



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0602/2

SWB/TJD/RCT./.....

Leev
1/21

1/1 12/23/14

Due Wednesday, Jan. 7, 2015

DOA:.....Byrnes, BB0213 - Transfer food safety and recreational license regulation authority from DHS to DATCP

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

Mon AM

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1 AN ACT .;. relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

Insert
1-1

2 SECTION 1. 20.435 (1) (gm) of the statutes is amended to read:

3 20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*
4 *services.* The amounts in the schedule for the purposes specified in ss. 252.23, 252.24,
5 252.245, 253.12, 254.176, 254.178, 254.179, 254.20 (5) and (8), 254.31 to 254.39,
6 254.41, 254.47, 254.61 to 254.88, 255.08 (2), and 256.15 (8), ch. 69, for the purchase

I think need to leave as it was for the purchase of as an additional list item and does not modify ch. 69.

no strike

INSERT AND Drafter's Note

SECTION 1

1 and distribution of medical supplies, and to analyze and provide data under s.
2 250.04. All moneys received under ss. 250.04 (3m), ~~252.23 (4) (a)~~, ~~252.24 (4) (a)~~,
3 ~~252.245 (9)~~, 254.176, 254.178, 254.181, 254.20 (5) and (8), 254.31 to 254.39, 254.41,
4 ~~254.47~~, ~~254.61 to 254.88~~, 255.08 (2) (b), and 256.15 (5) (f) and (8) (d) and ch. 69, other
5 than s. 69.22 (1m), and as reimbursement for medical supplies shall be credited to
6 this appropriation account.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; 2013 a. 20, 92; 2013 a. 116 s. 31; 2013 a. 126, 127, 129, 131, 132, 137; 2013 a. 166 s. 77; 2013 a. 168 s. 21; 2013 a. 195, 203, 246; s. 13.92 (2) (i).

7 **SECTION 2.** 29.541 (1) (a) (intro.) of the statutes is amended to read:

8 29.541 (1) (a) (intro.) Except as authorized under s. 29.934 (2) or 254.715
9 97.305, no innkeeper, manager or steward of any restaurant, club, hotel, boarding
10 house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause
11 to be sold, bartered, served or given, to its guests or boarders any of the following:

History: 1975 c. 360; 1991 a. 269; 1995 a. 79; 1997 a. 27; 1997 a. 248 ss. 546 to 553; Stats. 1997 s. 29.541; 2001 a. 56, 109; 2005 a. 394; 2007 a. 20.

12 **SECTION 3.** 45.44 (1) (a) 14. of the statutes is amended to read:

13 45.44 (1) (a) 14. A license, certification, certification card, or permit issued
14 under s. ~~252.23~~, ~~252.24~~ 97.33, 97.681, 97.682, 254.176, 254.178, 254.20, 254.71, and
15 256.15.

History: 2011 a. 209; 2013 a. 20; s. 35.17 correction in (1) (a) 11.

16 **SECTION 4.** 49.857 (1) (d) 4. of the statutes is amended to read:

17 49.857 (1) (d) 4. A certification, license, training permit, registration, approval
18 or certificate issued under s. 49.45 (2) (a) 11., ~~252.23 (2)~~, ~~252.24 (2)~~ 97.33, 97.605 (1)
19 (a) or (b), 97.67 (1), 97.681 (2), 97.682 (2), 254.176 (1) or (3) (a), 254.178 (2) (a), 254.20

1 (2), (3) or (4), [✓]254.47 (1), ~~254.64 (1) (a) or (b)~~, [✓]254.71 (2), 255.08 (2), or 256.15 (5) (a)
2 or (b), (6g) (a), or (8) (a).

3 **History:** 1997 a. 191; 1999 a. 9, 31, 32, 186; ~~2001 a. 56, 61~~; 2005 a. 25; 2007 a. 20, 130, 196; 2009 a. 2, 3, 344, 405; 2011 a. 32; 2013 a. 20.

3 **SECTION 5.** 66.0417 (1) of the statutes is amended to read:

4 66.0417 (1) An employee or agent of a local health department designated by
5 the ~~department of health services~~ under s. ~~254.69 (2)~~ or the department of
6 agriculture, trade and consumer protection under s. 97.41 or 97.615 (2) may enter,
7 at reasonable hours, any premises for which the local health department issues a
8 permit license under s. 97.41 or ~~254.69 (2)~~ 97.615 (2) to inspect the premises, secure
9 samples or specimens, examine and copy relevant documents and records or obtain
10 photographic or other evidence needed to enforce ~~subch. VII of ch. 254, ch. 97 or s.~~
11 ~~254.47~~, relating to those premises. If samples of food are taken, the local health
12 department shall pay or offer to pay the market value of those samples. The local
13 health department, ~~department of health services~~ or department of agriculture,
14 trade and consumer protection shall examine the samples and specimens secured
15 and shall conduct other inspections and examinations needed to determine whether
16 there is a violation of ~~subch. VII of ch. 254, ch. 97 or s. 254.47~~, rules adopted by the
17 ~~departments~~ department under those statutes, ordinances adopted by the village,
18 city or county or regulations adopted by the local board of health under s. 97.41 (7)
19 or ~~254.69~~ 97.615.

20 **History:** 1983 a. 203; 1987 a. 27 ss. 1217oc, 3200(24); 1993 a. 27; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 293; Stats. 1999 s. 66.0417; 2007 a. 20 s. 9121 (6) (a).

20 **SECTION 6.** 66.0417 (2) of the statutes is amended to read:

21 66.0417 (2) (a) Whenever, as a result of an examination, a village, city or county
22 has reasonable cause to believe that any examined food constitutes, or that any
23 construction, sanitary condition, operation or method of operation of the premises or
24 equipment used on the premises creates an immediate danger to health, the

1 administrator of the village, city or county agency responsible for the village's, city's
2 or county's agent functions under s. 97.41 or ~~254.69 (2)~~ [✓] 97.615 (2) may issue a
3 temporary order and cause it to be delivered to the ~~permittee~~ licensee, or to the owner
4 or custodian of the food, or to both. The order may prohibit the sale or movement of
5 the food for any purpose, prohibit the continued operation or method of operation of
6 specific equipment, require the premises to cease any other operation or method of
7 operation which creates the immediate danger to health, or set forth any
8 combination of these requirements. The administrator may order the cessation of
9 all operations authorized by the ~~permit~~ license only if a more limited order does not
10 remove the immediate danger to health. Except as provided in par. (c), no temporary
11 order is effective for longer than 14 days from the time of its delivery, but a temporary
12 order may be reissued for one additional 14-day period, if necessary to complete the
13 analysis or examination of samples, specimens or other evidence.

14 (b) No food described in a temporary order issued and delivered under par. (a)
15 may be sold or moved and no operation or method of operation prohibited by the
16 temporary order may be resumed without the approval of the village, city or county,
17 until the order has terminated or the time period specified in par. (a) has run out,
18 whichever occurs first. If the village, city or county, upon completed analysis and
19 examination, determines that the food, construction, sanitary condition, operation
20 or method of operation of the premises or equipment does not constitute an
21 immediate danger to health, the ~~permittee~~ licensee, owner or custodian of the food
22 or premises shall be promptly notified in writing and the temporary order shall
23 terminate upon his or her receipt of the written notice.

24 (c) If the analysis or examination shows that the food, construction, sanitary
25 condition, operation or method of operation of the premises or equipment constitutes

1 an immediate danger to health, the ~~permittee~~ licensee, owner or custodian shall be
 2 notified within the effective period of the temporary order issued under par. (a).
 3 Upon receipt of the notice, the temporary order remains in effect until a final decision
 4 is issued under sub. (3), and no food described in the temporary order may be sold
 5 or moved and no operation or method of operation prohibited by the order may be
 6 resumed without the approval of the village, city or county.

7 **History:** 1983 a. 203; 1987 a. 27 ss. 1217oc, 3200~~(24)~~; 1993 a. 27; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 293; Stats. 1999 s. 66.0417; 2007 a. 20 s. 9121 (6) (a).

SECTION 7. 66.0417 (3) of the statutes is amended to read:

8 **66.0417 (3)** A notice issued under sub. (2) (c) shall be accompanied by notice
 9 of a hearing as provided in s. 68.11 (1). The village, city or county shall hold a hearing
 10 no later than 15 days after the service of the notice, unless both parties agree to a
 11 later date. Notwithstanding s. 68.12, a final decision shall be issued under s. 68.12
 12 within 10 days of the hearing. The decision may order the destruction of food, the
 13 diversion of food to uses which do not pose a danger to health, the modification of food
 14 so that it does not create a danger to health, changes to or replacement of equipment
 15 or construction, other changes in or cessations of any operation or method of
 16 operation of the equipment or premises, or any combination of these actions
 17 necessary to remove the danger to health. The decision may order the cessation of
 18 all operations authorized by the ~~permit~~ license only if a more limited order will not
 19 remove the immediate danger to health.

20 **History:** 1983 a. 203; 1987 a. 27 ss. 1217oc, 3200~~(24)~~; 1993 a. 27; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 293; Stats. 1999 s. 66.0417; 2007 a. 20 s. 9121 (6) (a).

SECTION 8. 66.0417 (4) of the statutes is amended to read:

21 **66.0417 (4)** A proceeding under this section, or the issuance of a ~~permit~~ license
 22 for the premises after notification of procedures under this section, does not
 23 constitute a waiver by the village, city or county of its authority to rely on a violation
 24 of ch. 97, s. ~~254.47~~ or subch. VII of ch. 254 or any rule adopted under those statutes

SECTION 8

1 as the basis for any subsequent suspension or revocation of the permit license or any
2 other enforcement action arising out of the violation.

3 **History:** 1983 a. 203; 1987 a. 27 ss. 1217oc, 3200(24); 1993 a. 27; 1995 a. 27 s. 9126 (19); 1999 a. 150 s. 293; Stats. 1999 s. 66.0417; 2007 a. 20 s. 9121 (6) (a).

3 **SECTION 9.** 66.0435 (9) of the statutes is amended to read:

4 66.0435 (9) MUNICIPALITIES; MONTHLY MUNICIPAL PERMIT FEES ON RECREATIONAL
5 MOBILE HOMES AND RECREATIONAL VEHICLES. A licensing authority may assess monthly
6 municipal permit fees at the rates under this section on recreational mobile homes
7 and recreational vehicles, as defined in s. 340.01 (48r), except recreational mobile
8 homes and recreational vehicles that are located in campgrounds licensed under s.
9 ~~254.47~~ [✓] 97.67, recreational mobile homes that constitute improvements to real
10 property under s. 70.043 (1), and recreational mobile homes or recreational vehicles
11 that are located on land where the principal residence of the owner of the recreational
12 mobile home or recreational vehicle is located, regardless of whether the recreational
13 mobile home or recreational vehicle is occupied during all or part of any calendar
14 year.

15 **History:** 1999 a. 5; 1999 a. 150 ss. 112, 158 to 161; Stats. 1999 s. 66.0435; 2005 a. 298; 2007 a. 11.

15 **SECTION 10.** 66.0436 (1) of the statutes is amended to read:

16 66.0436 (1) In this section, “restaurant” has the meaning given in s. ~~254.61~~ (5)
17 [✓] 97.01 (14g).

18 **History:** 2013 a. 292.

18 **SECTION 11.** 66.0436 (2) of the statutes is amended to read:

19 66.0436 (2) No city, village, town, or county may enact an ordinance requiring
20 a restaurant, a person who holds a permit license for a restaurant, or a person who
21 conducts, maintains, manages, or operates a restaurant to satisfy a requirement
22 related to the issuance or possession of a certificate of food protection practices that
23 is not found under s. ~~254.71~~ [✓] 97.33.

History: 2013 a. 292.

1 **SECTION 12.** 73.0301 (1) (d) 3. of the statutes is amended to read:

2 73.0301 (1) (d) 3. A license, certificate of approval, provisional license,
3 conditional license, certification, certification card, registration, permit, training
4 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)
5 (b) 11., 51.421 (3) (a), 51.45 (8), 97.681 (2), 97.682 (2), 146.40 (3), (3g), or (3m), ~~252.23~~
6 ~~(2)~~, 252.24 (2), 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or
7 (8) (a) or (f) or 343.305 (6) (a) or a permit license for operation of a campground
8 specified in s. ~~254.47 (1)~~ 97.67 (1).

History: 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 2155 to 2158, 9121 (6) (a); 2007 a. 130, 196; 2009 a. 2, 3, 185, 344, 405; 2011 a. 32; 2013 a. 20, 36; 2013 a. 173, 183; 2013 a. 357.

9 **SECTION 13.** 76.80 (3) of the statutes is amended to read:

10 76.80 (3) “Telecommunications services” means the transmission of voice,
11 video, facsimile or data messages, including telegraph messages, except that
12 “telecommunications services” does not include video service, as defined in s. 66.0420
13 (2) (y), radio, one-way radio paging or transmitting messages incidental to transient
14 occupancy in hotels, as defined in s. ~~254.61 (3)~~ 97.01 (7).

