



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0602/P2 P3  
SWB/TJD/RCT:eev:rs  
stays RMR

IN 4/27/15

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

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

Now

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.

INSERT Analysis

***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, and recreation. The amounts in the  
4 schedule for the regulation of food, lodging, and recreation under chs. 93, 97 and 98.

5 All moneys received under ss. 93.06 (1r) and (1w), 93.09, 93.11, 93.12, 97.17, 97.175,

6 97.20, 97.21, 97.22, 97.24, 97.27, 97.29, 97.30 (3) (a), (b) and (c), 97.41, 97.60 to

7 97.653, 97.67, 98.145 and 98.146 for the regulation of food, lodging, and recreation

8 shall be credited to this appropriation.

**SECTION 1**

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

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

2           20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*  
3 *services.* The amounts in the schedule for the purposes specified in ss. 252.23, 252.24,  
4 252.245, 253.12, 254.176, 254.178, 254.179, 254.20 (5) and (8), 254.31 to 254.39,  
5 254.41, ~~254.47, 254.61 to 254.88~~, 255.08 (2), and 256.15 (8), ch. 69, for the purchase  
6 and distribution of medical supplies, and to analyze and provide data under s.  
7 250.04. All moneys received under ss. 250.04 (3m), 252.23 (4) (a), 252.24 (4) (a),  
8 252.245 (9), 254.176, 254.178, 254.181, 254.20 (5) and (8), 254.31 to 254.39, 254.41,  
9 ~~254.47, 254.61 to 254.88~~, 255.08 (2) (b), and 256.15 (5) (f) and (8) (d) and ch. 69, other  
10 than s. 69.22 (1m), and as reimbursement for medical supplies shall be credited to  
11 this appropriation account.

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

13           29.541 (1) (a) (intro.) Except as authorized under s. 29.934 (2) or ~~254.715~~  
14 97.305, no innkeeper, manager or steward of any restaurant, club, hotel, boarding  
15 house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause  
16 to be sold, bartered, served or given, to its guests or boarders any of the following:

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

18           45.44 (1) (a) 14. A license, certification, certification card, or permit issued  
19 under ~~s. ss. 97.33~~, 252.23, 252.24, 254.176, 254.178, 254.20, ~~254.71~~, and 256.15.

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

21           49.857 (1) (d) 4. A certification, license, training permit, registration, approval  
22 or certificate issued under s. 49.45 (2) (a) 11., 97.33, 97.605 (1) (a) or (b), 97.67 (1),  
23 252.23 (2), 252.24 (2), 254.176 (1) or (3) (a), 254.178 (2) (a), 254.20 (2), (3) or (4), ~~254.47~~

1     ~~(1), 254.64 (1) (a) or (b), 254.71 (2), 255.08 (2), or 256.15 (5) (a) or (b), (6g) (a), or (8)~~  
2     ~~(a).~~

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

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

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

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

## SECTION 7

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

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

23 (c) If the analysis or examination shows that the food, construction, sanitary  
24 condition, operation or method of operation of the premises or equipment constitutes  
25 an immediate danger to health, the ~~permittee~~ licensee, owner, or custodian shall be

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

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

7 66.0417 (3) A notice issued under sub. (2) (c) shall be accompanied by notice  
8 of a hearing as provided in s. 68.11 (1). The village, city or county shall hold a hearing  
9 no later than 15 days after the service of the notice, unless both parties agree to a  
10 later date. Notwithstanding s. 68.12, a final decision shall be issued under s. 68.12  
11 within 10 days of the hearing. The decision may order the destruction of food, the  
12 diversion of food to uses which do not pose a danger to health, the modification of food  
13 so that it does not create a danger to health, changes to or replacement of equipment  
14 or construction, other changes in or cessations of any operation or method of  
15 operation of the equipment or premises, or any combination of these actions  
16 necessary to remove the danger to health. The decision may order the cessation of  
17 all operations authorized by the permit license only if a more limited order will not  
18 remove the immediate danger to health.

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

20 66.0417 (4) A proceeding under this section, or the issuance of a permit license  
21 for the premises after notification of procedures under this section, does not  
22 constitute a waiver by the village, city or county of its authority to rely on a violation  
23 of ch. 97, ~~s. 254.47~~ or subch. VII of ch. 254 or any rule adopted under those statutes  
24 as the basis for any subsequent suspension or revocation of the permit license or any  
25 other enforcement action arising out of the violation.

**SECTION 10**

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

2           66.0435 (9) MUNICIPALITIES; MONTHLY MUNICIPAL PERMIT FEES ON RECREATIONAL  
3 MOBILE HOMES AND RECREATIONAL VEHICLES. A licensing authority may assess monthly  
4 municipal permit fees at the rates under this section on recreational mobile homes  
5 and recreational vehicles, as defined in s. 340.01 (48r), except recreational mobile  
6 homes and recreational vehicles that are located in campgrounds licensed under s.  
7 ~~254.47~~ 97.67, recreational mobile homes that constitute improvements to real  
8 property under s. 70.043 (1), and recreational mobile homes or recreational vehicles  
9 that are located on land where the principal residence of the owner of the recreational  
10 mobile home or recreational vehicle is located, regardless of whether the recreational  
11 mobile home or recreational vehicle is occupied during all or part of any calendar  
12 year.

