

1989 Senate Bill 320

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# 1989 WISCONSIN ACT 174

AN ACT to amend 93.06 (8), 97.17 (6), 97.20 (2) (c) 4, 97.21 (4m) (b), 97.27 (1) (b) 4 and 5, 97.30 (2) (b) 2 and 97.42 (2) (a); to repeal and recreate 97.30 (2) (b) 1. a; and to create 97.20 (2) (e) 3 and 4 and 97.30 (1) (bm) of the statutes, relating to: the authority of the department of agriculture, trade and consumer protection to issue temporary licenses and food establishment licenses.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 93.06 (8) of the statutes is amended to read:

93.06 (8) PRESCRIBE CONDITIONS OF LICENSES. ~~Any~~ Issue any permit, certificate, registration or license ~~may be conditioned on a temporary or conditional basis, contingent upon pertinent circumstance~~ circumstances or ~~act~~ acts. If the temporary or conditional permit, certificate, registration or license is conditioned upon ~~correcting a violation of compliance with~~ chs. 93 to 100, ch. 127, a rule promulgated by the department ~~under chs. 93 to 100~~ or a regulation adopted under s. 97.41 (7) within a specified period of time and the condition is not met within the specified period, the permit, certificate, registration or license shall be void.

**SECTION 2.** 97.17 (6) of the statutes is amended to read:

97.17 (6) The license shall expire on the first day of January of the 2nd year commencing after the date of issuance or renewal. Renewal applications shall be submitted on department forms and be accompanied by a the biennial license fee of \$20 under sub. (4).

**SECTION 3.** 97.20 (2) (c) 4. of the statutes is amended to read:

97.20 (2) (c) 4. Surcharge for operating without license. An applicant for a dairy plant license shall pay a license fee surcharge of \$500 if the department determines that within one year prior to submitting the license

application, the applicant operated the dairy plant without a license in violation of this subsection. The amount of the surcharge is \$100, or \$500 if the dairy plant buys milk or fluid milk products from milk producers or their agents. Payment of this license fee surcharge does not relieve the applicant of any other civil or criminal liability which results from the unlicensed operation of the dairy plant, but does not constitute evidence of any violation of law.

**SECTION 4.** 97.20 (2) (e) 3. and 4. of the statutes are created to read:

97.20 (2) (e) 3. A retail food establishment licensed under s. 97.30 if the establishment processes dairy products solely for retail sale at the establishment.

4. A dairy plant that is exempted from licensing by department rule.

**SECTION 5.** 97.21 (4m) (b) of the statutes is amended to read:

97.21 (4m) (b) For a milk distributor license under sub. (3), an annual license fee of \$70 and a reinspection fee of \$35 for each storage facility operated by the milk distributor.

**SECTION 6.** 97.27 (1) (b) 4. and 5. of the statutes are amended to read:

97.27 (1) (b) 4. A warehouse located in a dairy plant licensed under s. 97.20, a food processing plant licensed under s. 97.29, or a meat establishment licensed under s. 97.42, and used ~~only~~ primarily for the storage of food ingredients or food products manufactured or processed at the licensed establishment.

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5. A warehouse operated by a milk distributor licensed under s. 97.21 (3), and used ~~only~~ primarily for the storage and distribution of milk and fluid milk products, as defined in s. 97.20 (1) (c) and (g).

**SECTION 7.** 97.30 (1) (bm) of the statutes is created to read:

97.30 (1) (bm) "Potentially hazardous food" means any food that is capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms.

**SECTION 8.** 97.30 (2) (b) 1. a of the statutes is repealed and recreated to read:

97.30 (2) (b) 1. a. A retail food establishment that sells only packaged foods or fresh fruits and vegetables, if the establishment does not sell potentially hazardous food and does not engage in food processing.

**SECTION 9.** 97.30 (2) (b) 2. of the statutes is amended to read:

97.30 (2) (b) 2. If a dairy plant licensed under s. 97.20, a food processing plant, as defined in licensed under s. 97.29 (1) (h), or a meat establishment licensed under s. 97.42 is incidentally engaged in the operation of

any retail food establishment ~~subject to the requirements of this section~~ at the same location, the department may exempt by rule that establishment from licensing under this section.

**SECTION 10.** 97.42 (2) (a) of the statutes is amended to read:

97.42 (2) (a) No person may operate an establishment as defined in sub. (1) (d) without a valid license issued by the department for each such establishment. That license expires on June 30 annually. No license may be issued unless the applicant has complied with the requirements of this section. The annual license fee is \$100, except the annual license fee shall be \$40 for those establishments engaged only in slaughtering uninspected animals or poultry or processing uninspected meat as a custom service, and not in other operations subject to a license under this section. No person may be required to obtain a license under s. 97.29 or 97.30 ~~for operation of any establishment which is~~ for activities licensed under this section or which is inspected under 21 USC 451 to 695.