History: 1995 a. 351 ss. 17, 18, 32; 2007 a. 42; ~~2009 a. 276.~~

15 **SECTION 14.** 87.305 (1) (intro.) of the statutes is amended to read:

16 87.305 (1) DEPARTMENT APPROVAL. (intro.) Notwithstanding s. 87.30 or any rule
17 promulgated, order issued or ordinance adopted under that section, the department
18 shall authorize the connection of a sanitary sewer line from the sewerage treatment
19 plant in the city of Prairie du Chien and connection of the public water system of the
20 city of Prairie du Chien to the railroad depot and the Dousman hotel on St. Feriote
21 island and shall authorize historic use of the Dousman hotel as a hotel, as defined
22 under s. ~~254.61 (3)~~ 97.01 (7), if all of the following conditions are met:

History: 1987 a. 282; 1993 a. 27; 1995 a. 27, 247, 378; 1997 a. 252.

23 **SECTION 15.** 93.135 (1) (ng) of the statutes is created to read:

*Insert
2/22*

1 93.135 (1) (ng) A certificate under s. 97.33.

2 **SECTION 16.** 93.135 (1) (nt) of the statutes is created to read:

3 93.135 (1) (nt) A license under s. 97.605 (1) or 97.67 (1) or (2m).

4 **SECTION 17.** 93.135 (1) (nx) of the statutes is created to read:

5 93.135 (1) (nx) A license under s. 97.681 or 97.682.

6 **SECTION 18.** 93.135 (1m) (am) of the statutes is created to read:

7 93.135 (1m) (am) If an applicant for a license under s. 97.67 (1) or (2m), 97.681
8 (2) or (4) (a), or 97.682 (2) or (4) (a) is not an individual, the applicant shall provide
9 the department with the applicant's federal employer identification number as a
10 condition of issuing or renewing the license.

***NOTE: Please let us know what is wanted with respect to withholding licenses transferred to DATCP for tax and unemployment insurance delinquency. Holders of the DHS permits and certifications can have those withheld for delinquency in child support and related payments and taxes and unemployment insurance. For the most part, holders of the DATCP licenses can only have them withheld for delinquency in child support and related payments.

11 **SECTION 19.** Chapter 97 (title) of the statutes is amended to read:

CHAPTER 97

FOOD REGULATION, LODGING, RECREATION, AND SAFETY

12
13
14 **SECTION 20.** Subchapter I of chapter 97 [precedes 97.01] of the statutes is
15 created to read:

CHAPTER 97

SUBCHAPTER I

DEFINITIONS

16
17
18
19 **SECTION 21.** 97.01 (1) of the statutes is renumbered 97.01 (1r).

20 **SECTION 22.** Subchapter II of chapter 97 [precedes 97.02] of the statutes is
21 created to read:

CHAPTER 97

de
change

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1

SUBCHAPTER II

2

FOOD SAFETY AND REGULATION

institutions incl

SECTION 23. 97.18 (5m) of the statutes is repealed.

****NOTE: Section 97.18 relates to oleomargarine regulations. Subsection (5m) states that "[t]he department of health services shall assist the department [of agriculture, trade and consumer protection] in the enforcement of this section and, in connection with inspections of food service operations at institutions and establishments under its inspectional jurisdiction, conduct compliance inspections, and surveys, and report violations directly to the department." In light of the transfer from DHS to DATCP, this provision may be unnecessary. It has been repealed for purposes of this preliminary draft, but please confirm if repeal is appropriate, or if you would like some other treatment.

*Insert
9-2(a)
and
9-2(b)
and
9-2(c)*

4

SECTION 24. 97.20 (2) (e) 2. of the statutes is amended to read:

5

97.20 (2) (e) 2. The retail preparation and processing of meals for sale directly

6

to consumers or through vending machines, if the preparation and processing is

7

covered under a ~~restaurant permit or other permit~~ license issued under s. 254.64

8

97.605.

History: 1971 c. 125, 156, 211; 1975 c. 39, 199; 1977 c. 203 s. 106; 1979 c. 257; 1983 a. 189, 203; 1987 a. 27, 399; 1989 a. 31, 174; 1991 a. 39, 269; 1993 a. 27; 2001 a. 16; 2011 a. 195; 2013 a. 302, 303.

9

SECTION 25. 97.25 (3) of the statutes is amended to read:

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97.25 (3) RULES. The department shall promulgate rules authorizing the

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operator of a dairy plant licensed under s. 97.20, or a retail food establishment

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licensed under s. 97.30 ~~or a restaurant with a permit under s. 254.64~~ who complies

13

with the rules to place upon the label of a dairy product the statement

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"Farmer-certified rBGH free." or an equivalent statement that is not false or

15

misleading. The statement shall be based upon affidavits from milk producers

16

stating that the milk producers do not use synthetic bovine growth hormone for the

17

production of milk.

History: 1993 a. 476; 1995 a. 225.

18

SECTION 26. 97.29 (1) (c) of the statutes is amended to read:

SECTION 26

1 97.29 (1) (c) “Bottling establishment” means any place where drinking water,
 2 soda water beverage or alcohol beverage is manufactured or bottled for sale.
 3 “Bottling establishment” does not include a retail establishment engaged in the
 4 preparation and sale of beverages under a license issued under s. 125.26 or 125.51
 5 or a ~~restaurant permit~~ license issued under s. 97.30 for a restaurant or other ~~permit~~
 6 license issued under s. 254.64 97.605.

History: 1987 a. 399; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 264; 1995 a. 460; 1997 a. 27; 2001 a. 16; 2009 a. 101; 2013 a. 245, 302; s. 13.92 (2) (i).

SECTION 27. 97.29 (1) (g) 3. of the statutes is amended to read:

8 97.29 (1) (g) 3. The retail preparation and processing of meals for sale directly
 9 to consumers or through vending machines if the preparation and processing is
 10 covered under a ~~restaurant permit or other permit~~ license issued under s. 254.64
 11 97.605.

History: 1987 a. 399; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 264; 1995 a. 460; 1997 a. 27; 2001 a. 16; 2009 a. 101; 2013 a. 245, 302; s. 13.92 (2) (i).

***NOTE: Could this provision be repealed in its entirety given the substance of s. 97.29 (1) (h)?

SECTION 28. 97.29 (1) (h) of the statutes is amended to read:

13 97.29 (1) (h) “Food processing plant” means any place where food processing
 14 is conducted. “Food processing plant” does not include any establishment subject to
 15 the requirements of s. 97.30 ~~or any restaurant or other~~ ^{an} establishment holding a
 16 permit license under s. 254.64 97.605, to the extent that the activities of that
 17 establishment are covered by s. 97.30 or the ~~permit license~~ under s. 254.64 97.605.

History: 1987 a. 399; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39; 1993 a. 27, 264; 1995 a. 460; 1997 a. 27; 2001 a. 16; 2009 a. 101; 2013 a. 245, 302; s. 13.92 (2) (i).

SECTION 29. 97.30 (1) (c) of the statutes is amended to read:

19 97.30 (1) (c) “Retail food establishment” means a permanent or mobile food
 20 processing facility where food processing is conducted primarily for direct retail sale
 21 to consumers at the facility, a mobile facility from which potentially hazardous food
 22 is sold to consumers at retail or a permanent facility from which food is sold to
 23 consumers at retail, whether or not that facility sells potentially hazardous food or

1 is engaged in food processing. “Retail food establishment” ~~does not include~~ includes
2 a restaurant or ~~other establishment~~ temporary restaurant, but does not include an
3 establishment holding a permit license under s. ~~254.64~~ 97.605, to the extent that the
4 activities of the establishment are covered by that permit license.

History: 1987 a. 399; 1989 a. 174; 1991 a. 39, 210; 1993 a. 16, 27, 264, 491; 1995 a. 27 ss. 3599, 9126 (19); 1997 a. 27; 1999 a. 9; 2007 a. 20 s. 9121 (6) (a); 2013 a. 298, 302; s. 13.92 (2) (i).

Insert
11-4

5 **SECTION 30.** 97.41 (1m) of the statutes is amended to read:

6 97.41 (1m) In the administration of this chapter, the department may enter
7 into a written agreement with a local health department, if the jurisdictional area
8 of the local health department has a population greater than 5,000, which designates
9 the local health department as the agent of the department of agriculture, trade and
10 consumer protection for issuing licenses to and making investigations or inspections
11 of retail food establishments, as defined in s. 97.30 (1) (c). When the designation is
12 made, no license other than the license issued by the local health department under
13 this section may be required by the department of agriculture, trade and consumer
14 protection or the local health department for the same operations. The department
15 of agriculture, trade and consumer protection shall ~~coordinate~~ oversee the
16 designation of agents under this section ~~with the department of health services~~ to
17 ensure that, to the extent feasible, the same local health department is granted agent
18 status under this section and under s. ~~254.69 (2)~~ 97.615 (2). Except as otherwise
19 provided by the department of agriculture, trade and consumer protection, a local
20 health department granted agent status shall regulate all types of establishments
21 for which this subsection permits the department of agriculture, trade and consumer
22 protection to delegate regulatory authority.

History: 1983 a. 203; 1985 a. 29 ss. 1643y to 1645, 3202 (3); 1987 a. 27 ss. 1693hL, 3200 (4); 1987 a. 399, 403; 1989 a. 56; 1993 a. 27; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).

23 **SECTION 31.** 97.41 (4) (a) of the statutes is amended to read:

SECTION 31

1 97.41 (4) (a) Except as provided in par. (b), a local health department granted
 2 agent status under this section shall establish and collect the license fee for retail
 3 food establishments, as defined in s. 97.30 (1) (c). The local health department may
 4 establish separate fees for preinspections of new establishments, for preinspections
 5 of existing establishments for which a person intends to be the new operator or for
 6 the issuance of duplicate licenses. No fee may exceed the local health department's
 7 reasonable costs of issuing licenses to, making investigations and inspections of, and
 8 providing education, training and technical assistance to the establishments, plus
 9 the state fee established under sub. (5). A local health department which is granted
 10 agent status under this section or under s. ~~254.69~~ ^{strike} 97.615 may issue a single license
 11 and establish and collect a single fee which authorizes the operation on the same
 12 premises of more than one type of establishment with respect to which it is granted
 13 agent status under this section or under s. ~~254.69 (2)~~ [✓] 97.615 (2).

History: 1983 a. 203; 1985 a. 29 ss. 1643y to 1643z, 3202 (3); 1987 a. 27 ss. 1693hL, 3200 (4); 1987 a. 399, 403; 1989 a. 56; 1993 a. 27; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).

SECTION 32. 97.42 (3) (em) of the statutes is amended to read:

14 97.42 (3) (em) *Slaughter of farm-raised deer.* The requirements of pars. (a) and
 15 (b) do not apply to the slaughter of a farm-raised deer if its meat food products are
 16 not sold by a person holding a restaurant permit under s. 254.64 or by an operator
 17 of a retail food establishment, as defined under s. 97.30 (1) (c). The operator of an
 18 establishment in which farm-raised deer, their carcasses or their meat food products
 19 are examined and inspected under this subsection shall pay the department for the
 20 cost of the department's examination and inspection.
 21

History: 1971 c. 270 s. 104; 1973 c. 206; 1975 c. 308, 421; 1977 c. 196 s. 131; 1977 c. 216, 365; 1979 c. 110, 154; 1981 c. 314; 1983 a. 189, 261; 1983 a. 500 s. 44; 1985 a. 29; 1987 a. 399; 1989 a. 174; 1991 a. 39, 175, 269; 1993 a. 16, 27, 144, 492; 1995 a. 79, 225; 1999 a. 9, 185; 2001 a. 56; 2013 a. 602.

SECTION 33. Subchapter III of chapter 97 [precedes 97.60] of the statutes is

22 created to read:
 23

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(title)

3

1

CHAPTER 97

2

SUBCHAPTER III

3

LODGING AND VENDING MACHINES

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4

SECTION 34. Subchapter IV^(title) of chapter 97 [precedes 97.67] of the statutes is created to read:

5

6

CHAPTER 97

7

SUBCHAPTER IV

8

RECREATIONAL SANITATION

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9

SECTION 35. Subchapter V^(title) of chapter 97 [precedes 97.681] of the statutes is created to read:

10

11

CHAPTER 97

12

SUBCHAPTER V

13

TATTOOING AND BODY PIERCING

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14

SECTION 36. Subchapter VI^(title) of chapter 97 [precedes 97.70] of the statutes is created to read:

15

16

CHAPTER 97

17

SUBCHAPTER VI

18

GENERAL PROVISIONS

19

SECTION 37. 101.05 (2) of the statutes is amended to read:

20

101.05 (2) A bed and breakfast establishment, as defined under s. ~~254.61(1)~~

21

97.01 (1g), is not subject to building codes adopted by the department under this

22

subchapter.

23

History: 1971 c. 329; 1983 a. 163; 1983 a. 538 s. 271; 1989 a. 31, 354; 1993 a. 27, 117; 1995 a. 27; 1999 a. 135; 2011 a. 146.

SECTION 38. 101.123 (1) (bn) 1. of the statutes is amended to read:

Handwritten note: Insert 13-19

1 101.123 (1) (bn) 1. A bed and breakfast establishment, as defined in s. ~~254.61~~
2 ~~(1) 97.01 (1g)~~.

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268; 2005 a. 344; 2007 a. 20 s. 9121 (6) (a); 2009 a. 12, 185, 276; 2013 a. 165 s. 114.

3 **SECTION 39.** 101.123 (1) (bn) 2. of the statutes is amended to read:

4 101.123 (1) (bn) 2. A hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7).

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268; 2005 a. 344; 2007 a. 20 s. 9121 (6) (a); 2009 a. 12, 185, 276; 2013 a. 165 s. 114.

5 **SECTION 40.** 101.123 (1) (bn) 3. of the statutes is amended to read:

6 101.123 (1) (bn) 3. A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01
7 (15k).

