" shall have the meanings as provided in Section 10 and Section 11 of the Illinois Food, Drug and Cosmetic Act. (Ill. Rev. Stat. 1967, ch. 56½, pars. 501 et seq.)

"Approved." The term "closed" shall mean acceptable to the health authority based on his determination as to conformance with appropriate standards and good public health practice.

"Closed." The term "closed" shall mean fitted together snugly leaving no openings large enough to permit the entrance of vermin.

"Commissary." the term "commissary" shall mean catering establishment, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored, and directly from which vending machines are served.

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"Corrosion-Resistant Material." The term "corrosion-resistant material" shall mean a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

"Easily Cleanable." The term "easily cleanable" shall mean readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

"Employee." The term "employee" shall mean any operator or any person employed by him who handles any food to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

"Food." The term "food" shall mean any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-Contact Surfaces." The term "food-contact surfaces" shall mean those surfaces of equipment and utensils with which food normally comes in direct contact, and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

"Health Officer." The term "health officer" shall mean the Director of the Illinois Department of Public Health or his duly authorized representative.

"Machine Location." The term "machine location" shall mean the room, enclosure, space or area where one or more vending machines are installed and operated.

"Operator." The term "operator" shall mean any person, who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating or maintaining one or more vending machines.

"Perishable Food." The term "perishable food" shall mean any food of such type or in such condition as may spoil.

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"Person." The term "person" shall mean an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity.

"Potentially Hazardous Food." The term "potentially hazardous food" shall mean any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

"Safe Temperature." The term "safe temperature" as applied to potentially hazardous food, shall mean temperatures of 45°F or below, or 140°F or above.

"Sanitize." The term "sanitize" shall mean effective bactericidal treatment of clean surfaces of equipment and utensils by a process which has been approved by the health authority as being effective in destroying microorganisms, including pathogens.

"Single Service Articles." The term "single service articles" shall mean cups, containers, lids or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, molded pulp, foil, wood, plastic, synthetic, or other readily destructible materials, and which are intended for one usage only, then to be discarded.

"Vending Machines." The term "vending machines" shall mean any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

"Wholesome." The term "wholesome" shall mean in sound condition, clean, free from adulteration and otherwise suitable for use as human food.

Section 743.20 Food, Consumer Containers, Equipment Maintenance and Operations

- a) Food Sources. All food offered for sale through vending machines shall be manufactured, processed and prepared in commissaries or establishments which comply with all applicable State laws and rules.
- b) Food Packaging. All food shall be stored or packaged in clean protective containers, and shall be handled, transported and vended in a sanitary manner.

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- c) Condiments. Condiments provided for service in conjunction with food dispensed by a vending machine, shall be packaged in individual portions in single service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized and filled at the commissary.
- d) Fresh Fruits. Fresh fruits which may be eaten raw without peeling, may be dispensed unpackaged but must have been thoroughly washed in potable water at the original packing plant or immediately before being placed in the vending machine.
- e) Wet Storage. Storage of cartoned, bottled, canned or packaged food by placing or submerging it in a liquid is prohibited. Submerging such containers of food in ice is prohibited.
- f) Potentially Hazardous Food Dispensing. Potentially hazardous food offered for sale through vending machines shall be dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single-service containers from bulk containers which were filled at the commissary or at the manufacturer's or processor's plant. In those vending machines which dispense potentially hazardous food from bulk, the bulk supplies of such food shall be transferred only bulk vending machine containers and appurtenances which have been cleaned and sanitized.
- g) Potentially Hazardous Food Temperatures.
 - 1) Potentially hazardous food within the vending machine shall be maintained at a temperature at 45°F. or below, or 140°F. or above, whichever is applicable: Provided, that exceptions may be made for
 - A) the actual time required to load or otherwise service the machine and for maximum recovery period of 30 minutes, following completion of loading or servicing operation; and
 - B) in the case of hot food vending machines, a maximum of 120 minutes to heat food through the 45°F. to 140°F. temperature zone.
 - 2) In hot food vending machines which are not equipped with refrigerated storage, there shall be no time delay to preclude heat from being applied to potentially hazardous food immediately after it is loaded or placed in the

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machine. Potentially hazardous food once heated to, or held at, a temperature of 140°F. or above, shall be maintained at such temperature until served or discarded.

