



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0602/P1 /P2  
SWB/TJD/RCT:eev:jf  
RMR

INSERT

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

**FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION**

IN 1/23/15

don't gen

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:***

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.~~<sup>and</sup> The amounts  
4 in the schedule for the regulation of food, lodging,<sup>and</sup> ~~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

and

1

the regulation of food, lodging, recreation, and safety shall be credited to this appropriation.

2

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

3

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

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20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*

5

*services.* The amounts in the schedule for the purposes specified in ss. ~~252.23, 252.24,~~

6

~~252.245,~~ <sup>plain</sup> 253.12, 254.176, 254.178, 254.179, 254.20 (5) and (8), 254.31 to 254.39,

7

254.41, 254.47, 254.61 to 254.88, 255.08 (2), and 256.15 (8), ch. 69, for the purchase

8

and distribution of medical supplies, and to analyze and provide data under s.

9

250.04. All moneys received under ss. 250.04 (3m), ~~252.23 (4) (a), 252.24 (4) (a),~~

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~~252.245 (9),~~ <sup>plain</sup> 254.176, 254.178, 254.181, 254.20 (5) and (8), 254.31 to 254.39, 254.41,

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254.47, ~~254.61 to 254.88,~~ 255.08 (2) (b), and 256.15 (5) (f) and (8) (d) and ch. 69, other

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than s. 69.22 (1m), and as reimbursement for medical supplies shall be credited to

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this appropriation account.

14

SECTION 3. 29.541 (1) (a) (intro.) of the statutes is amended to read:

15

29.541 (1) (a) (intro.) Except as authorized under s. 29.934 (2) or ~~254.715~~

16

~~97.305,~~ no innkeeper, manager or steward of any restaurant, club, hotel, boarding

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house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause

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to be sold, bartered, served or given, to its guests or boarders any of the following:

19

SECTION 4. 45.44 (1) (a) 14. of the statutes is amended to read:

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45.44 (1) (a) 14. A license, certification, certification card, or permit issued

21

under s. ~~252.23, 252.24, 97.33, 97.681, 97.682,~~ 254.176, 254.178, 254.20, 254.71, and

22

256.15.

23

SECTION 5. 49.857 (1) (d) 4. of the statutes is amended to read:

1           49.857 (1) (d) 4. A certification, license, training permit, registration, approval  
 2 or certificate issued under s. 49.45 (2) (a) 11., ~~252.23 (2), 252.24 (2), 97.33, 97.605 (1)~~  
 3 ~~(a) or (b), 97.67 (1), 97.681 (2), 97.682 (2), 254.176 (1) or (3) (a), 254.178 (2) (a), 254.20~~  
 4 ~~(2), (3) or (4), 254.47 (1), 254.64 (1) (a) or (b), 254.71 (2), 255.08 (2), or 256.15 (5) (a)~~  
 5 or (b), (6g) (a), or (8) (a).  
 6

*Annotations: "plain" above 252.23 (2), 252.24 (2), 97.33, 97.605 (1); "PLAIN COMMA" with arrow pointing to comma after 254.176 (1) or (3) (a); "Scored comma" with arrow pointing to comma after 254.178 (2) (a).*

**SECTION 6.** 66.0417 (1) of the statutes is amended to read:

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

**SECTION 7.** 66.0417 (2) of the statutes is amended to read:

23           66.0417 (2) (a) Whenever, as a result of an examination, a village, city or county  
 24 has reasonable cause to believe that any examined food constitutes, or that any  
 25

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

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

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

9 **SECTION 8.** 66.0417 (3) of the statutes is amended to read:

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

22 **SECTION 9.** 66.0417 (4) of the statutes is amended to read:

23 66.0417 (4) A proceeding under this section, or the issuance of a ~~permit~~ license  
24 for the premises after notification of procedures under this section, does not  
25 constitute a waiver by the village, city or county of its authority to rely on a violation

**SECTION 9**

1 of ch. 97, ~~s. 254.47 or subch. VII of ch. 254~~ or any rule adopted under those statutes  
2 as the basis for any subsequent suspension or revocation of the permit license or any  
3 other enforcement action arising out of the violation.

4 **SECTION 10.** 66.0435 (9) of the statutes is amended to read:

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

16 **SECTION 11.** 66.0436 (1) of the statutes is amended to read:

17 66.0436 (1) In this section, “restaurant” has the meaning given in s. ~~254.61 (5)~~  
18 97.01 (14g).

19 **SECTION 12.** 66.0436 (2) of the statutes is amended to read:

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

25 **SECTION 13.** 73.0301 (1) (d) 3. of the statutes is amended to read:

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

8           **SECTION 14.** 76.80 (3) of the statutes is amended to read:

9           76.80 (3) “Telecommunications services” means the transmission of voice,  
10 video, facsimile or data messages, including telegraph messages, except that  
11 “telecommunications services” does not include video service, as defined in s. 66.0420  
12 (2) (y), radio, one-way radio paging or transmitting messages incidental to transient  
13 occupancy in hotels, as defined in s. ~~254.61 (3)~~ 97.01 (7).

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

15           87.305 (1) DEPARTMENT APPROVAL. (intro.) Notwithstanding s. 87.30 or any rule  
16 promulgated, order issued or ordinance adopted under that section, the department  
17 shall authorize the connection of a sanitary sewer line from the sewerage treatment  
18 plant in the city of Prairie du Chien and connection of the public water system of the  
19 city of Prairie du Chien to the railroad depot and the Dousman hotel on St. Feriole  
20 island and shall authorize historic use of the Dousman hotel as a hotel, as defined  
21 under s. ~~254.61 (3)~~ 97.01 (7), if all of the following conditions are met:

22           **SECTION 16.** 93.06 (14) of the statutes is created to read:

23           93.06 (14) COOPERATION AND COLLABORATIVE AGREEMENTS. Promote cooperation  
24 and formal collaborative agreements among any of the following with regard to  
25 enforcement of the laws and regulations administered by the department, planning,

1 priority setting, information and data sharing, reporting, resource allocation,  
2 funding, service delivery, and jurisdiction:

3 (a) This state.

4 (b) Local health departments.

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

6 (d) The federal Indian health service.

7 SECTION 17. 93.07 (24) (e) of the statutes is created to read:

8 93.07 (24) (e) To enforce the laws for the sanitary care of campgrounds and  
9 camping resorts, recreational and educational camps, public swimming pools, hotels,  
10 tourist rooming houses, vending machine commissaries, vending machines, tattoo  
11 establishments, body-piercing establishments, and other persons or entities subject  
12 to regulation by the department.

13 SECTION 18. 93.135 (1) (ng) of the statutes is created to read:

14 93.135 (1) (ng) A certificate under s. 97.33.

15 SECTION 19. 93.135 (1) (nt) of the statutes is created to read:

16 93.135 (1) (nt) A license under s. 97.605 (1) or 97.67 (1) or (2m).

17 SECTION 20. 93.135 (1) (nx) of the statutes is created to read:

18 93.135 (1) (nx) A license under s. 97.681 or 97.682.

19 SECTION 21. 93.135 (1m) (am) of the statutes is created to read:

20 93.135 (1m) (am) If an applicant for a license under s. 97.67 (1) or (2m), 97.681  
21 (2) or (4) (a), or 97.682 (2) or (4) (a) is not an individual, the applicant shall provide  
22 the department with the applicant's federal employer identification number as a  
23 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



Page 9 Missing 10 -

1 records, and obtain photographic and other evidence needed to enforce this chapter  
2 or a rule promulgated under this chapter. The department shall examine any  
3 samples secured and shall conduct other inspections and examinations needed to  
4 determine whether there is a violation of this chapter. The department shall pay or  
5 offer to pay the market value of samples taken.

6 **SECTION 27.** 97.12 (2) (d) 3. of the statutes is created to read:

7 97.12 (2) (d) 3. In lieu of the criminal penalty under subd. 1., a person violating  
8 an order issued under this section may be subject to a forfeiture as provided in sub.  
9 (5).

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

10 **SECTION 28.** 97.12 (5) of the statutes is created to read:

11 97.12 (5) Any person who fails to comply with an order issued under this  
12 chapter may be required to forfeit \$50 for each day of noncompliance.

13 **SECTION 29.** 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.

14 **SECTION 30.** 97.20 (2) (e) 2. of the statutes is amended to read:

15 97.20 (2) (e) 2. The retail preparation and processing of meals for sale directly  
16 to consumers or through vending machines, if the preparation and processing is  
17 covered under a ~~restaurant permit or other permit~~ license issued under s. 254.64  
18 97.605.