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268; 2005 a. 344; 2007 a. 20 s. 9121 (6) (a); 2009 a. 12, 185, 276; 2013 a. 165 s. 114.

8 **SECTION 41.** 101.123 (1) (f) of the statutes is amended to read:

9 101.123 (1) (f) “Restaurant” ~~means an establishment as defined~~ has the
10 meaning given in s. 254.61 (5) 97.01 (14g).

History: 1983 a. 211; 1985 a. 332 s. 253; 1987 a. 161 s. 13m; 1987 a. 403 s. 256; 1989 a. 97, 107, 251, 336; 1991 a. 28, 39, 130; 1993 a. 27, 313; 1995 a. 27 ss. 3661, 9126 (19); 1995 a. 77, 201, 404; 1999 a. 9, 72; 2001 a. 16; 2003 a. 268; 2005 a. 344; 2007 a. 20 s. 9121 (6) (a); 2009 a. 12, 185, 276; 2013 a. 165 s. 114.

11 **SECTION 42.** 101.128 (1) (c) of the statutes is amended to read:

12 101.128 (1) (c) “Hotel” has the meaning given in s. ~~254.61 (3)~~ 97.01 (7).

History: 1991 a. 110; 1993 a. 27.

13 **SECTION 43.** 101.128 (1) (e) of the statutes is amended to read:

14 101.128 (1) (e) “Restaurant” has the meaning given in s. ~~254.61 (5)~~ 97.01 (14g).

History: 1991 a. 110; 1993 a. 27.

15 **SECTION 44.** 101.149 (1) (ag) of the statutes is amended to read:

16 101.149 (1) (ag) “Bed and breakfast establishment” has the meaning given in
17 s. ~~254.61 (1)~~ 97.01 (1g).

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; 2011 a. 32; 2013 a. 166 s. 77.

18 **SECTION 45.** 101.149 (1) (cm) of the statutes is amended to read:

19 101.149 (1) (cm) “Tourist rooming house” has the meaning given in s. ~~254.61~~
20 ~~(6)~~ 97.01 (15k).

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; 2011 a. 32; 2013 a. 166 s. 77.

21 **SECTION 46.** 101.149 (5) (c) of the statutes is amended to read:

1 101.149 (5) (c) All of the fuel-burning appliances in the residential building
2 have sealed combustion units that are inspected as provided in the rules
3 promulgated by the department under sub. (6) (b) or in the rules promulgated by the
4 department of health services under s. ~~254.74~~ 97.625 (1) (am).

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; ~~2011 a. 32~~; 2013 a. 166 s. 77.

5 **SECTION 47.** 101.149 (8) (a) of the statutes is amended to read:

6 101.149 (8) (a) If the department of safety and professional services or the
7 department of ~~health services~~ agriculture, trade and consumer protection
8 determines after an inspection of a building under this section or s. ~~254.74~~ 97.625
9 (1g) that the owner of the building has violated sub. (2) or (3), the respective
10 department shall issue an order requiring the person to correct the violation within
11 5 days or within such shorter period as the respective department determines is
12 necessary to protect public health and safety. If the person does not correct the
13 violation within the time required, he or she shall forfeit \$50 for each day of violation
14 occurring after the date on which the respective department finds that the violation
15 was not corrected.

History: 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; ~~2011 a. 32~~; 2013 a. 166 s. 77.

16 **SECTION 48.** 101.63 (1) (intro.) of the statutes is amended to read:

17 101.63 (1) (intro.) Adopt rules which establish standards for the construction
18 and inspection of one- and 2-family dwellings and components thereof. Where
19 feasible, the standards used shall be those nationally recognized and shall apply to
20 the dwelling and to its electrical, heating, ventilating, air conditioning and other
21 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be
22 adopted which has not taken into account the conservation of energy in construction
23 and maintenance of dwellings and the costs of specific code provisions to home buyers
24 in relationship to the benefits derived from the provisions. Rules promulgated under

SECTION 48

1 this subsection do not apply to a bed and breakfast establishment, as defined under
2 s. ~~254.61 (1)~~ 97.01 (1g), except that the rules apply to all of the following:

History: 1975 c. 404; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (8); 1987 a. 343; 1993 a. 26, 126, 414; 1999 a. 9, 135; 2003 a. 90; 2005 a. 25, 200; 2007 a. 67; 2011 a. 78; 2013 a. 23.

3 **SECTION 49.** 101.647 (1) (am) of the statutes is amended to read:

4 101.647 (1) (am) Notwithstanding s. 101.61 (1), “dwelling” does not include a
5 tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

History: 2009 a. 158.

6 **SECTION 50.** 101.935 (2) (e) of the statutes is amended to read:

7 101.935 (2) (e) Section ~~254.69 (2)~~ 97.615 (2), as it applies to an agent for the
8 department of health services agriculture, trade and consumer protection in the
9 administration of s. ~~254.47~~ 97.67, applies to an agent for the department of safety
10 and professional services in the administration of this section.

History: 1991 a. 39; 1993 a. 16, 27, 491; 1995 a. 27 s. 9126 (19); 1999 a. 9 ss. 64g to 64r; Stats. 1999 s. 101.935; 1999 a. 53; 2001 a. 16; 2005 a. 45; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

11 **SECTION 51.** 106.52 (1) (d) 1. of the statutes is amended to read:

12 106.52 (1) (d) 1. A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~
13 97.01 (1g).

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 75 to 92, 102 to 105; Stats. 1999 s. 106.52; 1999 a. 186; 2003 a. 23; 2005 a. 155; 2005 a. 354 ss. 1 to 4, 6; 2007 a. 97; 2011 a. 190.

14 **SECTION 52.** 106.52 (1) (d) 2. of the statutes is amended to read:

15 106.52 (1) (d) 2. A hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7).

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 75 to 92, 102 to 105; Stats. 1999 s. 106.52; 1999 a. 186; 2003 a. 23; 2005 a. 155; 2005 a. 354 ss. 1 to 4, 6; 2007 a. 97; 2011 a. 190.

16 **SECTION 53.** 106.52 (1) (d) 3. of the statutes is amended to read:

17 106.52 (1) (d) 3. A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 75 to 92, 102 to 105; Stats. 1999 s. 106.52; 1999 a. 186; 2003 a. 23; 2005 a. 155; 2005 a. 354 ss. 1 to 4, 6; 2007 a. 97; 2011 a. 190.

18 **SECTION 54.** 108.227 (1) (e) 3. of the statutes is amended to read:

19 108.227 (1) (e) 3. A license, certificate of approval, provisional license,
20 conditional license, certification, certification card, registration, permit, training

1 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)
 2 (b) 11., 51.421 (3) (a), 51.45 (8), 97.681 (2), 97.682 (2), 146.40 (3), (3g), or (3m), ~~252.23~~
 3 ~~(2)~~, ~~252.24 (2)~~, 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or
 4 (8) (a) or (f) or 343.305 (6) (a) or a permit license for operation of a campground
 5 specified in s. ~~254.47 (1)~~ 97.67 (1).

History: 2013 a. 36, 276, 357.

6 **SECTION 55.** 125.02 (3r) of the statutes is amended to read:

7 125.02 (3r) "Caterer" means any person holding a restaurant permit license
 8 under s. ~~254.64~~ 97.30 for a restaurant who is in the business of preparing food and
 9 transporting it for consumption on premises where gatherings, meetings, or events
 10 are held, if the sale of food at each gathering, meeting, or event accounts for greater
 11 than 50 percent of the gross receipts of all of the food and beverages served at the
 12 gathering, meeting, or event.

History: 1981 c. 79, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1985 a. 47, 302, 337; 1989 a. 253; 1991 a. 39; 1993 a. 27, 112; 1997 a. 27; 1999 a. 163; 2007 a. 20 ss. 2757tc to 2757we, 2759ci; 2007 a. 85; 2011 a. 32, 200; 2013 a. 106.

13 **SECTION 56.** 125.02 (7) of the statutes is amended to read:

14 125.02 (7) "Hotel" means a hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7), that is
 15 provided with a restaurant.

History: 1981 c. 79, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1985 a. 47, 302, 337; 1989 a. 253; 1991 a. 39; 1993 a. 27, 112; 1997 a. 27; 1999 a. 163; 2007 a. 20 ss. 2757tc to 2757we, 2759ci; 2007 a. 85; 2011 a. 32, 200; 2013 a. 106.

16 **SECTION 57.** 125.02 (18) of the statutes is amended to read:

17 125.02 (18) "Restaurant" means a restaurant, as defined in s. ~~254.61 (5)~~ 97.01
 18 (14g).

History: 1981 c. 79, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1985 a. 47, 302, 337; 1989 a. 253; 1991 a. 39; 1993 a. 27, 112; 1997 a. 27; 1999 a. 163; 2007 a. 20 ss. 2757tc to 2757we, 2759ci; 2007 a. 85; 2011 a. 32, 200; 2013 a. 106.

19 **SECTION 58.** 125.06 (12) of the statutes is amended to read:

20 125.06 (12) BED AND BREAKFAST ESTABLISHMENTS. The provision by a bed and
 21 breakfast establishment, as defined under s. ~~254.61 (1)~~ 97.01 (1g), of not more than
 22 2 complimentary 4-fluid-ounce glasses of wine per day to a person renting a room

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1 at the bed and breakfast establishment for consumption on the premises of the bed
2 and breakfast establishment.

History: 1981 c. 79, 202; 1983 a. 222, 360, 538; 1985 a. 337; 1987 a. 399; 1989 a. 253; 1991 a. 269; 1993 a. 226; 1995 a. 225; 2001 a. 16; 2007 a. 9, 85, 216; 2011 a. 179, 200; 2013 a. 20.

3 **SECTION 59.** 125.07 (3) (a) 6. of the statutes is amended to read:

4 125.07 (3) (a) 6. Premises operated under both a Class “B” or “Class B” license
5 or permit and a ~~restaurant permit~~ license under s. 97.30 for a restaurant where the
6 principal business conducted is that of a restaurant. If the premises are operated
7 under both a Class “B” or “Class B” license or permit and a ~~restaurant permit~~ license
8 under s. 97.30 for a restaurant, the principal business conducted is presumed to be
9 the sale of alcohol beverages, but the presumption may be rebutted by competent
10 evidence.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337; 1999 a. 109; 2003 a. 246; 2005 a. 50; 2007 a. 8, 20; 2011 a. 32; 2013 a. 65, 249.

11 **SECTION 60.** 125.07 (3) (a) 6m. of the statutes is amended to read:

12 125.07 (3) (a) 6m. Premises operating under both a “Class C” license and a
13 ~~restaurant permit~~ license under s. 97.30 for a restaurant.

History: 1981 c. 79, 202, 391; 1983 a. 74, 472, 538; 1985 a. 28, 29, 47, 120, 176, 221, 317, 337; 1987 a. 51, 354; 1989 a. 31, 121, 135, 253, 336, 359; 1991 a. 28, 39, 171, 269; 1993 a. 112, 472; 1995 a. 77, 334; 1997 a. 35, 84, 98, 100, 205, 337; 1999 a. 109; 2003 a. 246; 2005 a. 50; 2007 a. 8, 20; 2011 a. 32; 2013 a. 65, 249.

14 **SECTION 61.** 125.29 (6) of the statutes is amended to read:

15 125.29 (6) RESTAURANTS. A brewer may operate a restaurant on the brewery
16 premises and at an off-site retail outlet established by the brewer. A brewer may not
17 hold a ~~restaurant permit~~ license under s. 97.30 for a restaurant for the operation of
18 a restaurant at any other location except that a brewer may possess or hold an
19 indirect interest in a Class “B” license for not more than 20 restaurants in each of
20 which the sale of alcohol beverages accounts for less than 60 percent of the
21 restaurant’s gross receipts if no fermented malt beverages manufactured by the
22 brewer are offered for sale in any of these restaurants.

History: 1981 c. 79; 1989 a. 253; 1993 a. 378; 1995 a. 27; 2005 a. 103; 2007 a. 9, 20; 2011 a. 32.

23 **SECTION 62.** 125.295 (2) (a) 3. of the statutes is amended to read:

1 125.295 (2) (a) 3. The applicant operates a restaurant on the premises for which
2 the permit is issued, for which a ~~restaurant permit license~~ license is issued under s. ~~254.64~~
3 ~~97.30~~ 97.30 for a restaurant.

4 History: 2007 a. 20; 2011 a. 32; 2013 a. 165.

4 **SECTION 63.** 125.295 (2) (b) of the statutes is amended to read:

5 125.295 (2) (b) If an applicant under par. (a) has no current operations, the
6 applicant may certify that the applicant has applied for or will apply for a Class “B”
7 license or ~~restaurant permit license~~ license under s. ~~97.30~~ 97.30 for a restaurant or will comply
8 with any other requirement under par. (a), prior to or upon commencing operations
9 authorized under this section. If a Class “B” license or ~~restaurant permit license~~
10 under s. 97.30 for a restaurant is not subsequently issued to the applicant, or if the
11 applicant otherwise fails to comply with any requirement for eligibility under par.
12 (a), the department may revoke under s. 125.12 (5) the ~~permit license~~ license issued under
13 this section.

