

CHAPTER 160

HOTELS, RESTAURANTS AND VENDING OF FOODS AND BEVERAGES

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160.01 Definitions. As used in this chapter:

(1) "Hotel" means all places wherein sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used in connection therewith. "Hotelkeeper", "motelkeeper" and "innkeeper" are synonymous and "inn", "motel" and "hotel" are synonymous.

(a) The department may classify any hotel as herein defined as a "motel" on written request of the hotel operator on forms furnished by the department, provided that the operator of the hotel furnishes on-premise parking facilities for the motor vehicles of the hotel guests as a part of the room charge, without extra cost.

(2) "Tourist rooming house" means and includes all lodging places and tourist cabins and cottages, other than hotels, wherein sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses, ordinarily conducted as such, not accommodating tourists or transients.

(3) "Restaurant" means and includes any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. "Meals or lunches" shall not include soft drinks, ice cream, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" does not apply to churches, religious, fraternal, youths' or patriotic organizations, service clubs and civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public nor shall it include any public school lunchroom or private individual selling

foods from a movable or temporary stand at public farm sales.

(4) "Vending machine" as used in this chapter means any self-service device offered for public use which, upon insertion of a coin or token, or by other 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. The term "vending machine" shall not include devices which dispense only bottled or prepackaged or canned soft drinks or one cent vending devices or vending machines dispensing only candy, gum, nuts, nut meats, cookies or crackers, nor shall it apply to prepackaged Grade A pasteurized milk or milk products. Bulk milk dispensers may be operated in a restaurant licensed by the department without an additional vending machine or vending machine operator permit being required. The serving of food or beverage through a licensed vending machine shall not constitute the operation of a restaurant.

(5) "Vending machine location" means the room, enclosure, space or area where one or more vending machines are installed and operated.

(6) "Vending machine operator" means the person maintaining a place of business in the state and responsible for the operation of one or more vending machines.

(7) "Vending machine commissary" means any building, room or place in the state at which the food, beverage, ingredients, containers, transport equipment or supplies for vending machines are kept, handled, prepared or stored by a vending machine operator. A licensed restaurant may be operated as a vending machine commissary without a vending machine commissary permit. A vending machine commissary does not mean any place at which the operator is licensed to manufacture, distribute or sell food products under ch. 97.

(8) "Public health and safety" means the highest degree of protection against infection, contagion or disease and freedom from the danger of fire or accident that can be reasonably maintained in the operation of a hotel, restaurant, tourist rooming house, vending machine or vending machine commissary.

(9) "Department" means the department of health and social services.

(10) "Establishment" means a hotel, tourist rooming house, restaurant or vending machine commissary.

History: 1973 c 190.

160.02 Permit. (1) No person shall conduct, maintain, manage or operate a hotel, restaurant, tourist rooming house, vending machine commissary or vending machine as defined in s. 160.01 who has not been issued an annual permit by the department.

(2) A separate permit shall be required for each type of establishment as defined in s. 160.01.

(3) A separate permit shall be required for each establishment excepting where more than one of the same type is operated on the same premises and under the same management a single permit for each type shall suffice.

(4) Permits shall not be transferable from one premise to another or from one person to another, except that a permit for "temporary restaurant" as defined by the department may be transferred to a premise other than that for which it was issued, provided that approval of the new premise is secured from a department representative prior to operation of the temporary restaurant at the new premise.

(5) All permits shall expire on June 30.

(6) Separations caused by a public highway shall not be considered in determining whether tracts of land constitute a single premise. A single premise includes tracts of an owner which merely corner on each other.

160.025 Vending machine commissary outside the state. Foods, beverages and ingredients from commissaries outside the state may be sold within the state if such commissaries conform to the provisions of the food establishment sanitation rules of this state or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the department may accept reports from the responsible authority in the jurisdiction where the commissaries are located.

160.03 Fees. (1) The annual fee for all places coming under the definition of a hotel shall be \$20 for those having 30 or less sleeping rooms

and \$40 for those with more than 30 sleeping rooms.

(2) The annual fee for all places coming under the definition of a tourist rooming house shall be \$10.

(3) The annual fee for all places coming under the definition of a restaurant shall be \$20 if anticipated gross annual food sales are less than \$5,000, and shall be \$40 if anticipated gross annual food sales are \$5,000 or more.

(4) The annual fee for a vending machine operator is \$10. The annual fee for a vending machine commissary is \$40. The annual fee for each vending machine is \$4.

(5) An additional penalty fee of \$10 shall be required for each permit whenever the annual fee for renewal is not paid prior to expiration of the permit.

