

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0602/P1ins
SWB/TJD/RCT:eev:...

INSERT 13-19

"/?" → "/P1"

SECTION 1. 100.36^x of the statutes is amended to read:

100.36 Frauds; substitute for butter; advertisement. No person may use the word "butter" in any way in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter. No person may use terms such as "cream", "creamery" or "dairy", or the name or representation of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols or combinations thereof commonly used in the sale of butter unless at least 40% of the substitute is butterfat. If the term "butter" is used in connection with the name of any such product, it shall be qualified so as to distinguish it from butter as defined in s. 97.01 ~~(1)~~ (1r).

END INSERT

1 (intro.), 101.647 (1) (am), 101.935 (2) (e), 106.52 (1) (d) 1., 2., and 3., 108.227 (1) (e)
2 3., 125.02 (3r), (7), and (18), 125.06 (12), 125.07 (3) (a) 6. and 6m., 125.29 (6), 125.295
3 (2) (a) 3. and (b), 125.68 (5), 250.041 (1) (b), (e), and (f), 252.02 (4), 252.18, 252.23,
4 252.24, 252.241 (title), (1), (1m), (2), (3), (4), and (5), 252.245, 254.02 (3) (a), 254.115
5 (1) (c), 254.47 (title), (1), (1g), (1m), (2), (2m), (3), (4), (5), (5m), (6), and (7), subchapter
6 VII (title) of chapter 254, 254.61 (title), (intro.), (1), (2), (3), (3m), (4), (5), (5m), (5r),
7 (6), (7), (8), (9), and (10), 254.62, 254.63, 254.64, 254.65, 254.66, 254.67, 254.68,
8 254.69, 254.70, 254.71, 254.715, 254.72, 254.73, 254.74, 254.76, 254.78, 254.79,
9 254.80, 254.81, 254.82, 254.83, 254.84, 254.85, 254.86, 254.87, 254.88, 321.60 (1) (a)
10 4., 350.01 (9m) (a), (b), and (c), and 941.237 (1) (dm) of the statutes, and SECTION 9118
11 (1) of this act take effect on the first day of the 13th month beginning after
12 publication.

13

(END)

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0602/Plins
RCT:.....

1 **Insert 1-1**

2 **SECTION 1.** 20.115 (1) (gb) of the statutes is amended to read:

3 20.115 (1) (gb) Food regulation, lodging, recreation, and safety. The amounts
4 in the schedule for the regulation of food, lodging, recreation, and safety under chs.
5 93, 97 and 98. All moneys received under ss. 93.06 (1r) and (1w), 93.09, 93.11, 93.12,
6 97.17, 97.175, 97.20, 97.21, 97.22, 97.24, 97.27, 97.29, 97.30 (3) (a), (b) and (c), 97.41,
7 97.60 to 97.653, 97.67, 97.681 (4) (a), 97.682 (4) (a), 97.683 (9), 98.145 and 98.146 for
8 the regulation of food, lodging, recreation, and safety shall be credited to this
9 appropriation.

History: 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138, 153, 313; 1987 a. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 79, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25; 2007 a. 20, 125, 223; 2009 a. 28, 90, 145, 293, 401; 2011 a. 32, 278; 2013 a. 20 ss. 201, 202s, 203, 204, 207, 213m; 2013 a. 234, 312.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

10 **Insert ~~6-18~~ 7-22**

11 **SECTION 2.** 93.06 (14) of the statutes is created to read:

12 **93.06 (14) COOPERATION AND COLLABORATIVE AGREEMENTS.** Promote cooperation
13 and formal collaborative agreements among any of the following with regard to
14 enforcement of the laws and regulations administered by the department, planning,
15 priority setting, information and data sharing, reporting, resource allocation,
16 funding, service delivery, and jurisdiction:

17 (a) This state.

18 (b) Local health departments.

19 (c) Federally recognized American Indian tribes or bands located in this state.

20 (d) The federal Indian health service.