14 History: 2007 a. 20; 2011 a. 32; 2013 a. 165.

14 **SECTION 64.** 125.68 (5) of the statutes is amended to read:

15 125.68 (5) RESTAURANT SANITATION RULES. No applicant may obtain a “Class B”
16 license or permit or a “Class C” license unless the premises complies with the rules
17 promulgated by the department of ~~health services~~ agriculture, trade and consumer
18 protection governing sanitation in restaurants. However, the department of ~~health~~
19 ~~services~~ agriculture, trade and consumer protection may not restrict the serving of
20 cheese without charge in individual portions to customers as permitted by s. ~~254.61~~
21 ~~(5)~~ 97.01 (14g).

History: 1981 c. 79, 158, 202; 1983 a. 74; 1983 a. 189 s. 329 (6); 1983 a. 203 s. 47; 1983 a. 349; 1985 a. 28, 221, 317; 1987 a. 27, 121, 399; 1989 a. 30, 253; 1991 a. 28, 39; 1993 a. 27, 112; 1995 a. 27 s. 9126 (19); 1997 a. 283; 2001 a. 16, 109; 2005 a. 25, 268; 2007 a. 3; 2007 a. 20 s. 9121 (6) (a); 2007 a. 85; 2009 a. 28, 128, 302; 2011 a. 32, 97; 2013 a. 268.

22 **SECTION 65.** 250.041 (1) (b) of the statutes is repealed.

23 **SECTION 66.** 250.041 (1) (e) of the statutes is amended to read:

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1 250.041 (1) (e) A permit under s. ~~254.47 (1), 254.64 (1) (a) or (b) or~~ 255.08 (2).

History: 1997 a. 191; 1999 a. 9; 2005 a. 25; 2007 a. 20 ss. 3032, 3033, 9121 (6) (a).

2 **SECTION 67.** 250.041 (1) (f) of the statutes is repealed.

3 **SECTION 68.** 252.02 (4) of the statutes is amended to read:

4 252.02 (4) The ~~Except as provided in ss. 93.07 (24) (e) and 97.59,~~ the
5 department may promulgate and enforce rules or issue orders for guarding against
6 the introduction of any communicable disease into the state, for the control and
7 suppression of communicable diseases, for the quarantine and disinfection of
8 persons, localities and things infected or suspected of being infected by a
9 communicable disease and for the sanitary care of jails, state prisons, mental health
10 institutions, schools, ~~hotels~~ ^{plain} and public buildings and connected premises. Any rule
11 or order may be made applicable to the whole or any specified part of the state, or to
12 any vessel or other conveyance. The department may issue orders for any city, village
13 or county by service upon the local health officer. Rules that are promulgated and
14 orders that are issued under this subsection supersede conflicting or less stringent
15 local regulations, orders or ordinances.

History: 1981 c. 291; 1993 a. 27 s. 284; Stats. 1993 s. 252.02; 1999 a. 150 s. 672; 2001 a. 109; 2005 a. 198.

****NOTE: Please confirm that the inclusion of a reference to s. 97.59 in this ^{provision} section
is consistent with your intent.

16 **SECTION 69.** 252.18 of the statutes is renumbered 97.59 and amended to read:

17 **97.59 Handling foods.** No person in charge of any public eating place or other
18 establishment where food products to be consumed by others are handled may
19 knowingly employ any person handling food products who has a disease in a form
20 that is communicable by food handling. If required by the local health officer or any
21 officer of the department for the purposes of an investigation, any person who is
22 employed in the handling of foods or is suspected of having a disease in a form that
23 is communicable by food handling shall submit to an examination by the officer or

1 by a physician, physician assistant, or advanced practice nurse prescriber
 2 designated by the officer. The expense of the examination, if any, shall be paid by the
 3 person examined. Any person knowingly infected with a disease in a form that is
 4 communicable by food handling who handles food products to be consumed by others
 5 and any persons knowingly employing or permitting such a person to handle food
 6 products to be consumed by others shall be punished as provided by s. ~~252.25~~ ^{97.72}.

7 History: 1981 c. 291; 1993 a. 27 s. 298; Stats. 1993 s. 252.18; 2005 a. 187; 2011 a. 161.

8 **SECTION 70.** 252.23 of the statutes is renumbered 97.681, and 97.681 (title), (2),

9 (3) and (4) (a), as renumbered, are amended to read:

10 **97.681 (title) Regulation of tattooists and tattoo establishments.**

11 (2) DEPARTMENT; DUTY. Except as provided in ss. 250.041 and 252.241 s. 93.135,
 12 the department shall provide uniform, statewide licensing and regulation of
 13 tattooists and uniform, statewide licensing and regulation of tattoo establishments
 14 under this section. The department shall inspect a tattoo establishment once before
 15 issuing a license for the tattoo establishment under this section and may make
 16 additional inspections that the department determines are necessary.

17 (3) LICENSE REQUIRED. Except as provided in sub. (5), no person may tattoo or
 18 attempt to tattoo another, designate or represent himself or herself as a tattooist or
 19 use or assume the title "tattooist" and no tattoo establishment may be operated
 20 unless the person and the establishment are licensed by the department under this
 21 section or by a local health department that is designated as the department's agent
 22 under s. ~~252.245~~ ^{97.683}.

23 (4) (a) Except as provided in ss. 250.041 and 252.241 s. ^{93.135} and subject to
 24 sub. (4m), standards and procedures, including fee payment to offset the cost of
 licensing tattooists and tattoo establishments, for the annual issuance of licenses as

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1 tattooists or as tattoo establishments to applicants under this section. The
2 department may not promulgate a rule that imposes a fee for a license under sub. (3)
3 on an individual who is eligible for the veterans fee waiver program under s. 45.44.

History: 1995 a. 468; 1997 a. 191, 237; 2011 a. ~~120~~, 165.

4 **SECTION 71.** 252.24 of the statutes is renumbered 97.682, and 97.682 (2) and
5 (4) (a), as renumbered, are amended to read:

6 97.682 (2) DEPARTMENT; DUTY. Except as provided in ss. ~~250.041 and 252.241~~
7 s. 93.135, the department shall provide uniform, statewide licensing and regulation
8 of body piercers and uniform, statewide licensing and regulation of body-piercing
9 establishments under this section. The department shall inspect a body-piercing
10 establishment once before issuing a license for the body-piercing establishment
11 under this section and may make additional inspections that the department
12 determines are necessary.

13 (4) (a) Except as provided in ss. ~~250.041 and 252.241~~ s. 93.135 and subject to
14 sub. (4m), standards and procedures, including fee payment to offset the cost of
15 licensing body piercers and body-piercing establishments, for the annual issuance
16 of licenses as body piercers or as body-piercing establishments to applicants under
17 this section. The department may not promulgate a rule under which the
18 department may charge an individual who is eligible for the veterans fee waiver
19 program under s. 45.44 a fee to obtain a license under sub. (3).

History: 1995 a. 468; 1997 a. 191, 237; 1999 a. ~~32~~; 2011 a. 120, 209; 2013 a. 165.

20 **SECTION 72.** 252.241 (title) of the statutes is repealed.

21 **SECTION 73.** 252.241 (1) of the statutes is repealed.

22 **SECTION 74.** 252.241 (1m) of the statutes is repealed.

23 **SECTION 75.** 252.241 (2) of the statutes is repealed.

1 SECTION 76. 252.241 (3) of the statutes is renumbered 93.135 (3m) and
2 amended to read:

3 93.135 (3m) Except as provided in sub. (1m) (a), the department shall deny an
4 application for the issuance or renewal of a license specified in sub. (1) under s. 97.67
5 (1) or (2m), 97.681 (2) or (4) (a), or 97.682 (2) or (4) (a) if the applicant does not provide
6 the information specified in sub. (1) or (1m) (am).

History: 1997 a. 237; 1999 a. 9; 2007 a. 20; 2013 a. 36.

7 SECTION 77. 252.241 (4) of the statutes is renumbered 93.135 (5) (intro.) and
8 amended to read:

9 93.135 (5) (intro.) The department shall deny an application for the issuance
10 or renewal of a license specified in sub. (1) under s. 97.67 (1) or (2m), 97.681 (2) or
11 (4) (a), or 97.682 (2) or (4) (a), or shall revoke the license specified in sub. (1), if the
12 any of the following applies:

13 (a) The department of revenue certifies under s. 73.0301 that the applicant for
14 or holder of the license is liable for delinquent taxes.

History: 1997 a. 237; 1999 a. 9; 2007 a. 20; 2013 a. 36.

15 SECTION 78. 252.241 (5) of the statutes is renumbered 93.135 (5) (b) and
16 amended to read:

17 93.135 (5) (b) The department shall deny an application for the issuance or
18 renewal of a license specified in sub. (1), or shall revoke the license specified in sub.
19 (1), if the The department of workforce development certifies under s. 108.227 that
20 the applicant for or holder of the license is liable for delinquent unemployment
21 insurance contributions.

History: 1997 a. 237; 1999 a. 9; 2007 a. 20; 2013 a. 36.

22 SECTION 79. 252.245 of the statutes is renumbered 97.683, and 97.683 (title),
23 (1), (2), (3), (4m), (5), (6), (8) and (9), as renumbered, are amended to read:

under s. 97.67(1) or (2m), 97.681(2) or (4)(a), or 97.682(2) or (4)(a)
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97.683 (title) Agent Tattooing and body piercing: agent status for local health departments. (1)

In the administration and enforcement of ss. 252.23 97.681 and 252.24 97.682, the department of agriculture, trade and consumer protection may enter into a written agreement with a local health department with a jurisdictional area that has a population greater than 5,000, which designates the local health department as the department's agent in issuing licenses to and making investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. In a jurisdictional area of a local health department without agent status, the department of health services agriculture, trade and consumer protection may issue licenses, collect license fees established by rule under ss. 252.23 97.681(4) (a) and 252.24 97.682(4) (a) and make investigations or inspections of tattooists and tattoo establishments and body piercers and body-piercing establishments. If the department of agriculture, trade and consumer protection designates a local health department as its agent, the department of agriculture, trade and consumer protection or local health department may require no license for the same operations other than the license issued by the local health department under this subsection. If the designation is made and the services are furnished, the department of agriculture, trade and consumer protection shall reimburse the local health department furnishing the service at the rate of 80% of the net license fee per license per year issued in the jurisdictional area.

(2) A local health department designated as the department's agent for the department of agriculture, trade and consumer protection under this section shall meet standards promulgated under ss. 252.23 97.681(4) (a) and 252.24 97.682 (4) (a). The department shall annually evaluate the licensing, investigation and inspection program of each local health department granted agent status. If, at any time, a local

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health department designated as the department's agent for the department of agriculture, trade and consumer protection fails to meet the standards, the department of health services agriculture, trade and consumer protection may revoke its agent status.

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(3) The department of agriculture, trade and consumer protection shall provide education and training to agents designated under this section to ensure uniformity in the enforcement of s. 252.23 97.681 or 252.24 97.682 and rules promulgated under s. 252.23 97.681 or 252.24 97.682.

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(4m) A local health department designated as the department's agent for the department of agriculture, trade and consumer protection under this section may contract with the department of health services agriculture, trade and consumer protection for the department of health services agriculture, trade and consumer protection to collect fees and issue licenses under s. 252.23 97.681 or 252.24 97.682. The department of agriculture, trade and consumer protection shall collect from the local health department the actual and reasonable cost of providing the services.

16

(5) If, under this section, a local health department becomes an agent or its agent status is discontinued during a licensee's license year, the department of health services agriculture, trade and consumer protection and the local health department shall divide any license fee paid by the licensee for that license year according to the proportions of the license year occurring before and after the local health department is designated as an agent or the agent status is discontinued. No additional fee may be required during the license year due to the change in agent status.

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(6) A village, city or county may enact ordinances and a local board of health may adopt regulations regarding the licensees and premises for which the local

SECTION 79

1 health department is the designated agent under this section, which are stricter than
 2 s. ~~252.23~~ 97.681 or ~~252.24~~ 97.682 or rules promulgated by the department of health
 3 services agriculture, trade and consumer protection under s. ~~252.23~~ 97.681 or ~~252.24~~
 4 97.682. No such provision may conflict with s. ~~252.23~~ 97.681 or ~~252.24~~ 97.682 or with
 5 department of agriculture, trade and consumer protection rules.

6 (8) The department shall hold a hearing under ch. 227 if, in lieu of proceeding
 7 under ch. 68, any interested person in the jurisdictional area of a local health
 8 department that is designated as the department's agent under this section appeals
 9 to the department of ~~health services~~ agriculture, trade and consumer protection
 10 alleging that a license fee for a tattooist or tattooist establishment or for a body
 11 piercer or body-piercing establishment exceeds the license issuer's reasonable costs
 12 of issuing licenses to, making investigations and inspections of, and providing
 13 education, training and technical assistance to the tattooist or tattooist
 14 establishment or to the body piercer or body-piercing establishment.

15 (9) The department of agriculture, trade and consumer protection shall
 16 promulgate rules establishing state fees for its costs related to setting standards
 17 under ss. ~~252.23~~ 97.681 and ~~252.24~~ 97.682 and monitoring and evaluating the
 18 activities of, and providing education and training to, agent local health
 19 departments. The department may not promulgate a rule under which a local health
 20 department may charge an individual who is eligible for the veterans fee waiver
 21 program under s. 45.44 a state fee to obtain a license under s. ~~252.23~~ 97.681 (3) or
 22 ~~252.24~~ 97.682 (3). Agent local health departments shall include the state fees in the
 23 license fees established under sub. (4), collect the state fees and reimburse the
 24 department for the state fees collected. For tattooists or tattoo establishments and

1 for body piercers or body-piercing establishments, the state fee may not exceed 20%
2 of the license fees established under s. ~~252.23~~ 97.681 (4) (a) or ~~252.24~~ 97.682 (4) (a).