19 **SECTION 31.** 97.25 (3) of the statutes is amended to read:

1            97.25 (3) RULES. The department shall promulgate rules authorizing the  
2 operator of a dairy plant licensed under s. 97.20, or a retail food establishment  
3 licensed under s. 97.30 ~~or a restaurant with a permit under s. 254.64~~ who complies  
4 with the rules to place upon the label of a dairy product the statement  
5 “Farmer-certified rBGH free.” or an equivalent statement that is not false or  
6 misleading. The statement shall be based upon affidavits from milk producers  
7 stating that the milk producers do not use synthetic bovine growth hormone for the  
8 production of milk.

9            SECTION 32. 97.29 (1) (c) of the statutes is amended to read:

10           97.29 (1) (c) “Bottling establishment” means any place where drinking water,  
11 soda water beverage or alcohol beverage is manufactured or bottled for sale.  
12 “Bottling establishment” does not include a retail establishment engaged in the  
13 preparation and sale of beverages under a license issued under s. 125.26 or 125.51  
14 ~~or a restaurant permit~~ license issued under s. 97.30 for a restaurant or other permit  
15 license issued under s. 254.64 97.605.

16           SECTION 33. 97.29 (1) (g) 3. of the statutes is amended to read:

17           97.29 (1) (g) 3. The retail preparation and processing of meals for sale directly  
18 to consumers or through vending machines if the preparation and processing is  
19 covered under a ~~restaurant permit or other permit~~ license issued under s. 254.64  
20 97.605.

X           **\*\*\*\*NOTE:** Could s. 97.29 (1) (g) 3. be repealed in its entirety given the substance  
of s. 97.29 (1) (h)?

21           SECTION 34. 97.29 (1) (h) of the statutes is amended to read:

22           97.29 (1) (h) “Food processing plant” means any place where food processing  
23 is conducted. “Food processing plant” does not include any establishment subject to

1 the requirements of s. 97.30 ~~or any restaurant or other~~ an establishment holding a  
2 ~~permit license~~ under s. ~~254.64~~ 97.605, to the extent that the activities of that  
3 establishment are covered by s. 97.30 or the ~~permit license~~ under s. ~~254.64~~ 97.605.

4 **SECTION 35.** 97.30 (1) (c) of the statutes is amended to read:

5 97.30 (1) (c) "Retail food establishment" means a permanent or mobile food  
6 processing facility where food processing is conducted primarily for direct retail sale  
7 to consumers at the facility, a mobile facility from which potentially hazardous food  
8 is sold to consumers at retail or a permanent facility from which food is sold to  
9 consumers at retail, whether or not that facility sells potentially hazardous food or  
10 is engaged in food processing. "Retail food establishment" ~~does not include~~ includes  
11 a restaurant or ~~other establishment~~ temporary restaurant, but does not include an  
12 establishment holding a ~~permit license~~ under s. ~~254.64~~ 97.605, to the extent that the  
13 activities of the establishment are covered by that ~~permit license~~.

14 **SECTION 36.** 97.30 (2) (b) 1. c. of the statutes is amended to read:

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

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

X  
INS 13-1

1 SECTION 37. 97.30 (3m) (intro.) of the statutes is amended to read:

2 97.30 (3m) FEE AMOUNTS. (intro.) The department shall specify by rule the  
3 amount of the fees under sub. (3) for a restaurant. Unless otherwise required by  
4 department rule, the fees required under sub. (3) for a retail food establishment other  
5 than a restaurant are:

6 SECTION 38. 97.30 (3m) (a) (intro.) of the statutes is amended to read:

7 97.30 (3m) (a) (intro.) For a retail food establishment, other than a restaurant,  
8 that has annual food sales of \$25,000 or more but less than \$1,000,000 and that  
9 processes potentially hazardous food, the following amounts:

10 SECTION 39. 97.30 (3m) (b) (intro.) of the statutes is amended to read:

11 97.30 (3m) (b) (intro.) For a retail food establishment, other than a restaurant,  
12 that has annual food sales of \$1,000,000 or more and that processes potentially  
13 hazardous food, the following amounts:

14 SECTION 40. 97.30 (3m) (c) (intro.) of the statutes is amended to read:

15 97.30 (3m) (c) (intro.) For a retail food establishment, other than a restaurant,  
16 that has annual food sales of \$25,000 or more and that is engaged in food processing,  
17 but that does not process potentially hazardous food, the following amounts:

18 SECTION 41. 97.30 (3m) (cm) of the statutes is amended to read:

19 97.30 (3m) (cm) For a retail food establishment, other than a restaurant, that  
20 has annual food sales of less than \$25,000 and that is engaged in food processing, an  
21 annual license fee of \$40 and a reinspection fee of \$40.

22 SECTION 42. 97.30 (3m) (d) of the statutes is amended to read:

23 97.30 (3m) (d) For a retail food establishment, other than a restaurant, that  
24 is not engaged in food processing, an annual license fee of \$20 and a reinspection fee  
25 of \$50.

1           **SECTION 43.** 97.41 (1m) of the statutes is amended to read:

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

19           **SECTION 44.** 97.41 (4) (a) of the statutes is amended to read:

20           **97.41 (4) (a)** Except as provided in par. (b), a local health department granted  
21 agent status under this section shall establish and collect the license fee for retail  
22 food establishments, as defined in s. 97.30 (1) (c). The local health department may  
23 establish separate fees for ~~preinspections~~ <sup>pre-licensing inspections</sup> of new establishments, for ~~preinspections~~ <sup>pre-licensing inspections</sup>  
24 of existing establishments for which a person intends to be the new operator or for  
25 the issuance of duplicate licenses. No fee may exceed the local health department's

1 reasonable costs of issuing licenses to, making investigations and inspections of, and  
2 providing education, training and technical assistance to the establishments, plus  
3 the state fee established under sub. (5). A local health department which is granted  
4 agent status under this section or under s. ~~254.69~~, 97.615 may issue a single license  
5 and establish and collect a single fee which authorizes the operation on the same  
6 premises of more than one type of establishment with respect to which it is granted  
7 agent status under this section or under s. ~~254.69 (2)~~ 97.615 (2).

8 **SECTION 45.** 97.42 (3) (em) of the statutes is amended to read:

9 97.42 (3) (em) *Slaughter of farm-raised deer.* The requirements of pars. (a) and  
10 (b) do not apply to the slaughter of a farm-raised deer if its meat food products are  
11 not sold by a person holding a restaurant permit under s. ~~254.64~~ or by an operator  
12 of a retail food establishment, as defined under s. 97.30 (1) (c). The operator of an  
13 establishment in which farm-raised deer, their carcasses or their meat food products  
14 are examined and inspected under this subsection shall pay the department for the  
15 cost of the department's examination and inspection.

16 **SECTION 46.** Subchapter III (title) of chapter 97 [precedes 97.603] of the  
17 statutes is created to read:

18 **CHAPTER 97**

19 **SUBCHAPTER III**

20 **LODGING AND VENDING MACHINES**

21 **SECTION 47.** Subchapter IV (title) of chapter 97 [precedes 97.67] of the statutes  
22 is created to read:

23 **CHAPTER 97**

24 **SUBCHAPTER IV**

25 **RECREATIONAL SANITATION**

1 SECTION 48. Subchapter V (title) of chapter 97 [precedes 97.681] of the statutes  
2 is created to read:

3 CHAPTER 97  
4 SUBCHAPTER V

5 TATTOOING AND BODY PIERCING

6 SECTION 49. Subchapter VI (title) of chapter 97 [precedes 97.70] of the statutes  
7 is created to read:

8 CHAPTER 97

9 SUBCHAPTER VI

10 GENERAL PROVISIONS

11 SECTION 50. 100.36 of the statutes is amended to read:

12 **100.36 Frauds; substitute for butter; advertisement.** No person may use  
13 the word "butter" in any way in connection or association with the sale or exposure  
14 for sale or advertisement of any substance designed to be used as a substitute for  
15 butter. No person may use terms such as "cream", "creamery" or "dairy", or the name  
16 or representation of any breed of dairy cattle, or any combination of such words and  
17 representation, or any other words or symbols or combinations thereof commonly  
18 used in the sale of butter unless at least 40% of the substitute is butterfat. If the term  
19 "butter" is used in connection with the name of any such product, it shall be qualified  
20 so as to distinguish it from butter as defined in s. 97.01 ~~(1)~~ (1r).

21 SECTION 51. 101.05 (2) of the statutes is amended to read:

22 101.05 (2) A bed and breakfast establishment, as defined under s. 254.61-(1)  
23 97.01 (1g), is not subject to building codes adopted by the department under this  
24 subchapter.

25 SECTION 52. 101.123 (1) (bn) 1. of the statutes is amended to read:

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

3           **SECTION 53.** 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).

5           **SECTION 54.** 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).

8           **SECTION 55.** 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).

11           **SECTION 56.** 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).

13           **SECTION 57.** 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).

15           **SECTION 58.** 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).