- h) Vending Machine Controls.
 - 1) Vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units, or both, and thermostatic controls which insure the maintenance of applicable temperatures at all times. Such vending machines shall also have controls which prevent the machine from vending potentially hazardous food until serviced by the operator, in the event of power failure or other condition which results in noncompliance with temperature requirements in the food storage compartment.
 - 2) Hot food vending machines designed to heat food through the 45°F. to 140°F. temperature range, shall also be equipped with automatic controls which render the machine incapable of vending potentially hazardous food until serviced by the operator in the event that heating through this temperature range is not accomplished in 120 minutes or less.
- i) Thermometers. Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to any accuracy of $\pm 2^{\circ}\text{F.}$, indicated the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.
- j) Vending of Mild & Fluid Milk Products. Mild and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers or from bulk containers into which such product was placed at the milk plant: Provided, that such products may be reconstituted automatically within the vending machine when
 - 1) the powder or concentrate is made from a pasteurized milk or mild product and is from an approved source;
 - 2) the mixing chambers or bowls and any food-contact surface downstream from such mixing units are maintained at safe temperatures; and
 - 3) the product is reconstituted for immediate dispensing in individual unit

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servings.

- k) **Cleaning & Sanitizing of Canisters.** Vending machine canisters and appurtenances used for the transfer of milk products shall be effectively cleaned and sanitized at approved, fixed facilities at the commissary by methods approved by the health authority. After sanitization, the canister and appurtenances shall be fully wrapped in a single-service bag or cover which shall not be opened until the canister unit is installed in the refrigerated compartment of the vending machine. Canisters and appurtenances shall be so designed and constructed that the handling of product contact surfaces at the machine location is unnecessary; and, such surfaces shall not be handled during canister installation, tube insertion, or product transfer.
- l) **Cleaning & Sanitizing Bulk Milk Vending Machines.** All parts of any bulk milk vending machine which come into direct contact with the milk or milk product shall be effectively cleaned and sanitized at the milk plant. Provided, that single-service dispensing tubes which receive sanitizing treatment at the fabricating plant and which are individually packaged in such manner as to preclude contamination, may be exempted from this provision. The can or other bulk milk container shall be filled only at the milk plant and shall be sealed in such manner as to make it impractical to withdraw any part of its contents or to introduce any substance without breaking the seal or seals. The delivery tube and any milk-contact parts of the dispensing device shall be attached at the milk plant, and shall be protected by a moisture-proof covering, or housed in a compartment with a moisture-tight closure which shall not be removed until after the container is placed in the refrigerated compartment of the vending machine.
- m) **Cleaning & Sanitizing of Multiuse Containers and Potentially Hazardous Food Contact Surfaces.** With the exception of food-contact surfaces of bulk milk vending machines for which separate provisions for cleaning and sanitizing are specified in subsection (l) above, all multiuse containers or parts of vending machines which come into direct contact with potentially hazardous food shall be removed from the machine daily and shall be thoroughly cleaned and effectively sanitized at the commissary or other approved facility: Provided, that the requirement for daily cleaning and sanitizing may be waived from those food-contact surfaces which are maintained at all times at a temperature of 45°F. or below, or 140°F. or above, whichever is applicable, and an approved cleaning frequency is followed. Such parts shall, after sanitizing, be protected from contamination.

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- n) Cleaning Nonpotentially Hazardous Food Contact Surfaces. All parts of vending machines which come into direct contact with other than potentially hazardous food shall be thoroughly cleaned by approved methods. The frequency of such cleaning shall be established by the health authority based upon the type of product being dispensed. A record of such cleaning operations shall be maintained by the operator in each machine or shall be made available at the time of inspection and shall be current for at least the past 30 days.
- o) Care & Handling of Single Service Articles. All single-service articles shall be purchased in sanitary cartons or packages which protect the articles from contamination, shall be stored in a clean, dry place until used, and shall be handled in a sanitary manner. Such articles shall be stored in the original carton or package in which they were placed at the point of manufacture until introduced into the magazine or dispenser of the vending machine. Single-service articles stored with-in the vending machine shall be protected from manual contact, dust, insects, rodents and other contamination.