3 History: 1995 a. 468; 2007 a. 20 s. 9121 (6) (a); ~~2011 a. 209.~~

SECTION 80. ~~254.02~~ (3) (a) of the statutes is amended to read:

4 254.02 (3) (a) The department of agriculture, trade and consumer protection,
5 the department of corrections, the department of safety and professional services,
6 and the department of natural resources shall enter into memoranda of
7 understanding with the department to establish protocols for the department to
8 review proposed rules of those state agencies relating to air and water quality,
9 occupational health and safety, institutional sanitation, toxic substances, indoor air
10 quality, food protection or waste handling and disposal.

11 History: 1993 a. 27; 1995 a. 27 ss. 6327, 9116 (6); 2011 a. 32.

SECTION 81. ~~254.115~~ (1) (c) of the statutes is repealed.

12 **SECTION 82.** ~~254.47~~ (title) of the statutes is renumbered 97.67 (title) and
13 amended to read:

97.67 Recreational permits licenses and fees.

14 History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 s. 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

15 **SECTION 83.** ~~254.47~~ (1) of the statutes is renumbered 97.67 (1) and amended
16 to read:

17 97.67 (1) Except as provided in sub. (1g) and ~~ss. 250.041 and 254.115~~ s. 93.135,
18 the department or a local health department granted agent status under s. ~~254.69~~
19 ~~(2)~~ 97.615 (2) shall issue permits licenses to and regulate campgrounds and camping
20 resorts, recreational and educational camps and public swimming pools. No person
21 or state or local government who has not been issued a permit license under this
22 section may conduct, maintain, manage or operate a campground and camping

SECTION 83

1 resort, recreational camp and educational camp or public swimming pool, as defined
2 by departmental rule.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. ~~182~~, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

3 **SECTION 84.** 254.47 (1g) of the statutes is renumbered 97.67 (1g).

4 **SECTION 85.** 254.47 (1m) of the statutes is renumbered 97.67 (1m) and amended
5 to read:

6 97.67 (1m) The department or a local health department granted agent status
7 under s. ~~254.69~~ 97.615 (2) may not, without a preinspection, grant a permit license
8 to a person intending to operate a new public swimming pool, campground, or
9 recreational or educational camp or to a person intending to be the new operator of
10 an existing public swimming pool, campground, or recreational or educational camp.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. ~~182~~, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

11 **SECTION 86.** 254.47 (2) of the statutes is renumbered 97.67 (2) and amended
12 to read:

13 97.67 (2) (a) A separate permit license is required for each campground,
14 camping resort, recreational or educational camp, and public swimming pool. Except
15 as provided in par. (b) or (c), no permit license issued under this section is
16 transferable from one premises to another or from one person, state or local
17 government to another.

18 (b) A permit license issued under this section may be transferred from an
19 individual to an immediate family member, as defined in s. ~~254.64~~ 97.605 (4) (a) 2.,
20 if the individual is transferring operation of the campground, camping resort,
21 recreational or educational camp, or public swimming pool to the immediate family
22 member.

1 (c) A sole proprietorship that reorganizes as a business entity, as defined in s.
2 179.70 (1), or a business entity that reorganizes as a sole proprietorship or a different
3 type of business entity may transfer a permit license issued under this section for a
4 campground, camping resort, recreational or educational camp, or public swimming
5 pool to the newly formed business entity or sole proprietorship if all of the following
6 conditions are satisfied:

7 1. The campground, camping resort, recreational or educational camp, or
8 public swimming pool remains at the location for which the permit license was
9 issued.

10 2. At least one individual who had an ownership interest in the sole
11 proprietorship or business entity to which the permit license was issued has an
12 ownership interest in the newly formed sole proprietorship or business entity.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ~~ss.~~ 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

13 **SECTION 87.** 254.47 (2m) of the statutes is renumbered 97.67 (2m) and amended
14 to read:

15 97.67 (2m) Except as provided in ~~ss. 250.041 and 254.115 s. 93.135~~, the initial
16 issuance, renewal or continued validity of a permit license issued under this section
17 may be conditioned upon the requirement that the permittee licensee correct a
18 violation of this section, rules promulgated by the department under this section or
19 ordinances adopted under s. ~~254.69~~ 97.615 (2) (g), within a period of time that is
20 specified. If the condition is not met within the specified period of time, the permit
21 license is void.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ~~ss.~~ 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

22 **SECTION 88.** 254.47 (3) of the statutes is repealed.

SECTION 89

1 ~~254.47~~^X (4) of the statutes is renumbered ~~97.67~~[✓] (4) and amended
2 to read:

3 97.67 (4) ~~Permits~~ Licenses issued under this section expire on June 30, except
4 that ~~permits~~ licenses initially issued during the period beginning on April 1 and
5 ending on June 30 expire on June 30 of the following year. Except as provided in s.
6 ~~254.69~~[✓] 97.615 (2) (d) and (e), the department shall promulgate rules that establish,
7 for ~~permits~~ licenses issued under this section, amounts of ~~permit~~ license fees,
8 preinspection fees, reinspection fees, fees for operating without a license, and late
9 fees for untimely ~~permit~~ license renewal.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

10 ~~254.47~~^X (5) of the statutes is renumbered ~~97.67~~[✓] (5) and amended
11 to read:

12 97.67 (5) No ~~permit~~ license may be issued under this section until all applicable
13 fees have been paid. If the payment is by check or other draft drawn upon an account
14 containing insufficient funds, the ~~permit~~ license applicant shall, within 15 days after
15 receipt of notice from the department of the insufficiency, pay by cashier's check or
16 other certified draft, money order or cash the fees from the department, late fees and
17 processing charges that are specified by rules promulgated by the department. If the
18 ~~permit~~ license applicant fails to pay all applicable fees, late fees and the processing
19 charges within 15 days after the applicant receives notice of the insufficiency, the
20 ~~permit~~ license is void. In an appeal concerning voiding of a ~~permit~~ license under this
21 subsection, the burden is on the ~~permit~~ license applicant to show that the entire
22 applicable fees, late fees and processing charges have been paid. During any appeal

1 process concerning payment dispute, operation of the establishment in question is
2 deemed considered to be operation without a permit license.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

3 **SECTION 91.** 254.47 (5m) of the statutes is renumbered 97.67 (5m).

4 **SECTION 92.** 254.47 (6) of the statutes is renumbered 97.67 (6).

5 **SECTION 93.** 254.47 (7) of the statutes is renumbered 97.67 (7) and amended
6 to read:

7 97.67 (7) The department may not require that a swimming pool be staffed by
8 a lifeguard as a condition of receiving a permit license under this section if the
9 swimming pool is less than 2,500 square feet, the swimming pool is located in a
10 private club in the city of Milwaukee, and the club has a policy that prohibits a minor
11 from using the swimming pool when not accompanied by an adult.

History: 1993 a. 16 ss. 2399 to 2401i; 1993 a. 27 ss. 182, 477; 1993 a. 183, 490; 1993 a. 491 s. 280; 1997 a. 191, 237; 2001 a. 16; 2005 a. 302; 2007 a. 104; 2009 a. 28, 180; 2013 a. 309.

12 **SECTION 94.** Subchapter VII (title) of chapter 254 [precedes 254.61] of the
13 statutes is repealed. *of the statutes is repealed. Section # 254.61 (intro.)*

14 **SECTION 95.** 254.61 (title) and (intro.) of the statutes are repealed. *L is*

15 **SECTION 96.** 254.61 (1) of the statutes is renumbered 97.01 (1g).

16 **SECTION 97.** 254.61 (2) of the statutes is repealed.

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13; Stats. 1975 s. 50.50; 1983 a. 163, 189, 203, 538; 1985 a. 135; 1987 a. 27, 307; 1989 a. 269, 354, 359; 1993 a. 27 s. 65; Stats. 1993 s. 254.61; 1993 a. 399; 1997 a. 27, 237; 1999 a. 135; 2005 a. 348; 2007 a. 67, 97; 2011 a. 78.

17 **SECTION 98.** 254.61 (3) of the statutes is renumbered 97.01 (7).

18 **SECTION 99.** 254.61 (3m) of the statutes is renumbered 97.01 (13g).

19 **SECTION 100.** 254.61 (4) of the statutes is renumbered 97.01 (13r) and amended
20 to read:

21 97.01 (13r) "Public health and safety" means the highest degree of protection
22 against infection, contagion or disease and freedom from the danger of fire or
23 accident that can be reasonably maintained in the operation of a hotel, restaurant,

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as amended
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1 tourist rooming house, bed and breakfast establishment, vending machine or
2 vending machine commissary.

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13; Stats. 1975 s. 50.50; 1983 a. 163, 189, 203, 538; 1985 a. 135; 1987 a. 27, 307; 1989 a. 269, 354, 359; 1993 a. 27 s. 65; Stats. 1993 s. 254.61; 1993 a. 399; 1997 a. 27, 237; 1999 a. 135; 2005 a. 348; 2007 a. 67, 97; 2011 a. 78.

3 **SECTION 101.** 254.61 (5) of the statutes is renumbered 97.01 (14g), and 97.01
4 (14g) (intro.), as renumbered, is amended to read:

5 97.01 (14g) (intro.) "Restaurant" means any building, room or place where
6 ~~meals are prepared or served or sold~~ at which the predominant activity is the
7 preparation, service, or sale of meals ^{plain} to transients or the general public, and
8 including all places used in connection with it and ~~includes~~ including any public or
9 private school lunchroom for which food service is provided by contract. "Meals" does
10 not include soft drinks, ice cream, milk, milk drinks, ices and confections.
11 "Restaurant" does not include:

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13; Stats. 1975 s. 50.50; 1983 a. 163, 189, 203, 538; 1985 a. 135; 1987 a. 27, 307; 1989 a. 269, 354, 359; 1993 a. 27 s. 65; Stats. 1993 s. 254.61; 1993 a. 399; 1997 a. 27, 237; 1999 a. 135; 2005 a. 348; 2007 a. 67, 97; 2011 a. 78.

12 **SECTION 102.** 254.61 (5m) of the statutes is renumbered 97.01 (15b).

****NOTE: The change to the definition of "retail food establishment" in ^{s.} 97.30 (1) (c) makes it clear that restaurants and temporary restaurants are retail food establishments and obviates the need for any amendment of the definition of "temporary restaurant."

13 **SECTION 103.** 254.61 (5r) of the statutes is renumbered 97.01 (15f).

14 **SECTION 104.** 254.61 (6) of the statutes is renumbered 97.01 (15k).

15 **SECTION 105.** 254.61 (7) of the statutes is renumbered 97.01 (15p).

16 **SECTION 106.** 254.61 (8) of the statutes is renumbered 97.01 (15s) and amended
17 to read:

18 97.01 (15s) "Vending machine commissary" means any building, room or place
19 where the food, beverage, ingredients, containers, transport equipment or supplies
20 for vending machines are kept, handled, prepared or stored by a vending machine
21 operator. "Vending machine commissary" does not mean any place at which the

1 operator is licensed to manufacture, distribute or sell food products under ~~ch. 97~~ this
2 chapter.

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13; Stats. 1975 s. 50.50; 1983 a. 163, 189, 203, 538; 1985 a. 135; 1987 a. 27, 307; 1989 a. 269, 354, 359; 1993 a. 27 s. 65; Stats. 1993 s. 254.61; 1993 a. 399; 1997 a. 27, 237; 1999 a. 135; 2005 a. 348; 2007 a. 67, 97; 2011 a. 78.

3 SECTION 107. 254.61 (9) of the statutes is renumbered 97.01 (15w).

4 SECTION 108. 254.61 (10) of the statutes is renumbered 97.01 (15y).

5 SECTION 109. 254.62 of the statutes is renumbered 97.60.

****NOTE: Subsection (1) refers to memoranda of understanding between "the department" and other state agencies regarding food protection measures. Since those measures are now supposed to be collectively covered by DATCP, is this provision still needed?

6 SECTION 110. 254.63 of the statutes is renumbered 97.603.

7 SECTION 111. 254.64 of the statutes is renumbered 97.605, and 97.605 (title),
8 (1), (1m), (1p), (2), (3), (4) (b), (d) and (e) and (5), as renumbered, are amended to read:

9 ~~97.605 (title)~~ Permit Lodging and vending licenses. (1) (a) No person may
10 conduct, maintain, manage or operate a hotel, restaurant, temporary restaurant,
11 tourist rooming house, vending machine commissary or vending machine if the
12 person has not been issued an annual permit license by the department or by a local
13 health department that is granted agent status under s. 254.69 97.615 (2).

14 (b) No person may maintain, manage or operate a bed and breakfast
15 establishment for more than 10 nights in a year without having first obtained an
16 annual permit license from the department.

17 (c) Except as provided in s. 250.041 93.135, no permit license may be issued
18 under this section until all applicable fees have been paid. If the payment is by check
19 or other draft drawn upon an account containing insufficient funds, the
20 permit license applicant shall, within 15 days after receipt of notice from the
21 department of the insufficiency, pay by cashier's check or other certified draft, money
22 order or cash the fees, late fees and processing charges that are specified by rules

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SECTION 111

1 promulgated by the department. If the permit license applicant fails to pay all
2 applicable fees, late fees and processing charges within 15 days after the applicant
3 receives notice of the insufficiency, the permit license is void. In an appeal concerning
4 voiding of a permit license under this paragraph, the burden is on the permit license
5 applicant to show that the entire applicable fees, late fees and processing charges
6 have been paid. During any appeal process concerning payment dispute, operation
7 of the establishment in question is deemed to be operation without a permit license.