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

14           66.0436 (1) In this section, “restaurant” has the meaning given in s. ~~254.61~~(5)  
15 97.01 (14g).

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

17           66.0436 (2) No city, village, town, or county may enact an ordinance requiring  
18 a restaurant, a person who holds a ~~permit~~ license for a restaurant, or a person who  
19 conducts, maintains, manages, or operates a restaurant to satisfy a requirement  
20 related to the issuance or possession of a certificate of food protection practices that  
21 is not found under s. ~~254.71~~ 97.33.

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

23           73.0301 (1) (d) 3. A license, certificate of approval, provisional license,  
24 conditional license, certification, certification card, registration, permit, training  
25 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)

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

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

6 76.80 (3) “Telecommunications services” means the transmission of voice,  
7 video, facsimile or data messages, including telegraph messages, except that  
8 “telecommunications services” does not include video service, as defined in s. 66.0420  
9 (2) (y), radio, one-way radio paging or transmitting messages incidental to transient  
10 occupancy in hotels, as defined in s. ~~254.61 (3)~~ 97.01 (7).

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

12 87.305 (1) DEPARTMENT APPROVAL. (intro.) Notwithstanding s. 87.30 or any rule  
13 promulgated, order issued or ordinance adopted under that section, the department  
14 shall authorize the connection of a sanitary sewer line from the sewerage treatment  
15 plant in the city of Prairie du Chien and connection of the public water system of the  
16 city of Prairie du Chien to the railroad depot and the Dousman hotel on St. Feriole  
17 island and shall authorize historic use of the Dousman hotel as a hotel, as defined  
18 under s. ~~254.61 (3)~~ 97.01 (7), if all of the following conditions are met:

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

20 93.06 (14) COOPERATION AND COLLABORATIVE AGREEMENTS. Promote cooperation  
21 and formal collaborative agreements among any of the following with regard to  
22 enforcement of the laws and regulations administered by the department, planning,  
23 priority setting, information and data sharing, reporting, resource allocation,  
24 funding, service delivery, and jurisdiction:

25 (a) This state.

1 (b) Local health departments.

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

3 (d) The federal Indian health service.

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

5 93.07 (24) (e) To enforce the laws for the sanitary care of campgrounds and  
6 camping resorts, recreational and educational camps, public swimming pools, hotels,  
7 tourist rooming houses, vending machine commissaries, vending machines, and  
8 other persons or entities subject to regulation by the department.

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

10 93.135 (1) (ng) A certificate under s. 97.33.

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

12 93.135 (1) (nt) A license under s. 97.605 (1) or 97.67 (1) or (2m).

13 **SECTION 20.** Chapter 97 (title) of the statutes is amended to read:

14 **CHAPTER 97**

15 **FOOD REGULATION, LODGING, AND**

16 **RECREATION**

17 **SECTION 21.** Subchapter I (title) of chapter 97 [precedes 97.01] of the statutes  
18 is created to read:

19 **CHAPTER 97**

20 **SUBCHAPTER I**

21 **DEFINITIONS**

22 **SECTION 22.** 97.01 (1) of the statutes is renumbered 97.01 (1r).

23 **SECTION 23.** Subchapter II (title) of chapter 97 [precedes 97.02] of the statutes  
24 is created to read:

25 **CHAPTER 97**



## 1 SUBCHAPTER II

## 2 FOOD SAFETY AND REGULATION

3 **SECTION 24.** 97.12 (1) of the statutes is amended to read:

4 97.12 (1) For the purpose of enforcing this chapter, the department and its  
5 agents may, at reasonable hours, enter and inspect any premises for which a license  
6 is required under this chapter or any farm, factory, warehouse, building, room,  
7 establishment or place at or in which foods are manufactured, processed, packed,  
8 packaged, stored or held for sale, and may enter any vehicle, including a vehicle used  
9 to transport or hold foods in commerce. The department and its agents may also  
10 secure samples or specimens, including samples or specimens of food and any  
11 product or substance that may affect food, examine and copy relevant documents and  
12 records, and obtain photographic and other evidence needed to enforce this chapter  
13 or a rule promulgated under this chapter. The department shall examine any  
14 samples secured and shall conduct other inspections and examinations needed to  
15 determine whether there is a violation of this chapter. The department shall pay or  
16 offer to pay the market value of samples taken.

17 **SECTION 25.** 97.12 (5) of the statutes is created to read:

18 97.12 (5) Any person who fails to comply with an order issued under this  
19 chapter may be required to forfeit \$50 for each day of noncompliance.

20 **SECTION 26.** 97.18 (5m) of the statutes is repealed.21 **SECTION 27.** 97.20 (2) (e) 2. of the statutes is amended to read:

22 97.20 (2) (e) 2. The retail preparation and processing of meals for sale directly  
23 to consumers or through vending machines, if the preparation and processing is  
24 covered under a ~~restaurant permit or other permit~~ license issued under s. ~~254.64~~  
25 97.605.