18           **SECTION 59.** 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).

21           **SECTION 60.** 101.149 (5) (c) of the statutes is amended to read:

22           101.149 (5) (c) All of the fuel-burning appliances in the residential building  
23           have sealed combustion units that are inspected as provided in the rules  
24           promulgated by the department under sub. (6) (b) or in the rules promulgated by the  
25           department of health services under s. ~~254.74~~ 97.625 (1) (am).



1           **SECTION 61.** 101.149 (8) (a) of the statutes is amended to read:

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

12           **SECTION 62.** 101.63 (1) (intro.) of the statutes is amended to read:

13           101.63 (1) (intro.) Adopt rules which establish standards for the construction  
14 and inspection of one- and 2-family dwellings and components thereof. Where  
15 feasible, the standards used shall be those nationally recognized and shall apply to  
16 the dwelling and to its electrical, heating, ventilating, air conditioning and other  
17 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be  
18 adopted which has not taken into account the conservation of energy in construction  
19 and maintenance of dwellings and the costs of specific code provisions to home buyers  
20 in relationship to the benefits derived from the provisions. Rules promulgated under  
21 this subsection do not apply to a bed and breakfast establishment, as defined under  
22 s. ~~254.61(1)~~ 97.01 (1g), except that the rules apply to all of the following:

23           **SECTION 63.** 101.647 (1) (am) of the statutes is amended to read:

24           101.647 (1) (am) Notwithstanding s. 101.61 (1), “dwelling” does not include a  
25 tourist rooming house, as defined in s. ~~254.61(6)~~ 97.01 (15k).

1 SECTION 64. 101.935 (2) (e) of the statutes is amended to read:

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

6 SECTION 65. 106.52 (1) (d) 1. of the statutes is amended to read:

7 106.52 (1) (d) 1. A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~  
8 97.01 (1g).

9 SECTION 66. 106.52 (1) (d) 2. of the statutes is amended to read:

10 106.52 (1) (d) 2. A hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7).

11 SECTION 67. 106.52 (1) (d) 3. of the statutes is amended to read:

12 106.52 (1) (d) 3. A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

13 SECTION 68. 108.227 (1) (e) 3. of the statutes is amended to read:

14 108.227 (1) (e) 3. A license, certificate of approval, provisional license,  
15 conditional license, certification, certification card, registration, permit, training  
16 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)  
17 (b) 11., 51.421 (3) (a), 51.45 (8), 97.681 (2), 97.682 (2), 146.40 (3), (3g), or (3m), ~~252.23~~  
18 (2), 252.24 (2), 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or  
19 (8) (a) or (f) or 343.305 (6) (a) or a permit license for operation of a campground  
20 specified in s. ~~254.47 (1)~~ 97.67 (1).

21 SECTION 69. 125.02 (3r) of the statutes is amended to read:

22 125.02 (3r) "Caterer" means any person holding a restaurant permit license  
23 under s. ~~254.64~~ 97.30 for a restaurant who is in the business of preparing food and  
24 transporting it for consumption on premises where gatherings, meetings, or events  
25 are held, if the sale of food at each gathering, meeting, or event accounts for greater

1 than 50 percent of the gross receipts of all of the food and beverages served at the  
2 gathering, meeting, or event.

3 SECTION 70. 125.02 (7) of the statutes is amended to read:

4 125.02 (7) “Hotel” means a hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7), that is  
5 provided with a restaurant.

6 SECTION 71. 125.02 (18) of the statutes is amended to read:

7 125.02 (18) “Restaurant” means a restaurant, as defined in s. ~~254.61 (5)~~ 97.01  
8 (14g).

9 SECTION 72. 125.06 (12) of the statutes is amended to read:

10 125.06 (12) BED AND BREAKFAST ESTABLISHMENTS. The provision by a bed and  
11 breakfast establishment, as defined under s. ~~254.61 (1)~~ 97.01 (1g), of not more than  
12 2 complimentary 4–fluid–ounce glasses of wine per day to a person renting a room  
13 at the bed and breakfast establishment for consumption on the premises of the bed  
14 and breakfast establishment.

15 SECTION 73. 125.07 (3) (a) 6. of the statutes is amended to read:

16 125.07 (3) (a) 6. Premises operated under both a Class “B” or “Class B” license  
17 or permit and a ~~restaurant permit license under s. 97.30 for a restaurant~~ where the  
18 principal business conducted is that of a restaurant. If the premises are operated  
19 under both a Class “B” or “Class B” license or permit and a ~~restaurant permit license~~  
20 under s. 97.30 for a restaurant, the principal business conducted is presumed to be  
21 the sale of alcohol beverages, but the presumption may be rebutted by competent  
22 evidence.

23 SECTION 74. 125.07 (3) (a) 6m. of the statutes is amended to read:

24 125.07 (3) (a) 6m. Premises operating under both a “Class C” license and a  
25 ~~restaurant permit license under s. 97.30 for a restaurant~~.

1           **SECTION 75.** 125.29 (6) of the statutes is amended to read:

2           125.29 (6) RESTAURANTS. A brewer may operate a restaurant on the brewery  
3 premises and at an off-site retail outlet established by the brewer. A brewer may not  
4 hold a ~~restaurant permit~~ license under s. 97.30 for a restaurant for the operation of  
5 a restaurant at any other location except that a brewer may possess or hold an  
6 indirect interest in a Class “B” license for not more than 20 restaurants in each of  
7 which the sale of alcohol beverages accounts for less than 60 percent of the  
8 restaurant’s gross receipts if no fermented malt beverages manufactured by the  
9 brewer are offered for sale in any of these restaurants.

10           **SECTION 76.** 125.295 (2) (a) 3. of the statutes is amended to read:

11           125.295 (2) (a) 3. The applicant operates a restaurant on the premises for which  
12 the permit is issued, for which a ~~restaurant permit~~ license is issued under s. ~~254.64~~  
13 97.30 for a restaurant.

14           **SECTION 77.** 125.295 (2) (b) of the statutes is amended to read:

15           125.295 (2) (b) If an applicant under par. (a) has no current operations, the  
16 applicant may certify that the applicant has applied for or will apply for a Class “B”  
17 license or ~~restaurant permit~~ license under s. 97.30 for a restaurant or will comply  
18 with any other requirement under par. (a), prior to or upon commencing operations  
19 authorized under this section. If a Class “B” license or ~~restaurant permit~~ license  
20 under s. 97.30 for a restaurant is not subsequently issued to the applicant, or if the  
21 applicant otherwise fails to comply with any requirement for eligibility under par.  
22 (a), the department may revoke under s. 125.12 (5) the ~~permit~~ license issued under  
23 this section.

24           **SECTION 78.** 125.68 (5) of the statutes is amended to read:

1           125.68 (5) RESTAURANT SANITATION RULES. No applicant may obtain a “Class B”  
 2 license or permit or a “Class C” license unless the premises complies with the rules  
 3 promulgated by the department of ~~health services~~ agriculture, trade and consumer  
 4 protection governing sanitation in restaurants. However, the department of ~~health~~  
 5 ~~services~~ agriculture, trade and consumer protection may not restrict the serving of  
 6 cheese without charge in individual portions to customers as permitted by s. ~~254.61~~  
 7 ~~(5)~~ 97.01 (14g).

8

**SECTION 79.** 250.041 (1) (b) of the statutes is repealed.

9           **SECTION 80.** 250.041 (1) (e) of the statutes is amended to read:

10           250.041 (1) (e) A permit under s. ~~254.47 (1), 254.64 (1) (a) or (b) or 255.08 (2).~~

11           **SECTION 81.** 250.041 (1) (f) of the statutes is repealed.

12           **SECTION 82.** 252.02 (4) of the statutes is amended to read:

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

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

1 SECTION 83. 252.18 of the statutes is renumbered 97.59 and amended to read:

2 **97.59 Handling foods.** No person in charge of any public eating place or other  
3 establishment where food products to be consumed by others are handled may  
4 knowingly employ any person handling food products who has a disease in a form  
5 that is communicable by food handling. If required by the local health officer or any  
6 officer of the department for the purposes of an investigation, any person who is  
7 employed in the handling of foods or is suspected of having a disease in a form that  
8 is communicable by food handling shall submit to an examination by the officer or  
9 by a physician, physician assistant, or advanced practice nurse prescriber  
10 designated by the officer. The expense of the examination, if any, shall be paid by the  
11 person examined. Any person knowingly infected with a disease in a form that is  
12 communicable by food handling who handles food products to be consumed by others  
13 and any persons knowingly employing or permitting such a person to handle food  
14 products to be consumed by others shall be punished as provided by s. ~~252.25~~ 97.72.