8 (d) If a person or establishment otherwise licensed under ~~ch. 97~~ [✓] this chapter
9 is incidentally engaged in an activity for which a permit license is required under this
10 section, the department may, by rule, exempt the person or establishment from the
11 permit license requirement under this section. ~~Rules under this paragraph shall~~
12 ~~conform to a memorandum of understanding between the department and the~~
13 ~~department of agriculture, trade and consumer protection.~~

14 (1m) No county, city, village or town may require any permit license of, or
15 impose any permit license or inspection fee on, a vending machine operator, vending
16 machine commissary or vending machine ~~permitted~~ licensed under this subchapter
17 [✓] chapter.

18 (1p) Except as provided in s. ~~250.041~~ [✓] 93.135, the department may condition the
19 initial issuance, renewal or continued validity of a permit license issued under this
20 section on correction by the ~~permittee~~ licensee of a violation of this subchapter, rules
21 promulgated by the department under this subchapter or ordinances or regulations
22 adopted under s. ~~254.69~~ [✓] 97.615 (2) (g), within a specified period of time. If the
23 permittee licensee fails to meet the condition within the specified period of time, the
24 permit license is void.

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1 (2) Except as provided in sub. (3), a separate permit license is required for each
2 hotel, tourist rooming house, bed and breakfast establishment, or vending machine
3 commissary.

4 (3) (a) A bulk milk dispenser may be operated in a restaurant without a
5 vending machine or vending machine operator permit license.

6 (b) A restaurant may operate as a vending machine commissary without a
7 vending machine commissary permit license.

8 (4) (b) Except as provided in par. (d) or (e), no permit license is transferable from
9 one premises to another or from one person to another.

10 (d) The holder of a permit license issued under this section may transfer the
11 permit license to an individual who is an immediate family member if the holder is
12 transferring operation of the hotel, tourist rooming house, bed and breakfast
13 establishment, or vending machine to the immediate family member.

14 (e) A sole proprietorship that reorganizes as a business entity or a business
15 entity that reorganizes as either a sole proprietorship or a different type of business
16 entity may transfer a permit license issued under this section for operation of ~~an a~~
17 hotel, tourist rooming house, bed and breakfast establishment, or vending machine
18 commissary to the newly formed business entity or sole proprietorship if the
19 following conditions are satisfied:

20 1. The hotel, tourist rooming house, bed and breakfast establishment, or
21 vending machine commissary remains at the location for which the permit license
22 was issued.

23 2. At least one individual who had an ownership interest in the sole
24 proprietorship or business entity to which the permit license was issued has an
25 ownership interest in the newly formed sole proprietorship or business entity.

SECTION 111

1 (5) (a) Except as provided in par. (b), all ~~permits~~ licenses expire on June 30,
2 except that ~~permits~~ licenses initially issued during the period beginning on April 1
3 and ending on June 30 expire on June 30 of the following year.

4 (b) 1. The local health department of a city of the 1st class that has entered into
5 an agreement with the department under s. ~~254.69~~ 97.615 (2) may issue a permit
6 license for a ~~restaurant or~~ bed and breakfast establishment required under this
7 section at any time during the year. A permit license issued under this subdivision
8 shall expire one year from the date of its issuance.

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9 2. The holder of a permit license for a ~~restaurant or~~ bed and breakfast
10 establishment may request an extension to the term of a permit license issued under
11 this section by the local health department of a city of the 1st class that has entered
12 into an agreement with the department under s. ~~254.69~~ 97.615 (2) for the purpose
13 of aligning the annual term of any other license or permit issued to that ~~permit~~
14 license holder with the annual term of a permit license to be issued to that ~~permit~~
15 license holder under subd. 1. The local health department may require a permit
16 license holder that receives an extension under this subdivision to pay a prorated fee
17 in an amount determined by dividing the permit license fee imposed under s. ~~254.69~~
18 97.615 (2) by 12 and multiplying the quotient by the number of months by which the
19 ~~permit~~ license issued under this section is extended under this subdivision.

1993 a. 183, 491; 1997 a. 191; 2001 a. 16; 2005 a. 302; 2013 a. 298: s. 35.17 correction in (4) (a) 1.

20 SECTION 112. ~~254.65~~ of the statutes is renumbered 97.607 and amended to
21 read:

22 **97.607 Preinspection.** (1) The department or a local health department
23 granted agent status under s. ~~254.69~~ 97.615 (2) may not grant a permit license to a
24 person intending to operate a new hotel, tourist rooming house, bed and breakfast

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1 establishment, ~~restaurant~~ or vending machine commissary or to a person intending
2 to be the new operator of an existing hotel, tourist rooming house, bed and breakfast
3 establishment, ~~restaurant~~ or vending machine commissary without a preinspection.
4 This section does not apply to a temporary restaurant or when a permit license is
5 transferred under s. ~~254.64~~ 97.605 (4) (d) or (e).

6 (2) Agents designated by the department under s. ~~254.69~~ 97.615 (1) shall make
7 preinspections of vending machine commissaries as required under this subsection
8 and shall be reimbursed for those services at the rate of 80% of the preinspection fee
9 designated in this subsection. Agents designated by the department under s. ~~254.69~~
10 97.615 (2) shall make preinspections of hotels, ~~restaurants~~ and tourist rooming
11 houses and establish and collect preinspection fees under s. ~~254.69~~ 97.615 (2) (d).

History: 1983 a. 203 ss. 10, 16, 19; 1983 a. 538; 1987 a. 27, 81; 1993 a. 27 s. 68; Stats. 1993 s. 254.65; 2005 a. 302.
****NOTE: Preinspection has previously been required for restaurants under this section. However, there does not appear to be a similar requirement under s. 97.30, which is what will cover restaurants under this bill. Should a provision requiring preinspection be created, or is the process for retail food establishments under s. 97.30 sufficient going forward?

12 **SECTION 113.** ~~254.66~~ of the statutes is renumbered 97.307 and amended to
13 read:

14 **97.307 Average annual surveys.** The department or a local health
15 department granted agent status under s. ~~254.69 (2)~~ 97.41 shall annually make a
16 number of inspections of restaurants in this state that shall equal the number of
17 restaurants for which annual permits licenses are issued under s. ~~254.64 (1) (a)~~
18 97.30.

History: 1987 a. 27; 1993 a. 27 s. 69; Stats. 1993 s. ~~254.66~~
19 **SECTION 114.** ~~254.67~~ of the statutes is renumbered 97.61.

20 **SECTION 115.** ~~254.68~~ of the statutes is renumbered 97.613 and amended to
21 read:

SECTION 115

1 **97.613 Fees.** Except as provided in s. ~~254.69~~ [✓] 97.615 (2) (d) and (e), the
 2 department shall promulgate rules that establish, for ~~permits~~ licenses issued under
 3 s. ~~254.64~~, [✓] ~~permit~~ 97.605, license fees, preinspection fees, reinspection ~~fees~~, fees for
 4 operating without a ~~permit~~ license, late fees for untimely ~~permit~~ ^{plan} renewal, fees for
 5 comparable compliance or variance requests, and fees for ~~pre-permit~~ pre-license
 6 review of restaurant plans.

****NOTE: Under the new ch. [✓] 97 procedures, wherein restaurants are now handled under the procedures for retail food establishments, will there still be pre-license review of restaurant plans? Please review what should happen with this provision.

History: 1973 c. 333; 1975 c. 224; 1975 c. 413 s. 13; Stats. 1975 s. 50.53; 1977 c. 222; 1979 c. 34; 1981 c. 20; 1983 a. 27, 163, 203, 538; 1985 a. 135; 1987 a. 27, 399; 1991 a. 178; 1993 a. 16 s. 1493; 1993 a. 27 s. 71; Stats. 1993 s. 254.68; 1993 a. 183; 2001 a. 16.

7 **SECTION 116.** ~~254.69~~ of the statutes is renumbered 97.615, and 97.615 (2)
 8 (title), (am), (b), (c), (d), (dm), (e), (f), (g), (h) and (j) 1. and 2., as renumbered, are
 9 amended to read:

10 **97.615 (2) (title)** ~~HOTELS, RESTAURANTS,~~ ^{plan} TOURIST ROOMING HOUSES, AND OTHER
 11 ESTABLISHMENTS. (am) In the administration of this subchapter or s. ~~254.47~~ [✓] 97.67,
 12 the department may enter into a written agreement with a local health department
 13 with a jurisdictional area that has a population greater than 5,000, which designates
 14 the local health department as the department's agent in issuing ~~permits~~ licenses to
 15 and making investigations or inspections of hotels, ~~restaurants,~~ ~~temporary~~
 16 ~~restaurants,~~ tourist rooming houses, bed and breakfast establishments,
 17 campgrounds and camping resorts, recreational and educational camps, and public
 18 swimming pools. In a jurisdictional area of a local health department without agent
 19 status, the department of ~~health services~~ may issue ~~permits~~ licenses, collect fees
 20 established by rule under s. ~~254.68~~ [✓] 97.613 and make investigations or inspections
 21 of hotels, ~~restaurants,~~ ~~temporary restaurants,~~ tourist rooming houses, bed and
 22 breakfast establishments, campgrounds and camping resorts, recreational and

1 educational camps, and public swimming pools. If the department designates a local
2 health department as its agent, the department or local health department may
3 require no ~~permit~~ license for the same operations other than the ~~permit~~ license
4 issued by the local health department under this subsection. The department shall
5 ~~coordinate~~ oversee the designation of agents under this subsection ~~with the~~
6 ~~department of agriculture, trade and consumer protection~~ to ensure that, to the
7 extent feasible, the same local health department is granted agent status under this
8 subsection and under s. 97.41. ~~Except as otherwise provided by the department, a~~
9 ~~local health department granted agent status shall regulate all types of~~
10 ~~establishments for which this subchapter permits the department of health services~~
11 ~~to delegate regulatory authority.~~

12 (b) A local health department granted agent status under this subsection shall
13 meet standards promulgated, by rule, by the department of ~~health services~~. The
14 department shall annually evaluate the licensing, investigation and inspection
15 program of each local health department granted agent status. If, at any time, a local
16 health department granted agent status fails to meet the standards, the department
17 of ~~health services~~ agriculture, trade and consumer protection may revoke its agent
18 status.

19 (c) The department shall provide education and training to agents designated
20 under this subsection to ensure uniformity in the enforcement of this subchapter, s.
21 ~~254.47~~ 97.67 and rules promulgated under this subchapter and s. ~~254.47~~ 97.67.

22 (d) Except as provided in par. (dm), a local health department granted agent
23 status under this subsection shall establish and collect the ~~permit~~ license fee for each
24 type of establishment specified in par. (am). The local health department may
25 establish separate fees for preinspections of new establishments, for preinspections

SECTION 116

1 of existing establishments for which a person intends to be the new operator or for
2 the issuance of duplicate ~~permits~~ licenses. No fee may exceed the local health
3 department's reasonable costs of issuing ~~permits~~ licenses to, making investigations
4 and inspections of, and providing education, training and technical assistance to the
5 establishments, plus the state fee established under par. (e). A local health
6 department granted agent status under this subsection or under s. 97.41 may issue
7 a single ~~permit~~ license and establish and collect a single fee which authorizes the
8 operation on the same premises of more than one type of establishment for which it
9 is granted agent status under this subsection or under s. 97.41.

10 (dm) A local health department granted agent status under this subsection
11 may contract with the department of ~~health services~~ for the department of ~~health~~
12 ~~services~~ to collect fees and issue ~~permits~~ licenses. The department shall collect from
13 the local health department the actual and reasonable cost of providing the services.

14 (e) The department shall establish state fees for its costs related to setting
15 standards under this subchapter and s. ~~254.47~~ [✓] 97.67 and monitoring and evaluating
16 the activities of, and providing education and training to, agent local health
17 departments. Agent local health departments shall include the state fees in the
18 ~~permit~~ license fees established under par. (d), collect the state fees and reimburse the
19 department for the state fees collected. For each type of establishment specified in
20 par. (am), the state fee may not exceed 20% of the ~~permit~~ license fees charged under
21 ss. ~~254.47~~ [✓] 97.67 and ~~254.68~~ [✓] 97.613.

22 (f) If, under this subsection, a local health department becomes an agent or its
23 agent status is discontinued during a ~~permittee's~~ ~~permit~~ licensee's license year, the
24 department of ~~health services~~ and the local health department shall divide any
25 ~~permit~~ license fee paid by the ~~permittee~~ licensee for that ~~permit~~ license year

1 according to the proportions of the ~~permit~~ license year occurring before and after the
2 local health department's agent status is granted or discontinued. No additional fee
3 may be required during the ~~permit~~ license year due to the change in agent status.

4 (g) A village, city or county may adopt ordinances and a local board of health
5 may adopt regulations regarding the ~~permittees~~ licensees and premises for which
6 the local health department is the designated agent under this subsection, which are
7 stricter than this subchapter, s. ~~254.47~~ 97.67, or rules promulgated by the
8 department ~~of health services~~ under this subchapter or s. ~~254.47~~ 97.67. No such
9 provision may conflict with this subchapter or with department rules.