(6) In the administration and enforcement of this chapter, the department may designate and use full-time city or county health departments as its agents in making inspections and investigations. When such designation is made and such services are furnished, the department shall reimburse the city or county furnishing such service at the rate of 50% of the net license fee per license per year issued in such municipality.

History: 1973 c 333.

160.04 Application. (1) An applicant for a hotel, tourist rooming house, restaurant, vending machine commissary, vending machine operator or vending machine permit shall complete an application furnished by the department and provide such information as it requires.

(2) Upon receipt of an application for a vending machine operator permit, the department may cause an investigation to be made of the applicant's commissary, servicing and transport facilities, if any, and representative machines and machine locations. The operator shall maintain at his place of business within this state a list of all vending machines operated by him and their location. This information shall be kept current and shall be made available to the department upon request. The operator shall notify the department of any change in operations involving new types of vending machines or conversion of existing machines to dispense products other than those for which such machine was originally designed and constructed.

160.05 Rules of health and safety. Every hotel, tourist rooming house, restaurant, vending machine commissary and vending machine shall be operated and maintained with a strict regard to the public health and safety and in conformity

with this chapter and the rules and orders of the department.

160.055 Hotel safety. Every hotel with sleeping accommodations with more than 12 bedrooms above the first story shall, between the hours of 12 midnight and 6 a. m. provide a system of watchman patrol, or of mechanical and electrical devices, or both, adequate, according to standards established by the department of industry, labor and human relations, to warn all guests and employes in time to permit their evacuation in case of fire.

160.06 Powers of department. The department shall appoint assistants with such qualifications as it deems necessary and fix their compensation, administer and enforce the rules and the laws relating to the public health and safety in hotels, tourist rooming houses, restaurants, vending machine commissaries, vending machines and vending machine locations, ascertain and prescribe what alterations, improvements or other means or methods are necessary to protect the public health and safety therein, prescribe rules and fix standards, including rules covering the general sanitation and cleanliness of the vending machine commissary and vending machines and their location and servicing, and enforce such rules and laws.

160.07 Causing fires by tobacco smoking.

(1) Any person who, by smoking, or attempting to light or to smoke cigarettes, cigars, pipes or tobacco, in any manner in which lighters or matches are employed, shall, in a careless, reckless or negligent manner, set fire to any bedding, furniture, curtains, drapes, house or any household fittings, or any part of any building specified in sub. (2), so as to endanger life or property in any way or to any extent, shall be fined not less than \$50 nor more than \$250, together with costs, or imprisoned not less than 10 days nor more than 6 months or both.

(2) In each sleeping room of all hotels, rooming houses, lodging houses and other places of public abode, a plainly printed notice shall be kept posted in a conspicuous place advising tenants of the provisions of this section.

160.08 Penalty. Excepting section 160.36, anyone violating this chapter or any rule or regulation of the department hereunder shall be fined not less than \$25 nor more than \$200; and anyone failing to comply with an order of the department hereunder shall forfeit \$5 for each day of noncompliance after the order is served upon or directed to him, and in case of action under section 160.22, after lapse of a reasonable time after final determination.

160.09 Authority of department of industry, labor and human relations. Nothing in this chapter shall affect the authority of the department of industry, labor and human relations relative to places of employment, elevators, boilers, fire escapes, fire protection, or the construction of public buildings.

160.10 Joint employment. The department and the department of industry, labor and human relations may employ experts, inspectors or other assistants jointly.

160.21 Suspension or revocation of permit. The department may refuse or withhold issuance of a permit or may suspend or revoke a permit for violation of any provision of this chapter or any rule, regulation or order of the department.

160.22 Court review. Orders of the department shall be subject to review in the manner provided in chapter 227.

160.31 Hotelkeeper's liability. (1) A hotelkeeper who complies with sub. (2) is not liable to a guest for loss of money, jewelry, precious metals or stones, personal ornaments or valuable papers which are not offered for safekeeping.

(2) To secure exemption from liability the hotelkeeper must (a) have doors on sleeping rooms equipped with locks or bolts; (b) offer, by notice printed in large plain English type and kept conspicuously posted in each such room, to receive valuable articles for safekeeping, and explain in such notice that the hotel is not liable for loss unless articles are tendered for safekeeping; (c) keep a safe or vault suitable for keeping such articles and receive them for safekeeping when tendered by a guest, except as provided in sub. (3).

(3) A hotelkeeper is liable for loss of articles accepted for safekeeping up to \$300. He need not receive for safekeeping property over \$300 in value. This subsection may be varied by written agreement between the parties.