15 SECTION 84. 252.23 of the statutes is renumbered 97.681, and 97.681 (title), (2),  
16 (3) and (4) (a), as renumbered, are amended to read:

17 **97.681 (title) Regulation of tattooists and tattoo establishments.**

18 (2) DEPARTMENT; DUTY. Except as provided in ~~ss. 250.041 and 252.241~~ s. 93.135,  
19 the department shall provide uniform, statewide licensing and regulation of  
20 tattooists and uniform, statewide licensing and regulation of tattoo establishments  
21 under this section. The department shall inspect a tattoo establishment once before  
22 issuing a license for the tattoo establishment under this section and may make  
23 additional inspections that the department determines are necessary.

1           **(3) LICENSE REQUIRED.** Except as provided in sub. (5), no person may tattoo or  
2 attempt to tattoo another, designate or represent himself or herself as a tattooist or  
3 use or assume the title "tattooist" and no tattoo establishment may be operated  
4 unless the person and the establishment are licensed by the department under this  
5 section or by a local health department that is designated as the department's agent  
6 under s. ~~252.245~~ 97.683.

7           **(4) (a)** Except as provided in ~~ss. 250.041 and 252.241~~ s. 93.135 and subject to  
8 sub. (4m), standards and procedures, including fee payment to offset the cost of  
9 licensing tattooists and tattoo establishments, for the annual issuance of licenses as  
10 tattooists or as tattoo establishments to applicants under this section. The  
11 department may not promulgate a rule that imposes a fee for a license under sub. (3)  
12 on an individual who is eligible for the veterans fee waiver program under s. 45.44.

13           **SECTION 85.** 252.24 of the statutes is renumbered 97.682, and 97.682 (2) and  
14 (4) (a), as renumbered, are amended to read:

15           **97.682 (2) DEPARTMENT; DUTY.** Except as provided in ~~ss. 250.041 and 252.241~~  
16 s. 93.135, the department shall provide uniform, statewide licensing and regulation  
17 of body piercers and uniform, statewide licensing and regulation of body-piercing  
18 establishments under this section. The department shall inspect a body-piercing  
19 establishment once before issuing a license for the body-piercing establishment  
20 under this section and may make additional inspections that the department  
21 determines are necessary.

22           **(4) (a)** Except as provided in ~~ss. 250.041 and 252.241~~ s. 93.135 and subject to  
23 sub. (4m), standards and procedures, including fee payment to offset the cost of  
24 licensing body piercers and body-piercing establishments, for the annual issuance  
25 of licenses as body piercers or as body-piercing establishments to applicants under

1 this section. The department may not promulgate a rule under which the  
2 department may charge an individual who is eligible for the veterans fee waiver  
3 program under s. 45.44 a fee to obtain a license under sub. (3).

4 **SECTION 86.** 252.241 (title) of the statutes is repealed.

5 **SECTION 87.** 252.241 (1) of the statutes is repealed.

6 **SECTION 88.** 252.241 (1m) of the statutes is repealed.

7 **SECTION 89.** 252.241 (2) of the statutes is repealed.

8 **SECTION 90.** 252.241 (3) of the statutes is renumbered 93.135 (3m) and  
9 amended to read:

10 93.135 (3m) Except as provided in sub. (1m) (a), the department shall deny an  
11 application for the issuance or renewal of a license ~~specified in sub. (1)~~ under s. 97.67  
12 (1) or (2m), 97.681 (2) or (4) (a), or 97.682 (2) or (4) (a) if the applicant does not provide  
13 the information specified in sub. (1) or (1m) (am).

14 **SECTION 91.** 252.241 (4) of the statutes is renumbered 93.135 (5) (intro.) and  
15 amended to read:

16 93.135 (5) (intro.) The department shall deny an application for the issuance  
17 or renewal of a license ~~specified in sub. (1)~~ under s. 97.67 (1) or (2m), 97.681 (2) or  
18 (4) (a), or 97.682 (2) or (4) (a), or shall revoke the license specified in sub. (1), under  
19 s. 97.67 (1) or (2m), 97.681 (2) or (4) (a), or 97.682 (2) or (4) (a) if the any of the  
20 following applies:

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

23 **SECTION 92.** 252.241 (5) of the statutes is renumbered 93.135 (5) (b) and  
24 amended to read:



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

6       **SECTION 93.** 252.245 of the statutes is renumbered 97.683, and 97.683 (title),  
7 (1), (2), (3), (4m), (5), (6), (8) and (9), as renumbered, are amended to read:

8       **97.683 (title) Agent Tattooing and body piercing: agent status for local**  
9 **health departments.** (1) In the administration and enforcement of ss. ~~252.23~~  
10 ~~97.681~~ and ~~252.24~~ 97.682, the department of agriculture, trade and consumer  
11 protection may enter into a written agreement with a local health department with  
12 a jurisdictional area that has a population greater than 5,000, which designates the  
13 local health department as the department's agent in issuing licenses to and making  
14 investigations or inspections of tattooists and tattoo establishments and body  
15 piercers and body-piercing establishments. In a jurisdictional area of a local health  
16 department without agent status, the department of ~~health services~~ agriculture,  
17 trade and consumer protection may issue licenses, collect license fees established by  
18 rule under ss. ~~252.23~~ 97.681 (4) (a) and ~~252.24~~ 97.682 (4) (a) and make investigations  
19 or inspections of tattooists and tattoo establishments and body piercers and  
20 body-piercing establishments. If the department of agriculture, trade and consumer  
21 protection designates a local health department as its agent, the department of of  
22 agriculture, trade and consumer protection or local health department may require  
23 no license for the same operations other than the license issued by the local health  
24 department under this subsection. If the designation is made and the services are  
25 furnished, the department of of agriculture, trade and consumer protection shall

1 reimburse the local health department furnishing the service at the rate of 80% of  
2 the net license fee per license per year issued in the jurisdictional area.

3 (2) A local health department designated as the department's agent for the  
4 department of agriculture, trade and consumer protection under this section shall  
5 meet standards promulgated under ss. ~~252.23~~ 97.681 (4) (a) and ~~252.24~~ 97.682 (4) (a).  
6 The department shall annually evaluate the licensing, investigation and inspection  
7 program of each local health department granted agent status. If, at any time, a local  
8 health department designated as the department's agent for the department of  
9 agriculture, trade and consumer protection fails to meet the standards, the  
10 ~~department of health services~~ agriculture, trade and consumer protection may  
11 revoke its agent status.

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

16 (4m) A local health department designated as the department's agent for the  
17 department of agriculture, trade and consumer protection under this section may  
18 contract with the ~~department of health services~~ agriculture, trade and consumer  
19 protection for the ~~department of health services~~ agriculture, trade and consumer  
20 protection to collect fees and issue licenses under s. ~~252.23~~ 97.681 or ~~252.24~~ 97.682.  
21 The department of agriculture, trade and consumer protection shall collect from the  
22 local health department the actual and reasonable cost of providing the services.

23 (5) If, under this section, a local health department becomes an agent or its  
24 agent status is discontinued during a licensee's license year, the department of  
25 ~~health services~~ agriculture, trade and consumer protection and the local health

1 department shall divide any license fee paid by the licensee for that license year  
2 according to the proportions of the license year occurring before and after the local  
3 health department is designated as an agent or the agent status is discontinued. No  
4 additional fee may be required during the license year due to the change in agent  
5 status.

6 (6) A village, city or county may enact ordinances and a local board of health  
7 may adopt regulations regarding the licensees and premises for which the local  
8 health department is the designated agent under this section, which are stricter than  
9 s. ~~252.23~~ 97.681 or ~~252.24~~ 97.682 or rules promulgated by the department of health  
10 services agriculture, trade and consumer protection under s. ~~252.23~~ 97.681 or ~~252.24~~  
11 97.682. No such provision may conflict with s. ~~252.23~~ 97.681 or ~~252.24~~ 97.682 or with  
12 department of agriculture, trade and consumer protection rules.

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

22 (9) The department of agriculture, trade and consumer protection shall  
23 promulgate rules establishing state fees for its costs related to setting standards  
24 under ss. ~~252.23~~ 97.681 and ~~252.24~~ 97.682 and monitoring and evaluating the  
25 activities of, and providing education and training to, agent local health

1 departments. The department may not promulgate a rule under which a local health  
2 department may charge an individual who is eligible for the veterans fee waiver  
3 program under s. 45.44 a state fee to obtain a license under s. ~~252.23~~ 97.681 (3) or  
4 ~~252.24~~ 97.682 (3). Agent local health departments shall include the state fees in the  
5 license fees established under sub. (4), collect the state fees and reimburse the  
6 department for the state fees collected. For tattooists or tattoo establishments and  
7 for body piercers or body-piercing establishments, the state fee may not exceed 20%  
8 of the license fees established under s. ~~252.23~~ 97.681 (4) (a) or ~~252.24~~ 97.682 (4) (a).