10 (h) This subsection does not limit the authority of the department to inspect
11 hotels, tourist rooming houses, bed and breakfast establishments, or vending
12 machine commissaries in jurisdictional areas of local health departments where
13 agent status is granted if it inspects in response to an emergency, for the purpose of
14 monitoring and evaluating the local health department's licensing, inspection and
15 enforcement program or at the request of the local health department.

16 (j) 1. A ~~permit~~ license fee established by a local health department granted
17 agent status exceeds the reasonable costs described under par. (d).

18 2. The person issuing, refusing to issue, suspending or revoking a ~~permit~~
19 license or making an investigation or inspection of the appellant has a financial
20 interest in a regulated establishment specified in par. (am) which may interfere with
21 his or her ability to properly take that action.

History: 1983 a. 203 ss. 15, 21; 1985 a. 29; 1985 a. ~~302~~ s. 251 (1); 1987 a. 27 ss. 1074m to 1076m, 3200 (24); 1987 a. 307; 1989 a. 31; 1991 a. 39, 315; 1993 a. 16; 1993
a. 27 s. 72; Stats. 1993 s. 254.69; 1993 a. 183; 1995 a. ~~17~~ s. 9126 (19); 2001 a. 16; 2007 a. 20 s. 9121 (6) (a).

22 **SECTION 117.** 254.70 of the statutes is renumbered 97.617 and amended to

23 read:

1 **97.617 Application; lodging and vending.** (1) An applicant for a permit
 2 license under this subchapter shall complete the application prepared by the
 3 department or the local health department granted agent status under s. ~~254.69~~
 4 [✓]97.615 (2) and provide, in writing, any additional information the department of
 5 ~~health services~~ agriculture, trade and consumer protection or local health
 6 department issuing the ~~permit~~ license requires.

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

History: 1975 c. 413 s. 13; Stats. 1975 s. 50.54; 1982 a. 163, 203, 538; 1987 a. 27 s. 3200 (24) (am); 1993 a. 27 s. 73; Stats. 1993 s. 254.70; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).

17 **SECTION 118.** 254.71 of the statutes is renumbered 97.33, and 97.33 (2), (3), (5)
 18 and (6) (c), as renumbered, are amended to read:

19 97.33 (2) Except as provided in s. ~~250.041~~ [✓]93.135, the department may issue
 20 a certificate of food protection practices to an individual who satisfactorily completes
 21 an approved examination or who has achieved comparable compliance.

NOTE: NOTE: Sub. (2) is shown as amended eff. 1-1-15 by 2013 Wis. Act 292. Prior to 1-1-15 it reads:NOTE:

22 (2) Except as provided in s. 250.041, the department may issue a certificate of food protection practices to an individual who satisfactorily completes a written
 23 examination, approved by the department, that demonstrates the individual's basic knowledge of food protection practices or who has achieved comparable compliance.

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1 (3) Each certificate is valid for 5 years from the date of issuance and, except as
2 provided in s. ~~250.041~~ [✓]93.135, may be renewed by the certificate holder if he or she
3 satisfactorily completes an approved examination.

NOTE: NOTE: Sub. (3) is shown as amended eff. 1-1-15 by 2013 Wis. Act 292. Prior to 1-1-15 it reads:NOTE:

4 (3) Each certificate is valid for 5 years from the date of issuance and, except as provided in s. 250.041, may be renewed by the holder of the certificate if he or she
5 satisfactorily completes a recertification training course approved by the department.

6 (5) The department shall conduct evaluations of the effect that the food
7 protection practices certification program has on compliance by restaurants with
8 requirements established under s. ~~254.74 (1)~~ [✓]97.30 (5).

9 (6) (c) Establishing procedures for issuance, except as provided in s. ~~250.041~~
10 [✓]93.135, of certificates of food protection practices, including application submittal
11 and review.

History: 1991 a. 39; 1993 a. 16; 1993 a. 27 s. 74; ~~Stats. 1993 s. 254.71~~; 1997 a. 27, 191; 2011 a. 120, 209; 2013 a. 292.

12 **SECTION 119.** ~~254.715~~ of the statutes is renumbered 97.305.

13 **SECTION 120.** ~~254.72~~ of the statutes is renumbered 97.62 and amended to read:

14 **97.62 Health and safety; standard.** Every hotel, tourist rooming house, bed
15 and breakfast establishment, ~~restaurant, temporary restaurant,~~ vending machine
16 commissary and vending machine shall be operated and maintained with a strict
17 regard to the public health and safety and in conformity with this subchapter and
18 the rules and orders of the department.

History: 1975 c. 413 s. 13; Stats. 1975 s. 50.55; ~~1983 a. 163, 203, 538~~; 1987 a. 27; 1993 a. 27 s. 75; Stats. 1993 s. 254.72.

19 **SECTION 121.** ~~254.73~~ of the statutes is renumbered 97.623.

20 **SECTION 122.** ~~254.74~~ of the statutes is renumbered 97.625, and 97.625 (1) (a),
21 (am), (b), (d) and (e), (1p) (a) (intro.) and 2. and (b) and (2), as renumbered, are
22 amended to read:

23 97.625 (1) (a) Administer and enforce this subchapter, the rules promulgated
24 under this subchapter and any other rules or laws relating to the public health and
25 safety in hotels, tourist rooming houses, bed and breakfast establishments,

1 ~~restaurants~~, vending machine commissaries, vending machines and vending
2 machine locations.

3 (am) Promulgate rules, in consultation with the department of safety and
4 professional services, under which the department of ~~health services~~ shall conduct
5 regular inspections of sealed combustion units, as required under s. 101.149 (5) (c),
6 for carbon monoxide emissions in hotels, tourist rooming houses, and bed and
7 breakfast establishments. The rules shall specify conditions under which it may
8 issue orders as specified under s. 101.149 (8) (a). The rules may not require the
9 department of ~~health services~~ to inspect sealed combustion units during the period
10 in which the sealed combustion units are covered by a manufacturer's warranty
11 against defects.

12 (b) Require hotels, tourist rooming houses, ~~restaurants~~, vending machine
13 operators and vending machine commissaries to file reports and information the
14 department deems necessary.

15 (d) Prescribe rules and fix standards, including rules covering the general
16 sanitation and cleanliness of premises regulated under this subchapter, the proper
17 handling and storing of food on such premises, the construction and sanitary
18 condition of the premises and equipment to be used and the location and servicing
19 of equipment. The rules relating to the public health and safety in bed and breakfast
20 establishments may not be stricter than is reasonable for the operation of a bed and
21 breakfast establishment, shall be less stringent than rules relating to ~~other~~
22 establishments hotels, tourist rooming houses, and vending machine commissaries
23 regulated by this subchapter and may not require 2nd exits for a bed and breakfast
24 establishment on a floor above the first level.

1 (e) Hold a hearing under ch. 227 if, in lieu of proceeding under ch. 68, any
2 interested person in the jurisdictional area of a local health department not granted
3 agent status under s. ~~254.69~~ 97.615 appeals to the department of health services
4 alleging that a permit license fee for a hotel, restaurant, temporary restaurant,
5 tourist rooming house, campground, camping resort, recreational or educational
6 camp or public swimming pool exceeds the permit license issuer's reasonable costs
7 of issuing permits licenses to, making investigations and inspections of, and
8 providing education, training and technical assistance to the establishment.

9 **(1p)** (a) The department may grant the holder of a permit license for a bed and
10 breakfast establishment a waiver from the requirement specified under s. ~~254.61~~(1)
11 (b) 97.01 (1g) (b) to allow the holder of a permit license for a bed and breakfast
12 establishment to serve breakfast to other tourists or transients if all of the following
13 conditions are met:

14 2. The other tourists or transients are provided sleeping accommodations in a
15 tourist rooming house for which the permit license holder for the bed and breakfast
16 establishment is the permit license holder.

17 (b) A waiver granted under par. (a) is valid for the period of validity of a permit
18 license that is issued for the bed and breakfast establishment under s. ~~254.64~~ 97.605
19 (1) (b).

20 **(2)** A local health department designated as an agent under s. ~~254.69~~(2) 97.615
21 (2) may exercise the powers specified in sub. (1) (a) to (d), consistent with s. ~~254.69~~
22 97.615 (2) (g).

History: 1975 c. 413 s. 13; Stats. 1975 s. 50.57; 1983 a. 163, 203, 538; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27; 1991 a. 39; 1993 a. 27 s. 77; Stats. 1993 s. 254.74;
1995 a. 27 ss. 6343m, 9126 (19); 1995 a. 417; 1997 a. 43; 2007 a. 20 s. 9121 (6) (a); 2007 a. 205; 2011 a. 32, 78.

23 **SECTION 123.** ~~254.76~~ of the statutes is renumbered 97.627.

24 **SECTION 124.** ~~254.78~~ of the statutes is renumbered 97.70.

SECTION 124

***NOTE: This section applies to all of ch. 254 (not just subchapter VII). It has now been moved to the general provisions subchapter in ch. 97, but should a copy exist in the general provisions of ch. 254, or should this receive some other treatment?

1 **SECTION 125.** 254.79 of the statutes is renumbered 97.703.

***NOTE: As with s. 254.78, s. 254.79 appears to apply generally to all of ch. 254 (not just subchapter VII). It has now been moved to the general provisions subchapter in ch. 97, but should a copy exist in the general provisions of ch. 254, or should this receive some other treatment?

2 **SECTION 126.** 254.80 of the statutes is renumbered 97.633.

3 **SECTION 127.** 254.81 of the statutes is renumbered 97.634.

4 **SECTION 128.** 254.82 of the statutes is renumbered 97.635.

5 **SECTION 129.** 254.83 of the statutes is renumbered 97.638.

6 **SECTION 130.** 254.84 of the statutes is renumbered 97.639, and 97.639 (5), as
7 renumbered, is amended to read:

8 97.639 (5) CONSTRUCTION. Nothing in this section may be construed to require
9 establishments motels, motor courts, tourist cabins or like accommodations to have
10 outdoor or outside signs. This section shall be liberally construed so as to prevent
11 untrue, misleading, false, or fraudulent representations relating to rates placed on
12 outdoor or outside signs of the establishments.

History: 1975 c. 413 s. 15; Stats. 1975 s. 50.85; 1983 a. 189; 1993 a. 27 s. 90; Stats. 1993 s. 254.84.

***NOTE: Section 254.84 contains a penalty provision in sub. (6). In renumbering this section, we left that provision in for now. The memo provided (page 5) states that "[a]ll programs from DHS will have the current associated penalty provisions removed, to be replaced by the comprehensive penalty provision in Wis. Stat. s. 97.72, per decision by DATCP." Is this penalty provision one that should be removed?

13 **SECTION 131.** 254.85 of the statutes is renumbered 97.65, and 97.65 (1), (2), (3),
14 and (4), as renumbered, are amended to read:

15 **97.65 Enforcement.** (1) The department may enter, at reasonable hours, any
16 premises for which a permit license is required under this subchapter or s. 254.47
17 97.67 to inspect the premises, secure samples or specimens, examine and copy
18 relevant documents and records or obtain photographic or other evidence needed to

1 enforce this subchapter or s. 254.47 [✓]97.67. If samples of food are taken, the
2 department shall pay or offer to pay the market value of the samples taken. The
3 department shall examine the samples and specimens secured and shall conduct
4 other inspections and examinations needed to determine whether there is a violation
5 of this subchapter, s. 254.47 [✓]97.67 or rules promulgated by the department under this
6 subchapter or s. 254.47 [✓]97.67.

7 (2) (a) Whenever, as a result of an examination, the department has reasonable
8 cause to believe that any examined food constitutes, or that any construction,
9 sanitary condition, operation or method of operation of the premises or equipment
10 used on the premises creates, an immediate danger to health, the administrator of
11 the division of the department responsible for public health may issue a temporary
12 order and cause it to be delivered to the ~~permittee~~ licensee, or to the owner or
13 custodian of the food, or to both. The order may prohibit the sale or movement of the
14 food for any purpose, prohibit the continued operation or method of operation of
15 specific equipment, require the premises to cease other operations or methods of
16 operation which create the immediate danger to health, or set forth any combination
17 of these requirements. The administrator may order the cessation of all operations
18 authorized by the ~~permit~~ license only if a more limited order does not remove the
19 immediate danger to health. Except as provided in par. (c), no temporary order is
20 effective for longer than 14 days from the time of its delivery, but a temporary order
21 may be reissued for one additional 14-day period, if necessary to complete the
22 analysis or examination of samples, specimens or other evidence.

23 (b) No food described in a temporary order issued and delivered under par. (a)
24 may be sold or moved and no operation or method of operation prohibited by the
25 temporary order may be resumed without the approval of the department, until the

1 order has terminated or the time period specified in par. (a) has run out, whichever
2 occurs first. If the department, upon completed analysis and examination,
3 determines that the food, construction, sanitary condition, operation or method of
4 operation of the premises or equipment does not constitute an immediate danger to
5 health, the permittee licensee, owner, or custodian of the food or premises shall be
6 promptly notified in writing and the temporary order shall terminate upon his or her
7 receipt of the written notice.

8 (c) If the analysis or examination shows that the food, construction, sanitary
9 condition, operation or method of operation of the premises or equipment constitutes
10 an immediate danger to health, the permittee licensee, owner, or custodian shall be
11 notified within the effective period of the temporary order issued under par. (a).
12 Upon receipt of the notice, the temporary order remains in effect until a final decision
13 is issued under sub. (3), and no food described in the temporary order may be sold
14 or moved and no operation or method of operation prohibited by the order may be
15 resumed without the approval of the department.