21 **SECTION 3.** 93.07 (24) (e) of the statutes is created to read:

1 93.07 (24) (e) To enforce the laws for the sanitary care of campgrounds and
2 camping resorts, recreational and educational camps, public swimming pools, hotels,
3 tourist rooming houses, vending machine commissaries, vending machines, tattoo
4 establishments, body-piercing establishments, and other persons or entities subject
5 to regulation by the department.

6 ~~Insert 7-20~~ q-2(a)

7 SECTION 4. 97.12 (1) of the statutes is amended to read:

8 97.12 (1) For the purpose of enforcing this chapter, the department and its
9 agents may, at reasonable hours, enter and inspect any premises for which a license
10 is required under this chapter or any farm, factory, warehouse, building, room,
11 establishment or place at or in which foods are manufactured, processed, packed,
12 packaged, stored or held for sale, and may enter any vehicle, including a vehicle used
13 to transport or hold foods in commerce. The department and its agents may also
14 secure samples or specimens, including samples or specimens of food and any
15 product or substance that may affect food, examine and copy relevant documents and
16 records, and obtain photographic and other evidence needed to enforce this chapter
17 or a rule promulgated under this chapter. The department shall examine any
18 samples secured and shall conduct other inspections and examinations needed to
19 determine whether there is a violation of this chapter. The department shall pay or
20 offer to pay the market value of samples taken.

21 History: 1971 c. 156; 1983 a. 261

~~Insert 9-17~~ q-2(b)

22 SECTION 5. 97.12 (2) (d) 3. of the statutes is created to read:

1 97.12 (2) (d) 3. In lieu of the criminal penalty under subd. 1., a person violating
2 an order issued under this section may be subject to a forfeiture as provided in sub.
3 (5).

****NOTE: Is this what is wanted with respect to a civil forfeiture option?

Insert
9-22(c)

SECTION 6. 97.12 (5) of the statutes is created to read:

5 97.12 (5) Any person who fails to comply with an order issued under this
6 chapter may be required to forfeit \$50 for each day of noncompliance.

Insert
11A

SECTION 7. 97.30 (2) (b) 1. c. of the statutes is amended to read:

8 97.30 (2) (b) 1. c. A retail food establishment which is exempted from licensing
9 by the department by rule. If a ~~restaurant or other~~ an establishment for which a
10 permit license has been issued under s. 254.64 97.605 is incidentally engaged in
11 operating a retail food establishment at the same location, the department may
12 exempt by rule the ~~restaurant or~~ establishment from licensing under this section.
13 ~~Rules under this subd. 1. c. shall conform to a memorandum of understanding~~
14 ~~between the department and the department of health services, under which the~~
15 ~~department of health services agrees to inspect the retail food establishment~~
16 ~~operations on behalf of the department.~~

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).

****NOTE: Please review the treatment of this provision to ensure that it is consistent with the intent of this proposal.

SECTION 8. 97.30 (3m) (intro.) of the statutes is amended to read:

18 97.30 (3m) FEE AMOUNTS. (intro.) The department shall specify by rule the
19 amount of the fees under sub. (3) for a restaurant. Unless otherwise required by
20 department rule, the fees required under sub. (3) for a retail food establishment other
21 than a restaurant are:

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).

SECTION 9. 97.30 (3m) (a) (intro.) of the statutes is amended to read:

22

1 **97.30 (3m) (a)** (intro.) For a retail food establishment, other than a restaurant,
2 that has annual food sales of \$25,000 or more but less than \$1,000,000 and that
3 processes potentially hazardous food, the following amounts:

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).

4 **SECTION 10. 97.30 (3m) (b)** (intro.) of the statutes is amended to read:

5 **97.30 (3m) (b)** (intro.) For a retail food establishment, other than a restaurant,
6 that has annual food sales of \$1,000,000 or more and that processes potentially
7 hazardous food, the following amounts:

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).

8 **SECTION 11. 97.30 (3m) (c)** (intro.) of the statutes is amended to read:

9 **97.30 (3m) (c)** (intro.) For a retail food establishment, other than a restaurant,
10 that has annual food sales of \$25,000 or more and that is engaged in food processing,
11 but that does not process potentially hazardous food, the following amounts:

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).