9 **SECTION 94.** 254.02 (3) (a) of the statutes is amended to read:

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

17 **SECTION 95.** 254.115 (1) (c) of the statutes is repealed.

18 **SECTION 96.** 254.47 (title) of the statutes is renumbered 97.67 (title) and  
19 amended to read:

20 **97.67 Recreational permits licenses and fees.**

21 **SECTION 97.** 254.47 (1) of the statutes is renumbered 97.67 (1) and amended  
22 to read:

23 97.67 (1) Except as provided in sub. (1g) and ~~ss. 250.041 and 254.115~~ s. 93.135,  
24 the department or a local health department granted agent status under s. 254.69  
25 (2) 97.615 (2) shall issue ~~permits~~ licenses to and regulate campgrounds and camping

1 resorts, recreational and educational camps and public swimming pools. No person  
2 or state or local government who has not been issued a permit license under this  
3 section may conduct, maintain, manage or operate a campground and camping  
4 resort, recreational camp and educational camp or public swimming pool, as defined  
5 by departmental rule.

6 **SECTION 98.** 254.47 (1g) of the statutes is renumbered 97.67 (1g).

7 **SECTION 99.** 254.47 (1m) of the statutes is renumbered 97.67 (1m) and amended  
8 to read:

9 97.67 (1m) The department or a local health department granted agent status  
10 under s. ~~254.69~~ 97.615 (2) may not, without a <sup>pre-licensing inspection</sup> ~~preinspection~~, grant a permit license  
11 to a person intending to operate a new public swimming pool, campground, or  
12 recreational or educational camp or to a person intending to be the new operator of  
13 an existing public swimming pool, campground, or recreational or educational camp.

14 **SECTION 100.** 254.47 (2) of the statutes is renumbered 97.67 (2) and amended  
15 to read:

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

21 (b) A permit license issued under this section may be transferred from an  
22 individual to an immediate family member, as defined in s. ~~254.64~~ 97.605 (4) (a) 2.,  
23 if the individual is transferring operation of the campground, camping resort,  
24 recreational or educational camp, or public swimming pool to the immediate family  
25 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.

13 **SECTION 101.** 254.47 (2m) of the statutes is renumbered 97.67 (2m) and  
14 amended 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.

22 **SECTION 102.** 254.47 (3) of the statutes is repealed.

23 **SECTION 103.** 254.47 (4) of the statutes is renumbered 97.67 (4) and amended  
24 to read:

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

8           **SECTION 104.** 254.47 (5) of the statutes is renumbered 97.67 (5) and amended  
9 to read:

10           97.67 (5) No ~~permit license~~ may be issued under this section until all applicable  
11 fees have been paid. If the payment is by check or other draft drawn upon an account  
12 containing insufficient funds, the ~~permit license~~ applicant shall, within 15 days after  
13 receipt of notice from the department of the insufficiency, pay by cashier's check or  
14 other certified draft, money order or cash the fees from the department, late fees and  
15 processing charges that are specified by rules promulgated by the department. If the  
16 ~~permit license~~ applicant fails to pay all applicable fees, late fees and the processing  
17 charges within 15 days after the applicant receives notice of the insufficiency, the  
18 ~~permit license~~ is void. In an appeal concerning voiding of a ~~permit license~~ under this  
19 subsection, the burden is on the ~~permit license~~ applicant to show that the entire  
20 applicable fees, late fees and processing charges have been paid. During any appeal  
21 process concerning payment dispute, operation of the establishment in question is  
22 deemed considered to be operation without a ~~permit license~~.

23           **SECTION 105.** 254.47 (5m) of the statutes is renumbered 97.67 (5m).

24           **SECTION 106.** 254.47 (6) of the statutes is renumbered 97.67 (6).

1           **SECTION 107.** 254.47 (7) of the statutes is renumbered 97.67 (7) and amended  
2 to read:

3           97.67 (7) The department may not require that a swimming pool be staffed by  
4 a lifeguard as a condition of receiving a ~~permit~~ license under this section if the  
5 swimming pool is less than 2,500 square feet, the swimming pool is located in a  
6 private club in the city of Milwaukee, and the club has a policy that prohibits a minor  
7 from using the swimming pool when not accompanied by an adult.

8           **SECTION 108.** Subchapter VII (title) of chapter 254 [precedes 254.61] of the  
9 statutes is repealed.

10          **SECTION 109.** 254.61 (title) of the statutes is repealed.

11          **SECTION 110.** 254.61 (intro.) of the statutes is repealed.

12          **SECTION 111.** 254.61 (1) of the statutes is renumbered 97.01 (1g).

13          **SECTION 112.** 254.61 (2) of the statutes is repealed.

14          **SECTION 113.** 254.61 (3) of the statutes is renumbered 97.01 (7).

15          **SECTION 114.** 254.61 (3m) of the statutes is renumbered 97.01 (13g).

16          **SECTION 115.** 254.61 (4) of the statutes is renumbered 97.01 (13r) and amended  
17 to read:

18           97.01 (13r) “Public health and safety” means the highest degree of protection  
19 against infection, contagion or disease and freedom from the danger of fire or  
20 accident that can be reasonably maintained in the operation of a hotel, restaurant,  
21 tourist rooming house, bed and breakfast establishment, vending machine or  
22 vending machine commissary.

23          **SECTION 116.** 254.61 (5) of the statutes is renumbered 97.01 (14g), and 97.01  
24 (14g) (intro.), as renumbered, is amended to read:



1           97.01 (14g) (intro.) “Restaurant” means any building, room or place where  
2           ~~meals are prepared or served or sold~~ at which the predominant activity is the  
3           preparation, service, or sale of meals to transients or the general public, and  
4           including all places used in connection with it and ~~includes~~ including any public or  
5           private school lunchroom for which food service is provided by contract. “Meals” does  
6           not include soft drinks, ice cream, milk, milk drinks, ices and confections.  
7           “Restaurant” does not include:

8           **SECTION 117.** 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.”

9           **SECTION 118.** 254.61 (5r) of the statutes is renumbered 97.01 (15f).

10          **SECTION 119.** 254.61 (6) of the statutes is renumbered 97.01 (15k).

11          **SECTION 120.** 254.61 (7) of the statutes is renumbered 97.01 (15p).

12          **SECTION 121.** 254.61 (8) of the statutes is renumbered 97.01 (15s) and amended  
13          to read:

14           97.01 (15s) “Vending machine commissary” means any building, room or place  
15           where the food, beverage, ingredients, containers, transport equipment or supplies  
16           for vending machines are kept, handled, prepared or stored by a vending machine  
17           operator. “Vending machine commissary” does not mean any place at which the  
18           operator is licensed to manufacture, distribute or sell food products under ~~ch. 97~~ this  
19           chapter.

20          **SECTION 122.** 254.61 (9) of the statutes is renumbered 97.01 (15w).

21          **SECTION 123.** 254.61 (10) of the statutes is renumbered 97.01 (15y).

22          **SECTION 124.** 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?

1           **SECTION 125.** 254.63 of the statutes is renumbered 97.603.

2           **SECTION 126.** 254.64 of the statutes is renumbered 97.605, and 97.605 (title),  
3 (1), (1m), (1p), (2), (3), (4) (b), (d) and (e) and (5), as renumbered, are amended to read:

4           **97.605 (title) Permit Lodging and vending licenses.** (1) (a) No person may  
5 conduct, maintain, manage or operate a hotel, restaurant, ~~temporary restaurant,~~  
6 tourist rooming house, vending machine commissary or vending machine if the  
7 person has not been issued an annual permit license by the department or by a local  
8 health department that is granted agent status under s. ~~254.69~~ 97.615 (2).

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

12           (c) Except as provided in s. ~~250.041~~ 93.135, no permit license may be issued  
13 under this section until all applicable fees have been paid. If the payment is by check  
14 or other draft drawn upon an account containing insufficient funds, the permit  
15 license applicant shall, within 15 days after receipt of notice from the department of  
16 the insufficiency, pay by cashier’s check or other certified draft, money order or cash  
17 the fees, late fees and processing charges that are specified by rules promulgated by  
18 the department. If the permit license applicant fails to pay all applicable fees, late  
19 fees and processing charges within 15 days after the applicant receives notice of the  
20 insufficiency, the permit license is void. In an appeal concerning voiding of a permit  
21 license under this paragraph, the burden is on the permit license applicant to show  
22 that the entire applicable fees, late fees and processing charges have been paid.

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

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

9 (1m) No county, city, village or town may require any permit license of, or  
10 impose any permit license or inspection fee on, a vending machine operator, vending  
11 machine commissary or vending machine permitted licensed under this subchapter  
12 chapter.