Section 743.30 Machine Location

- a) Location. Each vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the machine is located shall be well lighted. Even vending machine shall be so located that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.
- b) Floor Area. The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.
- c) Handwashing Facilities. Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading bulk food machines.

Section 743.40 Exterior Construction and Maintenance

- a) Construction. The vending machine shall be of sturdy construction and the exterior shall be so designed, fabricated, finished, and maintained so as to

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facilitate its being kept clean, and to minimize the entrance of insects and rodents. The exterior of the machine shall be kept clean.

- b) Door and Panel Access Openings. Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed, so as to prevent the entrance of dust, moisture, insects and rodents.
- c) Louvers or Openings. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machines shall be not less than 16 mesh to the inch or equivalent. Screening material for openings into condenser units are separated from food and container storage spaces shall be no less than 8 mesh to the inch or equivalent.
- d) Condenser Unit. In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space shall be separated from the space by a dustproof barrier, and when located above, shall be sealed from such space.
- e) Machine Base.
 - 1) Unless the vending machines is sealed to the floor or counter so as to prevent seepage underneath, or can be manually moved with ease, one or more of the following provisions shall be utilized to facilitate cleaning operations:
 - A) the machine shall be designed and installed with legs or side panels which provide an unobstructed clearance of 6" between machine base and floor; provided that counter-type machines may use 4-inch legs; or
 - B) the machine shall be mounted on casters or rollers; or
 - C) the machine shall be mounted on gliders which permit it to be easily moved.
 - 2) Judgment on the method use shall be upon the ability of the operator to maintain the floor around and under machine in a sanitary condition.
- f) Service Connections. All service connections through an exterior wall of the

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machine, including water, gas, electrical, and refrigeration connections, shall be grommeted or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food or food in bulk shall be such as to discourage their unauthorized or unintentional disconnection.

Section 743.50 Interior Construction and Maintenance

- a) Non-Food-Contact Surfaces. The non-food-contact surfaces of the interior of vending machines shall be so designed and constructed as to permit easy cleaning, and to facilitate maintenance operation. Inaccessible surfaces or areas shall be minimized.
- b) Food-Contact Surfaces. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped places. The design of such surfaces shall be such as to preclude routine contact between food and V-type threaded surfaces. All joints and welds in food-contact shall be smooth; and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.
- c) Food-Contact Surfaces, Materials & Design.
 - 1) All food-contact surfaces of vending machines, including containers, pipes, valves, and fittings, shall be constructed of non-toxic, corrosion-resistant, and relatively nonabsorbent materials, and shall be kept clean. In all vending machines in which carbon dioxide is used to propel water, food or other ingredients, all food-contact surfaces in the system shall be of such material as to preclude the production of toxic substances which might result from interaction between the carbon dioxide and food-contact surfaces. All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning and inspection:
 - A) without being disassembled;
 - B) by the use of only simple tools such as a screw-driver or an open-end wrench.
 - 2) In machines of such design that food-contact surfaces are not readily removable, in-place cleaning of such surfaces may be permitted. Provided, that

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- A) they are so arranged that cleaning and sanitizing solutions can be circulated throughout the fixed system;
 - B) such solutions will contact all food-contact surfaces,
 - C) the system is self-draining or otherwise completely evacuated; and
 - D) the procedures utilized result in thorough cleaning of the equipment.
- d) **Openings, Non-Pressurized Containers.** The openings into all nonpressurized containers used for the storage of vendable food, including water, shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash occurs. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch, and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of a material which is nontoxic, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.
- e) **Delivery Tube or Chute and Orifice.** The delivery tube or chute and orifice of all bulk food and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents and other contamination. The design shall be such as to divert condensation or other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept shut, except when food is being removed.
- f) **Food Storage Compartment.** The food storage compartment within vending machines dispensing packaged liquid food shall be so constructed as to be self-draining, or shall be provided with a drain outlet which permits complete draining of the compartment. All such drains shall be easily cleanable.
- g) **Opening Devices.** Opening devices which come into contact with the food or the

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food-contact surface of the containers shall be constructed of smooth, nontoxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surface of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