12 **SECTION 12. 97.30 (3m) (cm)** of the statutes is amended to read:

13 **97.30 (3m) (cm)** For a retail food establishment, other than a restaurant, that
14 has annual food sales of less than \$25,000 and that is engaged in food processing, an
15 annual license fee of \$40 and a reinspection fee of \$40.

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).

16 **SECTION 13. 97.30 (3m) (d)** of the statutes is amended to read:

17 **97.30 (3m) (d)** For a retail food establishment, other than a restaurant, that
18 is not engaged in food processing, an annual license fee of \$20 and a reinspection fee
19 of \$50.

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).

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0602/7dn
SWB/TJD/RCT:.....

PI
leav

December 23, 2014

date

Please review the attached preliminary draft carefully to ensure that it is consistent with your intent. Due to the length of the draft, we have included notes within the draft itself raising several issues that require your review.

Please feel free to contact me if you have any questions or concerns about the draft.

Sarah Walkenhorst Barber
Legislative Attorney
(608) 267-3215
sarah.walkenhorstbarber@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0602/P1dn
SWB:eev:jf

January 12, 2015

Please review the attached preliminary draft carefully to ensure that it is consistent with your intent. Due to the length of the draft, we have included notes within the draft itself raising several issues that require your review.

Please feel free to contact me if you have any questions or concerns about the draft.

Sarah Walkenhorst Barber
Legislative Attorney
(608) 267-3215
sarah.walkenhorstbarber@legis.wisconsin.gov

Walkenhorst Barber, Sarah

From: Byrnes, Tyler - DOA <Tyler.Byrnes@wisconsin.gov>
Sent: Thursday, January 22, 2015 10:44 AM
To: Walkenhorst Barber, Sarah
Subject: RE: BB0213 - Transfers from DHS to DATCP or DFIIPS

Sarah – We'd like the licenses to be handled like other DATCP licenses, so the new licenses coming can only be withheld for child support delinquency and related payments.

Thanks,

Tyler

From: Walkenhorst Barber, Sarah [mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov]
Sent: Thursday, January 22, 2015 9:20 AM
To: Byrnes, Tyler - DOA
Cc: Tradewell, Becky - LEGIS; Dodge, Tamara - LEGIS
Subject: RE: BB0213 - Transfers from DHS to DATCP or DFIIPS

Tyler,

Thanks for your comments. We are working through them. One question (and we may have more as we get through things):

With respect to Comment 1, below, on the withholding of permits, we need some clarification. Most of the DATCP licenses can be withheld with for reasons relating to delinquency in child support and related payments (see s. 93.135 (3)). There is a limited exception to that, as set forth in s. 93.135 (4). However, with respect to those holding licenses that will be coming over from DHS, those folks can have licenses withheld for child support delinquency, as well as for tax and unemployment delinquency. From your comment, it sounds like you might want us to carry over the withholding provisions with the DHS licenses. By that I mean, the licenses moving over from DHS could still be withheld for child support delinquency etc., as well as for tax and unemployment delinquency.

On the other hand, if you want the DHS licenses handled like most other DATCP licenses currently treated under s. 93.135 (with the one exception being 93.135 (4)), then the licenses coming in could only be withheld for child support delinquency and related payments.

There is a related issue of the scope of disclosure of information under 93.135, but I think if we can resolve the issue above, that will answer the disclosure issue as well.

Feel free to contact me if you have any questions on this—I'm happy to discuss.

Thanks,
Sarah

Sarah Walkenhorst Barber

Legislative Attorney
Wisconsin Legislative Reference Bureau
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From: Byrnes, Tyler - DOA [<mailto:Tyler.Byrnes@wisconsin.gov>]

Sent: Tuesday, January 20, 2015 2:32 PM

To: Dodge, Tamara

Cc: Walkenhorst Barber, Sarah

Subject: RE: BB0213 - Transfers from DHS to DATCP or DFIIPS

Tamara – Generally, the draft meets the intent. Here's our comments:

1. With respect to withholding of permits, only allow permits to be withheld for tax and unemployment insurance delinquency, as with other DATCP licenses.
2. Note on Section 27 – section is not needed due to other statutes providing DATCP with authority and the portion of the draft related to s. 97.12(5).
3. Note on Section 29 – Repeal is appropriate.
4. Note on Section 33 – Correct as drafted.
5. Note on Section 36 – Correct as drafted.
6. Note on Section 82 – Correct as drafted.
7. Note on section 117 – no need for “temporary restaurant”.
8. Note on section 124 – Retain provision, as drafted.
9. Note on section 127 – Please use the term “pre-licensing inspection” to maintain consistency with other DATCP phrasing.
10. Note on Section 130 – Keep references to pre-license review.
11. Note on Sections 139 – Retain copy of both sections in ch. 254.
12. Note on Section 145 – Provision should be removed as other provisions cover penalties.
13. Note on Section 146 – Retain as drafted.
14. Note on Section 147 - This section should address issues broader than just lodging and vending. This section should be moved to the subchapter for general provisions. The power to suspend or revoke relates to the entire chapter. This should be made part of a comprehensive section in chapter 97 relating to revocation and suspension.
15. Note on Section 148 – Repeal would be acceptable.

Let me know if you have any questions or need clarification. And, just to make sure, we still want the tattooists and body piercers out of this draft.

Thanks,

Tyler

From: Dodge, Tamara [<mailto:Tamara.Dodge@legis.wisconsin.gov>]

Sent: Friday, January 09, 2015 3:59 PM

To: Byrnes, Tyler - DOA

Cc: Walkenhorst Barber, Sarah - LEGIS

Subject: RE: BB0213 - Transfers from DHS to DATCP or DFIIPS

Tyler,

You should be getting the DHS to DATCP transfer draft today or Monday. In the interest of time, that version of the draft contains the tattooists and body piercers transfer still. As soon as that draft goes out we will start doing a version of the draft that removes those licenses from the DATCP draft. (They are already in the DFIPS transfer draft.)

Tami

Tamara J. Dodge

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Wisconsin Legislative Reference Bureau
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Madison, WI 53701-2037
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From: Byrnes, Tyler - DOA [<mailto:Tyler.Byrnes@wisconsin.gov>]
Sent: Friday, January 02, 2015 9:48 AM
To: Dodge, Tamara
Cc: Walkenhorst Barber, Sarah; Potts, Andrew R - DOA; Frederick, Caitlin - DOA
Subject: RE: BB0213 - Transfers from DHS to DATCP or DFIPS

Tami – On the tattooing and body piercing question, those functions should go to DFIPS, not DATCP. As far as I know, the rest of the DHS to DATCP transfer will continue to be a budget draft.

Thanks,

Tyler

From: Dodge, Tamara [<mailto:Tamara.Dodge@legis.wisconsin.gov>]
Sent: Friday, January 02, 2015 9:45 AM
To: Byrnes, Tyler - DOA
Cc: Walkenhorst Barber, Sarah - LEGIS
Subject: BB0213 - Transfers from DHS to DATCP or DFIPS

Tyler,

Soon you will be receiving the draft for BB0213, which is the transfer of regulation of food protection, lodging, tattooing, and body piercing from DHS to DATCP. After receiving the instructions for this draft, we received instructions for BB0259, which transferred the regulation of tattooing and body piercing to a new agency (DFIIPS). If there is a definite resolution as to which agency the tattooists and body piercers will be regulated by, please let us know so we can remove them from one of the drafts.

Also, we have heard that some of the agency reorganization drafts will be introduced as separate legislation for passage before the budget bill with an effective date of 07/01/15. Please let us know if the DHS to DATCP transfers will be a separate bill or if it is still expected to be part of the budget and if the effective date has changed.

Obviously, there isn't a huge rush on this since you haven't received the draft yet. By the way, the primary drafter of the DHS to DATCP transfer is Sarah, whom I have copied on this email.

Thanks,
Tami

Tamara J. Dodge

Attorney

Wisconsin Legislative Reference Bureau

P.O. Box 2037

Madison, WI 53701-2037

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