13 (1p) Except as provided in s. ~~250.041~~ 93.135, the department may condition the  
14 initial issuance, renewal or continued validity of a permit license issued under this  
15 section on correction by the permittee licensee of a violation of this subchapter, rules  
16 promulgated by the department under this subchapter or ordinances or regulations  
17 adopted under s. ~~254.69~~ 97.615 (2) (g), within a specified period of time. If the  
18 permittee licensee fails to meet the condition within the specified period of time, the  
19 permit license is void.

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

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

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

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

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

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

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

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

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

24 (b) 1. The local health department of a city of the 1st class that has entered into  
25 an agreement with the department under s. ~~254.69~~ 97.615 (2) may issue a permit

1 license for a ~~restaurant or~~ bed and breakfast establishment required under this  
2 section at any time during the year. A ~~permit~~ license issued under this subdivision  
3 shall expire one year from the date of its issuance.

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

15 SECTION 127. 254.65 of the statutes is renumbered 97.607 and amended to  
16 read:

17 <sup>Pre-licensing inspection</sup>  
**97.607 Preinspection.** (1) The department or a local health department  
18 granted agent status under s. ~~254.69~~ 97.615 (2) may not grant a ~~permit~~ license to a  
19 person intending to operate a new hotel, tourist rooming house, bed and breakfast  
20 establishment, ~~restaurant or~~ vending machine commissary or to a person intending  
21 to be the new operator of an existing hotel, tourist rooming house, bed and breakfast  
22 <sup>Pre-licensing inspection</sup>  
establishment, ~~restaurant or~~ vending machine commissary without a ~~preinspection~~.  
23 This section does not apply to a ~~temporary restaurant or~~ when a ~~permit~~ license is  
24 transferred under s. ~~254.64~~ 97.605 (4) (d) or (e).

1 (2) Agents designated by the department under s. ~~254.69~~ 97.615 (1) shall make  
 2 ~~preinspections~~ <sup>pre-licensing inspections</sup> of vending machine commissaries as required under this subsection  
 3 and shall be reimbursed for those services at the rate of 80% of the ~~preinspection~~ <sup>pre-licensing inspection</sup> fee  
 4 designated in this subsection. Agents designated by the department under s. ~~254.69~~  
 5 97.615 (2) shall make ~~preinspections~~ <sup>pre-licensing inspections</sup> of hotels, ~~restaurants~~ and tourist rooming  
 6 houses and establish and collect ~~preinspection~~ <sup>pre-licensing inspection</sup> fees under s. ~~254.69~~ 97.615 (2) (d).

\*\*\*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?

7 SECTION 128. 254.66 of the statutes is renumbered 97.307 and amended to  
 8 read:

9 **97.307 Average annual surveys.** The department or a local health  
 10 department granted agent status under s. ~~254.69~~ (2) 97.41 shall annually make a  
 11 number of inspections of restaurants in this state that shall equal the number of  
 12 restaurants for which annual ~~permits~~ licenses are issued under s. ~~254.64~~ (1) (a)  
 13 97.30.

14 SECTION 129. 254.67 of the statutes is renumbered 97.61.

15 SECTION 130. 254.68 of the statutes is renumbered 97.613 and amended to  
 16 read:

17 **97.613 Fees.** Except as provided in s. ~~254.69~~ 97.615 (2) (d) and (e), the  
 18 department shall promulgate rules that establish, for ~~permits~~ licenses issued under  
 19 s. ~~254.64~~, 97.605, ~~license~~ fees, ~~preinspection~~ <sup>pre-licensing inspection</sup> fees, reinspection fees, fees for  
 20 operating without a ~~permit~~ license, late fees for untimely ~~permit~~ renewal, fees for  
 21 comparable compliance or variance requests, and fees for ~~pre-permit~~ pre-license  
 22 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.

1           **SECTION 131.** 254.69 of the statutes is renumbered 97.615, and 97.615 (2)  
2 (title), (am), (b), (c), (d), (dm), (e), (f), (g), (h) and (j) 1. and 2., as renumbered, are  
3 amended to read:

4           **97.615 (2)** (title) ~~HOTELS, RESTAURANTS, TOURIST ROOMING HOUSES, AND OTHER~~  
5 ~~ESTABLISHMENTS.~~ (am) In the administration of this subchapter or s. ~~254.47~~ 97.67,  
6 the department may enter into a written agreement with a local health department  
7 with a jurisdictional area that has a population greater than 5,000, which designates  
8 the local health department as the department's agent in issuing ~~permits~~ licenses to  
9 and making investigations or inspections of hotels, ~~restaurants, temporary~~  
10 ~~restaurants,~~ tourist rooming houses, bed and breakfast establishments,  
11 campgrounds and camping resorts, recreational and educational camps, and public  
12 swimming pools. In a jurisdictional area of a local health department without agent  
13 status, the department of ~~health services~~ may issue ~~permits~~ licenses, collect fees  
14 established by rule under s. ~~254.68~~ 97.613 and make investigations or inspections  
15 of hotels, ~~restaurants, temporary restaurants,~~ tourist rooming houses, bed and  
16 breakfast establishments, campgrounds and camping resorts, recreational and  
17 educational camps, and public swimming pools. If the department designates a local  
18 health department as its agent, the department or local health department may  
19 require no ~~permit~~ license for the same operations other than the ~~permit~~ license  
20 issued by the local health department under this subsection. The department shall  
21 ~~coordinate~~ oversee the designation of agents under this subsection ~~with the~~  
22 ~~department of agriculture, trade and consumer protection~~ to ensure that, to the  
23 extent feasible, the same local health department is granted agent status under this

1 subsection and under s. 97.41. ~~Except as otherwise provided by the department, a~~  
2 ~~local health department granted agent status shall regulate all types of~~  
3 ~~establishments for which this subchapter permits the department of health services~~  
4 ~~to delegate regulatory authority.~~

5 (b) A local health department granted agent status under this subsection shall  
6 meet standards promulgated, by rule, by the department of health services. The  
7 department shall annually evaluate the licensing, investigation and inspection  
8 program of each local health department granted agent status. If, at any time, a local  
9 health department granted agent status fails to meet the standards, the department  
10 of health services agriculture, trade and consumer protection may revoke its agent  
11 status.

12 (c) The department shall provide education and training to agents designated  
13 under this subsection to ensure uniformity in the enforcement of this subchapter, s.  
14 ~~254.47 97.67~~ 97.67 and rules promulgated under this subchapter and s. ~~254.47 97.67~~.

15 (d) Except as provided in par. (dm), a local health department granted agent  
16 status under this subsection shall establish and collect the permit license fee for each  
17 type of establishment specified in par. (am). The local health department may  
18 establish separate fees for ~~preinspections~~ <sup>pre-licensing inspections</sup> of new establishments, for ~~preinspections~~ <sup>pre-licensing inspections</sup>  
19 of existing establishments for which a person intends to be the new operator or for  
20 the issuance of duplicate ~~permits~~ licenses. No fee may exceed the local health  
21 department's reasonable costs of issuing ~~permits~~ licenses to, making investigations  
22 and inspections of, and providing education, training and technical assistance to the  
23 establishments, plus the state fee established under par. (e). A local health  
24 department granted agent status under this subsection or under s. 97.41 may issue  
25 a single permit license and establish and collect a single fee which authorizes the



1 operation on the same premises of more than one type of establishment for which it  
2 is granted agent status under this subsection or under s. 97.41.

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

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

15 (f) If, under this subsection, a local health department becomes an agent or its  
16 agent status is discontinued during a ~~permittee's permit licensee's~~ license year, the  
17 department of health services and the local health department shall divide any  
18 ~~permit license~~ fee paid by the ~~permittee licensee~~ for that ~~permit license~~ year  
19 according to the proportions of the ~~permit license~~ year occurring before and after the  
20 local health department's agent status is granted or discontinued. No additional fee  
21 may be required during the ~~permit license~~ year due to the change in agent status.

22 (g) A village, city or county may adopt ordinances and a local board of health  
23 may adopt regulations regarding the ~~permittees~~ licensees and premises for which  
24 the local health department is the designated agent under this subsection, which are  
25 stricter than this subchapter, s. ~~254.47~~ 97.67, or rules promulgated by the

1 department of ~~health services~~ under this subchapter or s. ~~254.47~~ 97.67. No such  
2 provision may conflict with this subchapter or with department rules.

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

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

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

15 **SECTION 132.** 254.70 of the statutes is renumbered 97.617 and amended to  
16 read:

17 **97.617 Application; lodging and vending.** (1) An applicant for a ~~permit~~  
18 license under this subchapter shall complete the application prepared by the  
19 department or the local health department granted agent status under s. ~~254.69~~  
20 97.615 (2) and provide, in writing, any additional information the department of  
21 ~~health services~~ agriculture, trade and consumer protection or local health  
22 department issuing the ~~permit~~ license requires.