Section 743.60 Water Supply

- a) Water quality, piping, containers & cleaning. All water used in vending machines shall be of a safe and sanitary quality and from an approved source. Water used as a food ingredient shall be piped to the vending machine under pressure or brought to the vending machine in portable containers or urns which have been filled in a sanitary manner directly from an approved water supply outlet at the commissary or other approved location. Ingredient water shall not be transferred from one container to another at the machine location. Containers for the storage of ingredient water or ice, which are not a part of this closed water system, shall be designed and maintained as food-contact surfaces. Water containers or urns shall be cleaned and sanitized at the commissary or other approved facility after each use. Such portable containers shall be continuously protected against contamination from the time of sanitizing until placed in the vending machine. Protection shall be effected which will prevent unauthorized persons from tampering with or refilling the water container. All plumbing connections and fittings shall be installed in accordance with State and local plumbing regulations.
- b) Water filters or other water conditioning devices. If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.
- c) Backsiphonage protection. All vending machines which dispense carbonated beverages, and which are connected to a water supply system, shall be equipped with two (or a double) check valves; or an air gap; or a device to vent carbon dioxide to the atmosphere; or other approved device, which will provide positive protection against the entrance or carbon dioxide or carbonated water into the water supply system.
- d) Check valve screens. Where check valves are used for the protection of the water supply system, a screen of not less than 100 mesh to the inch shall be installed in

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the water line immediately upstream from the check valves.

- e) Water-Contact Surfaces. In all vending machines which dispense carbonated beverages and which are connected to a water supply system, the ingredient water-contact surfaces from the check valves or other protective device downstream, including the device itself, shall be of such material as to preclude the production of toxic substances which might result from interaction with carbon dioxide or carbonated water.

Section 743.70 Waste Disposal

- a) Trash and waste material. All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in an approved manner.
- b) External waste containers. Self-closing, leak-proof, easily cleanable, plainly labeled and designated waste container or containers shall be provided in the vicinity of each machine or machines to receive used cups, cartons, wrappers, straws, closures, and other single-service items. After being emptied, each waste container shall be thoroughly cleaned. Such waste containers shall not be located within the vending machine: Provided, that an exception may be made for those machines dispensing only packaged food with crown closures; in which case, the closure receptacle may be located within the machine. Suitable racks or cases shall be provided for multiuse containers or bottles.
- c) Internal waste containers. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow, or other internal wastes. An automatic shutoff device shall be provided which will place the vending machine out of operation before such container overflows. Containers or surfaces on which such wastes may accumulate shall be readily removable for cleaning, shall be easily cleanable, and shall be corrosion resistant. If liquid wastes from drip, spillage, or overflow, which originate with the machine are discharged into a sewage system, the connection to the sewer shall be through an air gap.

Section 743.80 Delivery of Food, Equipment, and Supplies to Machine Location

- a) Protection of food and supplies in transit. Food, while in transit to vending machine locations, shall be protected from the elements, dirt, dust, insects, rodents, and other contamination. Similar protection shall be provided for single-

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service containers, and for the food-contact surfaces of equipment, containers, and devices in transit to machine locations.

- b) Food temperature in transit. Potentially hazardous food, prior to being loaded in the delivery vehicle, shall be maintained at a temperature of 45°F or below, or 140°F or above, whichever is applicable. Such food shall also comply with the applicable temperature requirements while in transit to machine locations. If potentially hazardous food is stored at machine locations, the applicable safe temperature shall be maintained during storage.

Section 743.90 Personal Cleanliness, Health and Disease Control

- a) Handwashing. Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them into contact with food, or with food-contact surfaces of utensils, containers, or equipment.
- b) Clothing and Tobacco. While engaged in such servicing operations, employees shall wear clean outer garments, shall conform to hygienic practices, and shall not use tobacco in any form.
- c) Disease control.
 - 1) No person while affected with a disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, or an acute respiratory infection, shall work in any area of a commissary or vending operation in any capacity in which there is a likelihood of transmission of disease to patrons or to fellow employees, either through direct contact or through the contamination of food or food-contact surfaces with pathogenic organisms.
 - 2) When suspicion arises of the possibility of transmission of a disease from any person through an item of food, the Director of the Department of Public Health or his representative is authorized to require any or all of the following measures:
 - A) The immediate exclusion of that person from any food handling activities.
 - B) The immediate exclusion of food in question from distribution and use.

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- C) The adequate medical and bacteriological examination of the person, of his associates, and his and their body discharges.