160.32 Hotelkeeper's liability for baggage; limitation. Every guest and intended guest of any hotel upon delivering to the hotelkeeper or to his servants any baggage or other property for safekeeping (elsewhere than in the room assigned to the guest) shall demand and the hotelkeeper shall give a check or receipt, to evidence the delivery. No hotelkeeper shall be liable for the loss of or injury to the baggage or other property of his guest, unless it was delivered to the hotelkeeper or his servants for safekeeping or unless the loss or injury occurred

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through the negligence of the hotelkeeper or his servants.

160.33 Liability of hotelkeeper for loss of property by fire or theft; owner's risk. A hotelkeeper is not liable for the loss of baggage or other property of his guest by fire (not intentional) produced by the hotelkeeper or his servants. Every hotelkeeper is liable for loss of baggage or other property of his guest caused by theft or gross negligence of the hotelkeeper or his servants. Such liability shall not exceed \$200 for each trunk and its contents, \$75 for each valise and its contents and \$10 for each box, bundle or package and contents, so placed under his care; and \$50 for all other effects including wearing apparel and personal belongings, unless he has agreed in writing with the guest to assume a greater liability. When any person suffers his baggage or property to remain in any hotel, after his status as a guest has ceased, or forwards the same to a hotel before becoming a guest and the same is received into the hotel, the hotelkeeper holds such baggage or property at the risk of the owner.

160.34 Persons with communicable disease not to be guest; penalty. No person is entitled to accommodation at a hotel who has a communicable disease (as determined pursuant to s. 143.01). No person who has had any such disease shall be entitled to such accommodation until all danger of spreading contagion therefrom is past. This section does not authorize compulsory removal of or refusal of shelter to any such person who is receiving accommodation at any hotel, if removal would specially endanger his life or health. Any person who knowingly and wilfully solicits or receives accommodation in violation of this section shall be punished by a fine not exceeding \$100 or by imprisonment not exceeding 6 months.

160.36 Hotel rates posted; rate charges; special rates. Every hotelkeeper shall keep posted in a conspicuous place in each sleeping room in his hotel, in type not smaller than 12-point, the rates per day for each occupant. Such rates shall not be changed until notice to that effect has been posted, in a similar manner, for 10 days previous to each change. Any hotelkeeper who fails to have the rates so posted or who charges, collects or receives for the use of any room a sum different from the authorized charge shall be punished by a fine of not less than \$50 nor more than \$100. A hotelkeeper may permit a room to be occupied at the rate of a lower priced room when all of the lower priced rooms are taken and until one of them becomes

unoccupied. Special rates may be made for the use of sleeping rooms, either by the week, month or for longer periods or for use by families or other collective groups. The department or its representatives may enforce the posting of rates as provided in this section.

160.37 Motel rates. (1) **DEFINITIONS.** (a) "Outdoor sign" or "outside sign" means any sign visible to passers-by whether the same shall be located within or without buildings.

(b) "Room rates" means the rates at which rooms or other accommodations are rented to occupants.

(c) "Operator" includes a manager or any person in charge of the operation of motels and like establishments. "Operator" or "owner" includes natural persons, firms and corporations.

(2) **RENTAL POSTED.** It is unlawful for any owner or operator of any establishment held out as a motel, motor court, tourist cabin or like accommodation to post or maintain posted on any outdoor or outside advertising sign pertaining to such establishment, any rates for accommodations in such establishment unless the sign shall have posted thereon both the minimum and maximum room, or other rental unit rates for accommodations offered for rental. All posted rates and descriptive data required by this section shall be in type and material of the same size and prominence as the aforesaid data. This section shall not be held to be complied with by signs stating the rate per person or bearing the legend "and up".

(3) **ACCOMMODATIONS MUST EXIST.** It is unlawful for any owner or operator of any motel, motor court, tourist cabin or like accommodation to post or maintain posted on outdoor or outside advertising signs rates for accommodations in any such establishment unless there shall be available in any such establishment, when vacant, accommodations for immediate occupancy to meet the posted rates on such advertising signs.

(4) **MISREPRESENTATION.** It is unlawful for any owner or operator of any motel, motor court, tourist cabin or like accommodation to post or maintain outdoor or outside advertising signs in connection with any such establishment relating to rates which have thereon any untrue, misleading, false, or fraudulent representations.

(5) **CONSTRUCTION.** Nothing contained in this section shall be construed so as to require such establishments to have outdoor or outside signs. This section shall be liberally construed so as to prevent untrue, misleading, false, or fraudulent representations relating to rates being placed upon outdoor or outside signs pertaining to such establishments.

(6) PENALTY. Any person violating this section shall be fined not exceeding \$300, or imprisoned not exceeding 6 months, or both.