23 (2) Upon receipt of an application for a vending machine operator ~~permit~~  
24 license, the department may cause an investigation to be made of the applicant's  
25 commissary, servicing and transport facilities, if any, and representative machines

**SECTION 132**

1 and machine locations. The operator shall maintain at his or her place of business  
2 within this state a list of all vending machines operated by him or her and their  
3 location. This information shall be kept current and shall be made available to the  
4 department upon request. The operator shall notify the department of any change  
5 in operations involving new types of vending machines or conversion of existing  
6 machines to dispense products other than those for which such machine was  
7 originally designed and constructed.

8 **SECTION 133.** 254.71 of the statutes is renumbered 97.33, and 97.33 (2), (3), (5)  
9 and (6) (c), as renumbered, are amended to read:

10 97.33 (2) Except as provided in s. ~~250.041~~ 93.135, the department may issue  
11 a certificate of food protection practices to an individual who satisfactorily completes  
12 an approved examination or who has achieved comparable compliance.

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

16 (5) The department shall conduct evaluations of the effect that the food  
17 protection practices certification program has on compliance by restaurants with  
18 requirements established under s. ~~254.74 (1)~~ 97.30 (5).

19 (6) (c) Establishing procedures for issuance, except as provided in s. ~~250.041~~  
20 93.135, of certificates of food protection practices, including application submittal  
21 and review.

22 **SECTION 134.** 254.715 of the statutes is renumbered 97.305.

23 **SECTION 135.** 254.72 of the statutes is renumbered 97.62 and amended to read:

24 **97.62 Health and safety; standard.** Every hotel, tourist rooming house, bed  
25 and breakfast establishment, ~~restaurant, temporary restaurant,~~ vending machine

1 commissary and vending machine shall be operated and maintained with a strict  
2 regard to the public health and safety and in conformity with this subchapter and  
3 the rules and orders of the department.

4 **SECTION 136.** 254.73 of the statutes is renumbered 97.623.

5 **SECTION 137.** 254.74 of the statutes is renumbered 97.625, and 97.625 (1) (a),  
6 (am), (b), (d) and (e), (1p) (a) (intro.) and 2. and (b) and (2), as renumbered, are  
7 amended to read:

8 97.625 (1) (a) Administer and enforce this subchapter, the rules promulgated  
9 under this subchapter and any other rules or laws relating to the public health and  
10 safety in hotels, tourist rooming houses, bed and breakfast establishments,  
11 ~~restaurants~~, vending machine commissaries, vending machines and vending  
12 machine locations.

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

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

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

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

19 (1p) (a) The department may grant the holder of a ~~permit~~ license for a bed and  
20 breakfast establishment a waiver from the requirement specified under s. 254.61-(1)

21 ~~(b)~~ 97.01 (1g) (b) to allow the holder of a ~~permit~~ license for a bed and breakfast  
22 establishment to serve breakfast to other tourists or transients if all of the following  
23 conditions are met:

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

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

6 (1) (b).

7           (2) A local health department designated as an agent under s. ~~254.69 (2)~~ 97.615  
8 (2) may exercise the powers specified in sub. (1) (a) to (d), consistent with s. ~~254.69~~  
9 97.615 (2) (g).

10 **SECTION 138.** 254.76 of the statutes is renumbered 97.627.

INS 47-10

11 **SECTION 139.** 254.78 of the statutes is renumbered 97.70.

\*\*\*\*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?

12 **SECTION 140.** 254.79 of the statutes is renumbered <sup>254.05</sup> 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?

13 **SECTION 141.** 254.80 of the statutes is renumbered 97.633.

14 **SECTION 142.** 254.81 of the statutes is renumbered 97.634.

15 **SECTION 143.** 254.82 of the statutes is renumbered 97.635.

16 **SECTION 144.** 254.83 of the statutes is renumbered 97.638.

INS 47-17

17 **SECTION 145.** 254.84<sup>(5)</sup> of the statutes is renumbered 97.639, and 97.639 (5) as

and  
^

18 renumbered, is amended to read:

19           97.639 (5) CONSTRUCTION. Nothing in this section may be construed to require  
20 establishments motels, motor courts, tourist cabins, or like accommodations to have  
21 outdoor or outside signs. This section shall be liberally construed so as to prevent

1 untrue, misleading, false, or fraudulent representations relating to rates placed on  
2 outdoor or outside signs of the establishments.

\*\*\*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?

INS 48-3

3 **SECTION 146.** 254.85 of the statutes is renumbered 97.65, and 97.65 (1), (2), (3)

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

5 **97.65 Enforcement.** (1) The department may enter, at reasonable hours, any  
6 premises for which a permit license is required under this subchapter or s. ~~254.47~~  
7 97.67 to inspect the premises, secure samples or specimens, examine and copy  
8 relevant documents and records or obtain photographic or other evidence needed to  
9 enforce this subchapter or s. ~~254.47~~ 97.67. If samples of food are taken, the  
10 department shall pay or offer to pay the market value of the samples taken. The  
11 department shall examine the samples and specimens secured and shall conduct  
12 other inspections and examinations needed to determine whether there is a violation  
13 of this subchapter, s. ~~254.47~~ 97.67 or rules promulgated by the department under this  
14 subchapter or s. ~~254.47~~ 97.67.

15 (2) (a) Whenever, as a result of an examination, the department has reasonable  
16 cause to believe that any examined food constitutes, or that any construction,  
17 sanitary condition, operation or method of operation of the premises or equipment  
18 used on the premises creates, an immediate danger to health, the administrator of  
19 the division of the department responsible for public health may issue a temporary  
20 order and cause it to be delivered to the ~~permittee~~ licensee, or to the owner or  
21 custodian of the food, or to both. The order may prohibit the sale or movement of the  
22 food for any purpose, prohibit the continued operation or method of operation of

1 specific equipment, require the premises to cease other operations or methods of  
2 operation which create the immediate danger to health, or set forth any combination  
3 of these requirements. The administrator may order the cessation of all operations  
4 authorized by the permit license only if a more limited order does not remove the  
5 immediate danger to health. Except as provided in par. (c), no temporary order is  
6 effective for longer than 14 days from the time of its delivery, but a temporary order  
7 may be reissued for one additional 14-day period, if necessary to complete the  
8 analysis or examination of samples, specimens or other evidence.

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

19 (c) If the analysis or examination shows that the food, construction, sanitary  
20 condition, operation or method of operation of the premises or equipment constitutes  
21 an immediate danger to health, the permittee licensee, owner, or custodian shall be  
22 notified within the effective period of the temporary order issued under par. (a).  
23 Upon receipt of the notice, the temporary order remains in effect until a final decision  
24 is issued under sub. (3), and no food described in the temporary order may be sold



1 or moved and no operation or method of operation prohibited by the order may be  
2 resumed without the approval of the department.

3 (3) A notice issued under sub. (2) (c) shall be accompanied by a statement which  
4 informs the ~~permittee~~ licensee, owner, or custodian that he or she has a right to  
5 request a hearing in writing within 15 days after issuance of the notice. The  
6 department shall hold a hearing no later than 15 days after the department receives  
7 the written request for a hearing, unless both parties agree to a later date. A final  
8 decision shall be issued under s. 227.47 within 10 days of the conclusion of the  
9 hearing. The decision may order the destruction of food, the diversion of food to uses  
10 which do not pose a danger to health, the modification of food so that it does not create  
11 a danger to health, changes to or replacement of equipment or construction, other  
12 changes in or cessations of any operation or method of operation of the equipment  
13 or premises, or any combination of these actions necessary to remove the danger to  
14 health. The decision may order the cessation of all operations authorized by the  
15 ~~permit~~ license only if a more limited order will not remove the immediate danger to  
16 health.

17 (4) A proceeding under this section, or the issuance of a ~~permit~~ license for the  
18 premises after notification of procedures under this section, does not constitute a  
19 waiver by the department of its authority to rely on a violation of this subchapter,  
20 s. ~~254.47~~ 97.67, or any rule promulgated under this subchapter or s. ~~254.47~~ 97.67 as  
21 the basis for any subsequent suspension or revocation of the ~~permit~~ license or any  
22 other enforcement action arising out of the violation.

\*\*\*\*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.

1

SECTION 147. 254.86 of the statutes is renumbered <sup>97.71</sup> ~~97.653~~ and amended to

2

read:

3

<sup>97.71</sup> ~~97.653~~ **Suspension or revocation of permit license.** The department or

4

a local health department designated as an agent under s. 254.69 <sup>97.615 (2)</sup> ~~97.615 (2)~~ may

5

refuse or withhold issuance of a permit license under this <sup>chapter</sup> ~~subchapter~~ or may suspend

6

or revoke a permit license for violation of this <sup>chapter</sup> ~~subchapter~~ or any rule or order of the

7

department of health services, ordinance of the village, city or county or regulation

8

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 to the entire chapter?