16 (3) A notice issued under sub. (2) (c) shall be accompanied by a statement which
17 informs the permittee licensee, owner, or custodian that he or she has a right to
18 request a hearing in writing within 15 days after issuance of the notice. The
19 department shall hold a hearing no later than 15 days after the department receives
20 the written request for a hearing, unless both parties agree to a later date. A final
21 decision shall be issued under s. 227.47 within 10 days of the conclusion of the
22 hearing. The decision may order the destruction of food, the diversion of food to uses
23 which do not pose a danger to health, the modification of food so that it does not create
24 a danger to health, changes to or replacement of equipment or construction, other
25 changes in or cessations of any operation or method of operation of the equipment

1 or premises, or any combination of these actions necessary to remove the danger to
2 health. The decision may order the cessation of all operations authorized by the
3 permit license only if a more limited order will not remove the immediate danger to
4 health.

5 (4) A proceeding under this section, or the issuance of a permit license for the
6 premises after notification of procedures under this section, does not constitute a
7 waiver by the department of its authority to rely on a violation of this subchapter,
8 s. ~~254.47~~ ^{97.67} or any rule promulgated under this subchapter or s. ~~254.47~~ ^{97.67} as
9 the basis for any subsequent suspension or revocation of the permit license or any
10 other enforcement action arising out of the violation.

History: 1983 a. 203; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1); 1987 a. 307; 1993 a. 27 s. 78; Stats. 1993 s. 254.85.

***NOTE: Are any changes needed with respect to the references to "food" in this section in light of s. 97.12? We can remove the references to food if you prefer and make changes, if necessary, to s. 97.12. If you prefer not to make changes, the provision may be acceptable as it is, given that it will cover vending machine commissaries. Please let us know if you would like changes made.

11 **SECTION 132.** ~~254.86~~ of the statutes is renumbered ^{97.653} and amended to
12 read:

13 **97.653 Suspension or revocation of permit license.** The department or
14 a local health department designated as an agent under s. ~~254.69~~ ^{97.615} (2) may
15 refuse or withhold issuance of a permit license under this subchapter or may suspend
16 or revoke a permit license for violation of this subchapter or any rule or order of the
17 department of health services, ordinance of the village, city or county or regulation
18 of the local board of health.

***NOTE: This section is currently linked with other provisions in the new subchapter on lodging and vending. Does it need to be broader than that? Should this be moved to the subchapter for general provisions? Is there still need for it with the new scheme under ch. 97? If kept, does the power to suspend or revoke relate to the subchapter (on lodging and vending) or the entire chapter?

History: 1975 c. 413 s. 14; Stats. 1975 s. 50.70; ~~1983 a. 203~~ ^{to}; 1987 a. 27; 1993 a. 27 s. 83; Stats. 1993 ^{254.86}; 1995 a. 27 s. 9126 (19); 2007 a. 20 s. 9121 (6) (a).

19 **SECTION 133.** ~~254.87~~ of the statutes is renumbered ^{97.705}.

SECTION 133

****NOTE: Would it be acceptable to repeal s. 254.87 instead of renumbering, given that under existing law, orders of a department are subject to ch. 227 unless otherwise provided

1 SECTION 134. 254.88 of the statutes is repealed.

2 SECTION 135. 321.60 (1) (a) 4. of the statutes is amended to read:

3 321.60 (1) (a) 4. A license, certificate of approval, provisional license,
4 conditional license, certification, certification card, registration, permit, training
5 permit, or approval specified in s. 49.45 (2) (a) 11., 51.42 (7) (b) 11., 51.421 (3) (a),
6 ~~252.23 (2), 252.24 (2)~~ 97.33 (2), 97.605 (1) (a) or (b), 97.681 (2), 97.682 (2), 254.176,
7 254.178 (2) (a), 254.20 (2), (3), or (4), 254.64 (1) (a) or (b), 254.71 (2), 255.08 (2) (a),
8 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f), or 343.305 (6) (a) or a permit license
9 for the operation of a campground specified in s. ~~254.47 (1)~~ 97.67 (1).

History: 2001 a. 22; 2003 a. 69; 2005 a. 25; 2007 s. 130, 196; 2007 a. 200 s. 142; Stats. 2007 s. 321.60; 2009 a. 2, 3, 344, 405; 2011 a. 210; 2013 a. 20.

10 SECTION 136. 350.01 (9m) (a) of the statutes is amended to read:

11 350.01 (9m) (a) A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~
12 97.01 (1g).

History: 1971 c. 219, 277; 1973 c. 298; 1981 c. 79 s. 18; 1981 c. 295; 1983 a. 27 s. 2202 (38); 1983 a. 189, 459; 1985 a. 146 s. 8; 1985 a. 331, 332; 1987 a. 399; 1989 a. 51, 359; 1991 a. 39; 1995 a. 61, 436, 448; 1997 a. 34, 35, 248, 267; 1999 a. 9; 2001 a. 16, 56; 2003 a. 97; 2013 a. 83.

13 SECTION 137. 350.01 (9m) (b) of the statutes is amended to read:

14 350.01 (9m) (b) A hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7).

History: 1971 c. 219, 277; 1973 c. 298; 1981 c. 79 s. 18; 1981 c. 295; 1983 a. 27 s. 2202 (38); 1983 a. 189, 459; 1985 a. 146 s. 8; 1985 a. 331, 332; 1987 a. 399; 1989 a. 51, 359; 1991 a. 39; 1995 a. 61, 436, 448; 1997 a. 34, 35, 248, 267; 1999 a. 9; 2001 a. 16, 56; 2003 a. 97; 2013 a. 83.

15 SECTION 138. 350.01 (9m) (c) of the statutes is amended to read:

16 350.01 (9m) (c) A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

History: 1971 c. 219, 277; 1973 c. 298; 1981 c. 79 s. 18; 1981 c. 295; 1983 a. 27 s. 2202 (38); 1983 a. 189, 459; 1985 a. 146 s. 8; 1985 a. 331, 332; 1987 a. 399; 1989 a. 51, 359; 1991 a. 39; 1995 a. 61, 436, 448; 1997 a. 34, 35, 248, 267; 1999 a. 9; 2001 a. 16, 56; 2003 a. 97; 2013 a. 83.

17 SECTION 139. 941.237 (1) (dm) of the statutes is amended to read:

18 941.237 (1) (dm) "Hotel" has the meaning given in s. ~~254.61 (3)~~ 97.01 (7).

History: 1993 a. 95, 491; 1995 a. 461; 2007 a. 27; 2011 a. 35.

19 SECTION 9118. Nonstatutory provisions; Health Services.

20 (1) TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, LODGING AND FOOD
21 PROTECTION, AND CERTAIN OCCUPATIONAL LICENSES.

A.R.C.

1 (a) *Assets and liabilities.* The assets and liabilities of the department of health
 2 services that the secretary of administration determines to be primarily related to
 3 food, lodging, recreation, tattooing, and body piercing oversight under sections
 4 252.18, 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats.,
 5 become the assets and liabilities of the department of agriculture, trade and
 6 consumer protection on the effective date of this paragraph.

7 (b) *Employee transfer.* All incumbent employees who hold positions in the
 8 department of health services performing duties that the secretary of administration
 9 determines to be primarily related to sections 252.18, 252.23, 252.24, 252.241,
 10 252.245, 254.47, and 254.61 to 254.87, 2013 stats., and the full-time equivalent
 11 positions held by those employees, are transferred to the department of agriculture,
 12 trade and consumer protection on the effective date of this paragraph.

13 (c) *Employee status.* Employees transferred under paragraph (b) have all the
 14 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
 15 statutes in the department of agriculture, trade and consumer protection that they
 16 enjoyed in the department of health services immediately before the transfer.
 17 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
 18 has attained permanent status in class is required to serve a probationary period.

19 (d) *Tangible personal property.* On the effective date of this paragraph, all
 20 tangible personal property, including records, of the department of health services
 21 that the secretary of administration determines to be primarily related to food,
 22 lodging, recreation, tattooing, and body piercing oversight under sections 252.18,
 23 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats., is
 24 transferred to the department of agriculture, trade and consumer protection.

Handwritten notes:
 5: ~~yes~~
 7: ~~ok~~
 11: ~~yes~~
 12: ~~ok~~
 15: ~~yes~~
 24: ~~yes~~

Handwritten annotations:
 7: (A.R.)
 12: (A.R.)
 13: (A.R.)

SECTION 9118

1 (e) *Contracts*. All contracts that were entered into by the department of health
 2 services that the secretary of administration determines to be primarily related to
 3 food, lodging, recreation, tattooing, and body piercing oversight under sections
 4 252.18, 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats.,
 5 and that are in effect on the effective date of this paragraph remain in effect and are
 6 transferred to the department of agriculture, trade, and consumer protection. The
 7 department of agriculture, trade, and consumer protection shall carry out any
 8 obligations under such a contract until the contract is modified or rescinded by the
 9 department of agriculture, trade, and consumer protection to the extent allowed
 10 under the contract.

11 (f) *Rules and orders*. All rules in chapters DHS 172, 173, 175, 178, 192, 195,
 12 196, 196 appendix, 197, and 198, Wisconsin administrative code, and all other rules
 13 promulgated, and all orders issued, by the department of health services that the
 14 secretary of administration determines to be primarily related to sections 252.18,
 15 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats., and that
 16 are in effect on the effective date of this paragraph shall remain in effect until their
 17 specified expiration date or until amended or repealed by the department of
 18 agriculture, trade, and consumer protection.

19 (g) *Pending matters*. Any matter pending with the department of health services
 20 on the effective date of this paragraph that the secretary of administration
 21 determines to be related to food, lodging, recreation, tattooing, and body piercing
 22 oversight under section 252.18, 252.23, 252.24, 252.241, 252.245, or 254.47, or
 23 sections 254.61 to 254.87, 2013 stats., is transferred to the department of agriculture,
 24 trade, and consumer protection, and all materials submitted to or actions taken by
 25 the department of health services with respect to the pending matter are considered

the

1 as having been submitted to or taken by the department of agriculture, trade and
2 consumer protection.

3 **SECTION 9418. Effective dates; Health Services.**

4 (1) TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, LODGING AND FOOD
5 PROTECTION, AND CERTAIN OCCUPATIONAL LICENSES. The treatment of sections 20.115 (1)
6 (gb), 20.435 (1) (gm), 29.541 (1) (a) (intro.), 45.44 (1) (a) 14., 49.857 (1) (d) 4., 66.0417
7 (1), (2), (3), and (4), 66.0435 (9), 66.0436 (1) and (2), 73.0301 (1) (d) 3., 76.80 (3), 87.305
8 (1) (intro.), 93.06 (14), 93.07 (24) (e), 93.135 (1) (ng), (nt), (nx), (1m) (am), chapter 97
9 (title), subchapter I of chapter 97, 97.01 (1), subchapter II of chapter 97, 97.12 (1),
10 (2) (d) 3., and (5), 97.18 (5m), 97.20 (2) (e) 2., 97.25 (3), 97.29 (1) (c), (g) 3., and (h),
11 97.30 (1) (c), (2) (b) 1. c., (3m) (intro.), (a) (intro.), (b) (intro.), (c) (intro.), (cm), and (d),
12 97.41 (1m) and (4) (a), 97.42 (3) (em), subchapters III, IV, V, and VI of chapter 97,
13 101.05 (2), 101.123 (1) (bn) 1., 2., 3., and (f), 101.128 (1) (c) and (e), 101.149 (1) (ag) and
14 (cm), (5) (c), and (8) (a), 101.63 (1) (intro.), 101.647 (1) (am), 101.935 (2) (e), 106.52
15 (1) (d) 1., 2., and 3., 108.227 (1) (e) 3., 125.02 (3r), (7), and (18), 125.06 (12), 125.07
16 (3) (a) 6. and 6m., 125.29 (6), 125.295 (2) (a) 3. and (b), 125.68 (5), 250.041 (1) (b), (e),
17 and (f), 252.02 (4), 252.18, 252.23, 252.24, 252.241 (title), (1), (1m), (2), (3), (4), and
18 (5), 252.245, 254.02 (3) (a), 254.115 (1) (c), 254.47 (title), (1), (1g), (1m), (2), (2m), (3),
19 (4), (5), (5m), (6), and (7), subchapter VII of chapter 254, 254.61 (title), (intro.), (1),
20 (2), (3), (3m), (4), (5), (5m), (5r), (6), (7), (8), (9), and (10), 254.62, 254.63, 254.64,
21 254.65, 254.66, 254.67, 254.68, 254.69, 254.70, 254.71, 254.715, 254.72, 254.73,
22 254.74, 254.76, 254.78, 254.79, 254.80, 254.81, 254.82, 254.83, 254.84, 254.85,
23 254.86, and 254.87, 254.88, 321.60 (1) (a) 4., 350.01 (9m) (a), (b), and (c), and 941.237

ok

ok

ok

ok

subchapter III (title) of chapter 97, subchapter IV (title) of chapter 97,
subchapter V (title) of chapter 97, subchapter VI (title) of chapter 97,

~~A.R.C.~~

insert
A.R.

A.R.C.

1 (1) (dm) of the statutes, and SECTION 9118 (1) of this act take effect on the first day
2 of the 13th month beginning after publication.

3 (END)

INSERT and D-Note