

# S .B. NO. 2861

JAN 23 2014

---

## A BILL FOR AN ACT

RELATING TO FOOD ESTABLISHMENTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 321-4.5, Hawaii Revised Statutes, is  
2 repealed:

3 ~~["§321-4.5] Inspection of food establishments.~~  
4 ~~Inspections of food establishments may be performed only by a~~  
5 ~~[registered sanitarian or a food and drug inspector.]"~~

6 SECTION 2. Section 321-4.6, Hawaii Revised Statutes, is  
7 repealed.

8 ~~["§321-4.6] Advisory council on food protection~~  
9 ~~practices; created.~~ (a) ~~There is created within the department~~  
10 ~~for administrative purposes only, an advisory council on food~~  
11 ~~protection practices, whose members shall be appointed by the~~  
12 ~~director of health, consisting of one representative from at~~  
13 ~~least the following:~~

- 14 ~~(1) An organization representing the restaurant industry;~~  
15 ~~(2) An organization representing the hotel industry;~~  
16 ~~(3) An organization representing the food manufacturing~~  
17 ~~industry;~~

S . B . NO . 2861

- 1       ~~(4) An organization representing the food service~~  
2             ~~industry;~~
- 3       ~~(5) A registered sanitarian from the department of health;~~
- 4       ~~(6) The University of Hawaii, food technology department;~~
- 5       ~~(7) The community college food service program;~~
- 6       ~~(8) A corporate chain restaurant doing business in Hawaii;~~  
7             ~~and~~
- 8       ~~(9) A member of the general public.~~
- 9       ~~(b) Each member shall serve for a term of three years;~~  
10       ~~provided that the director shall initially appoint three members~~  
11       ~~to serve for one year, three members to serve for two years, and~~  
12       ~~three members to serve for three years. No member shall serve~~  
13       ~~for more than two consecutive three-year terms.~~
- 14       ~~(c) Vacancies occurring before the expiration of a~~  
15       ~~member's term shall be filled by election of the council.~~  
16       ~~Individuals elected to fill a vacancy shall serve only for the~~  
17       ~~remainder of the unexpired term.~~
- 18       ~~(d) The council shall appoint from its members a~~  
19       ~~chairperson, vice chairperson, secretary, treasurer, and any~~  
20       ~~other officers that the council may deem necessary or desirable~~  
21       ~~to carry out its functions.~~

S . B . NO . 2861

1       ~~(e) Members shall serve without compensation, but may be~~  
2 ~~reimbursed for the necessary expenses, including travel~~  
3 ~~expenses, incurred in the performance of their duties.~~

4       ~~(f) The council shall:~~

5       ~~(1) Advise the department on sanitation issues and food~~  
6           ~~protection practices;~~

7       ~~(2) Review and advise the department, in consultation with~~  
8           ~~the department of the attorney general, regarding the~~  
9           ~~adoption of rules relating to sanitation and food~~  
10           ~~protection practices; and~~

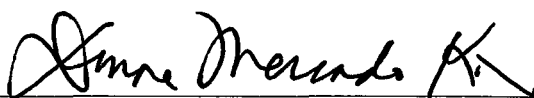
11       ~~(3) Advise the department on the incorporation of salient~~  
12           ~~provisions of the most recent version of the United~~  
13           ~~States Food and Drug Administration's Model Food Code~~  
14           ~~into the department's food sanitation rules." ]~~

15       SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken.

17       SECTION 4. This Act shall take effect upon its approval.

18

19

INTRODUCED BY: 

20

BY REQUEST

21

S . B . NO . 2861

**Report Title:**

Inspection of Food Establishments

**Description:**

Repeals the Advisory Council on Food Protection Practices.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

# SB. NO 2861

## JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO FOOD ESTABLISHMENTS.

PURPOSE: To repeal obsolete section of chapter 321 and abolish the Advisory Council on Food Protection Practices.

MEANS: Repeal sections 321-4.5 and 321-4.6, Hawaii Revised Statutes (HRS).

JUSTIFICATION: In 1999 the Legislature amended section 321-13, HRS, by removing "sanitarians" from the list of occupations that the Department of Health (DOH) may regulate. Further, since both sections 321-14 (License to practice certain occupations) and section 321-15 (Annual registration, fees, failure to register), HRS, refer back to the list of occupations in section 321-13(a)(1), HRS, the Department has no authority to license or register sanitarians. Thus, the term "registered sanitation" no longer has any legal or practical significance and the reference to that term in section 321-4.5 should be removed in the interest of consistency.

The Advisory Council on Food Protection Practices is a redundant and unnecessary administrative burden on the DOH. DOH personnel carry a significant amount of responsibility for and devote a disproportionate amount of time and resources to its organization and oversight, but the Council's sole purpose of advising the DOH, in the formation of rules governing the sanitation practices of food establishments, is already better served by the Chapter 91, HRS, rule-making procedures and administrative directives mandating review by the Small Business Regulatory Review Board. The DOH will continue to work

# SB. NO. 2861

with the regulated community regarding food safety in the same spirit of cooperation that chapter 91, HRS, already requires.

Impact on the public: No impact on the public is anticipated.

Impact on the department and other agencies: No impact on other agencies is anticipated.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.