9

SECTION 148. 254.87 of the statutes is <sup>repealed</sup> ~~renumbered~~ 97.705.

\*\*\*\*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?

10

SECTION 149. 254.88 of the statutes is repealed.

11

SECTION 150. 321.60 (1) (a) 4. of the statutes is amended to read:

12

321.60 (1) (a) 4. A license, certificate of approval, provisional license,

13

conditional license, certification, certification card, registration, permit, training

14

permit, or approval specified in s. 49.45 (2) (a) 11., 51.42 (7) (b) 11., 51.421 (3) (a),

15

~~252.23 (2), 252.24 (2)~~ <sup>plain</sup> 97.33 (2), 97.605 (1) (a) or (b), <sup>plain</sup> 97.681 (2), 97.682 (2), 254.176,

16

254.178 (2) (a), 254.20 (2), (3), or (4), 254.64 (1) (a) or (b), 254.71 (2), 255.08 (2) (a),

17

256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f), or 343.305 (6) (a) or a permit license

18

for the operation of a campground specified in s. 254.47 ~~(1)~~ 97.67 (1).

19

SECTION 151. 350.01 (9m) (a) of the statutes is amended to read:

1 350.01 (9m) (a) A bed and breakfast establishment, as defined in s. ~~254.61(1)~~  
2 97.01 (1g).

3 **SECTION 152.** 350.01 (9m) (b) of the statutes is amended to read:

4 350.01 (9m) (b) A hotel, as defined in s. ~~254.61(3)~~ 97.01 (7).

5 **SECTION 153.** 350.01 (9m) (c) of the statutes is amended to read:

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

7 **SECTION 154.** 941.237 (1) (dm) of the statutes is amended to read:

8 941.237 (1) (dm) "Hotel" has the meaning given in s. ~~254.61(3)~~ 97.01 (7).

9 **SECTION 9118. Nonstatutory provisions; Health Services.**

10 (1) TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, <sup>AND</sup> LODGING <sup>AND FOOD</sup>  
11 PROTECTION AND CERTAIN OCCUPATIONAL LICENSES.

12 (a) *Assets and liabilities.* The assets and liabilities of the department of health  
13 services that the secretary of administration determines to be primarily related to  
14 food, lodging, <sup>and</sup> recreation, tattooing, and body piercing oversight under sections  
15 252.18, 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats.,  
16 become the assets and liabilities of the department of agriculture, trade and  
17 consumer protection on the effective date of this paragraph.

18 (b) *Employee transfer.* All incumbent employees who hold positions in the  
19 department of health services performing duties that the secretary of administration  
20 determines to be primarily related to sections 252.18, 252.23, 252.24, 252.241,  
21 252.245, 254.47, and 254.61 to 254.87, 2013 stats., and the full-time equivalent  
22 positions held by those employees, are transferred to the department of agriculture,  
23 trade and consumer protection on the effective date of this paragraph.

24 (c) *Employee status.* Employees transferred under paragraph (b) have all the  
25 rights and the same status under subchapter V of chapter 111 and chapter 230 of the

1 statutes in the department of agriculture, trade and consumer protection that they  
2 enjoyed in the department of health services immediately before the transfer.  
3 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who  
4 has attained permanent status in class is required to serve a probationary period.

5 (d) *Tangible personal property.* On the effective date of this paragraph, all  
6 tangible personal property, including records, of the department of health services  
7 that the secretary of administration determines to be primarily related to food,  
8 lodging, <sup>and</sup> recreation, tattooing, and body piercing oversight under sections 252.18,  
9 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats., is  
10 transferred to the department of agriculture, trade and consumer protection.

11 (e) *Contracts.* All contracts that were entered into by the department of health  
12 services that the secretary of administration determines to be primarily related to  
13 food, lodging, <sup>and</sup> recreation, tattooing, and body piercing oversight under sections  
14 252.18, 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats.,  
15 and that are in effect on the effective date of this paragraph remain in effect and are  
16 transferred to the department of agriculture, trade and consumer protection. The  
17 department of agriculture, trade and consumer protection shall carry out any  
18 obligations under such a contract until the contract is modified or rescinded by the  
19 department of agriculture, trade and consumer protection to the extent allowed  
20 under the contract.

21 (f) *Rules and orders.* All rules in chapters DHS 172, 173, 175, 178, 192, 195,  
22 196, 196 appendix, 197, and 198, Wisconsin administrative code, and all other rules  
23 promulgated, and all orders issued, by the department of health services that the  
24 secretary of administration determines to be primarily related to sections 252.18,  
25 252.23, 252.24, 252.241, 252.245, 254.47, and 254.61 to 254.87, 2013 stats., and that

1 are in effect on the effective date of this paragraph shall remain in effect until their  
2 specified expiration date or until amended or repealed by the department of  
3 agriculture, trade and consumer protection.

4 (g) *Pending matters.* Any matter pending with the department of health  
5 services on the effective date of this paragraph that the secretary of administration  
6 determines to be related to food, lodging, <sup>and</sup> recreation, tattooing, and body piercing  
7 oversight under section 252.18, 252.23, 252.24, 252.241, 252.245, or 254.47, or  
8 sections 254.61 to 254.87, 2013 stats., is transferred to the department of agriculture,  
9 trade and consumer protection, and all materials submitted to or actions taken by  
10 the department of health services with respect to the pending matter are considered  
11 as having been submitted to or taken by the department of agriculture, trade and  
12 consumer protection.

### 13 SECTION 9418. Effective dates; Health Services.

14 (1) TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, <sup>AND</sup> LODGING AND FOOD  
15 PROTECTION, AND CERTAIN OCCUPATIONAL LICENSES. The treatment of sections 20.115 (1)  
16 (gb), 20.435 (1) (gm), 29.541 (1) (a) (intro.), 45.44 (1) (a) 14., 49.857 (1) (d) 4., 66.0417  
17 (1), (2), (3), and (4), 66.0435 (9), 66.0436 (1) and (2), 73.0301 (1) (d) 3., 76.80 (3), 87.305  
18 (1) (intro.), 93.06 (14), 93.07 (24) (e), 93.135 (1) (ng) <sup>and</sup> (nt) and (nx) and (1m) (am),  
19 chapter 97 (title), subchapter I (title) of chapter 97, 97.01 (1), subchapter II (title) of  
20 chapter 97, 97.12 (1), (2) (d) 3. and (5), 97.18 (5m), 97.20 (2) (e) 2., 97.25 (3), 97.29  
21 (1) (c), (g) 3., and (h), 97.30 (1) (c), (2) (b) 1. c., <sup>and (c)</sup> (3m) (intro.), (a) (intro.), (b) (intro.), (c)  
22 (intro.), (cm), and (d), 97.41 (1m) and (4) (a), 97.42 (3) (em), 100.36, subchapter III  
23 (title) of chapter 97, subchapter IV (title) of chapter 97, subchapter V (title) of chapter  
24 97, subchapter VI (title) of chapter 97, <sup>97.70s, 97.703s, 100.36s</sup> 101.05 (2), 101.123 (1) (bn) 1., 2., and 3. and  
25 (f), 101.128 (1) (c) and (e), 101.149 (1) (ag) and (cm), (5) (c), and (8) (a), 101.63 (1)

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)

INSERT

INSERT SECTION 13-1

1 SECTION 1. 97.30 (2) (c) of the statutes is created to read:

2 97.30 (2) (c) *Pre-licensing inspection.* The department or an agent city or  
3 county may not issue a license for a new retail food establishment until it inspects  
4 the new retail food establishment for compliance with this section and rules  
5 promulgated under this section. A licensed retail food establishment is not  
6 considered a new retail food establishment under this paragraph solely because of  
7 a change <sup>e</sup> or <sup>in</sup> ownership, or solely because of alterations in the retail food  
8 establishment.

(END OF INSERT 31-1)

INSERT 16-6 <sup>(11)</sup>

9 SECTION 2. 97.70 of the statutes is created to read:

10 **97.70 Authority of department of safety and professional services.**

11 Nothing in this chapter affects the authority of the department of safety and  
12 professional services relative to places of employment, elevators, boilers, fire  
13 escapes, fire protection, or the construction of public buildings.

14 SECTION 3. 97.703 of the statutes is created to read:

15 **97.703 Joint employment.** The department and the department of safety  
16 and professional services may employ experts, inspectors or other assistants jointly.

(END OF INSERT 16-6 <sup>(11)</sup>)

INSERT 47-10

17 SECTION 4. 254.78 of the statutes is renumbered 254.04 and amended to read:

18 **254.04 Authority of department of safety and professional services.**

19 Nothing in this chapter shall affect affects the authority of the department of safety