1           **SECTION 28.** 97.25 (3) of the statutes is amended to read:

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

10           **SECTION 29.** 97.29 (1) (c) of the statutes is amended to read:

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

17           **SECTION 30.** 97.29 (1) (g) 3. of the statutes is amended to read:

18           **97.29 (1) (g) 3.** The retail preparation and processing of meals for sale directly  
19 to consumers or through vending machines if the preparation and processing is  
20 covered under a ~~restaurant permit or other permit~~ license issued under s. ~~254.64~~  
21 97.605.

22           **SECTION 31.** 97.29 (1) (h) of the statutes is amended to read:

23           **97.29 (1) (h)** “Food processing plant” means any place where food processing  
24 is conducted. “Food processing plant” does not include any establishment subject to  
25 the requirements of s. 97.30 ~~or any restaurant or other~~ an establishment holding a

1 ~~permit license~~ under s. ~~254.64~~ 97.605, to the extent that the activities of that  
2 establishment are covered by s. 97.30 or the ~~permit license~~ under s. ~~254.64~~ 97.605.

3 **SECTION 32.** 97.30 (1) (c) of the statutes is amended to read:

4 97.30 (1) (c) “Retail food establishment” means a permanent or mobile food  
5 processing facility where food processing is conducted primarily for direct retail sale  
6 to consumers at the facility, a mobile facility from which potentially hazardous food  
7 is sold to consumers at retail or a permanent facility from which food is sold to  
8 consumers at retail, whether or not that facility sells potentially hazardous food or  
9 is engaged in food processing. “Retail food establishment” ~~does not include~~ includes  
10 a restaurant or ~~other establishment~~ temporary restaurant, but does not include an  
11 establishment holding a permit license under s. ~~254.64~~ 97.605, to the extent that the  
12 activities of the establishment are covered by that ~~permit license~~.

13 **SECTION 33.** 97.30 (2) (b) 1. c. of the statutes is amended to read:

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

23 **SECTION 34.** 97.30 (2) (c) of the statutes is created to read:

24 97.30 (2) (c) *Pre-licensing inspection.* The department or an agent city or  
25 county may not issue a license for a new retail food establishment until it inspects

1 the new retail food establishment for compliance with this section and rules  
2 promulgated under this section. A licensed retail food establishment is not  
3 considered a new retail food establishment under this paragraph solely because of  
4 a change in ownership, or solely because of alterations in the retail food  
5 establishment.

6 **SECTION 35.** 97.30 (3m) (intro.) of the statutes is amended to read:

7 **97.30 (3m) FEE AMOUNTS.** (intro.) The department shall specify by rule the  
8 amount of the fees under sub. (3) for a restaurant. Unless otherwise required by  
9 department rule, the fees required under sub. (3) for a retail food establishment other  
10 than a restaurant are:

11 **SECTION 36.** 97.30 (3m) (a) (intro.) of the statutes is amended to read:

12 **97.30 (3m) (a) (intro.)** For a retail food establishment, other than a restaurant,  
13 that has annual food sales of \$25,000 or more but less than \$1,000,000 and that  
14 processes potentially hazardous food, the following amounts:

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

16 **97.30 (3m) (b) (intro.)** For a retail food establishment, other than a restaurant,  
17 that has annual food sales of \$1,000,000 or more and that processes potentially  
18 hazardous food, the following amounts:

19 **SECTION 38.** 97.30 (3m) (c) (intro.) of the statutes is amended to read:

20 **97.30 (3m) (c) (intro.)** For a retail food establishment, other than a restaurant,  
21 that has annual food sales of \$25,000 or more and that is engaged in food processing,  
22 but that does not process potentially hazardous food, the following amounts:

23 **SECTION 39.** 97.30 (3m) (cm) of the statutes is amended to read:

1           97.30 (3m) (cm) For a retail food establishment, other than a restaurant, that  
2 has annual food sales of less than \$25,000 and that is engaged in food processing, an  
3 annual license fee of \$40 and a reinspection fee of \$40.

4           **SECTION 40.** 97.30 (3m) (d) of the statutes is amended to read:

5           97.30 (3m) (d) For a retail food establishment, other than a restaurant, that  
6 is not engaged in food processing, an annual license fee of \$20 and a reinspection fee  
7 of \$50.

8           **SECTION 41.** 97.41 (1m) of the statutes is amended to read:

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

1           **SECTION 42.** 97.41 (4) (a) of the statutes is amended to read:

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

16           **SECTION 43.** 97.42 (3) (em) of the statutes is amended to read:

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

24           **SECTION 44.** Subchapter III (title) of chapter 97 [precedes 97.603] of the  
25 statutes is created to read:

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**CHAPTER 97**

**SUBCHAPTER III**

**LODGING AND VENDING MACHINES**

**SECTION 45.** Subchapter IV (title) of chapter 97 [precedes 97.67] of the statutes is created to read:

**CHAPTER 97**

**SUBCHAPTER IV**

**RECREATIONAL SANITATION**

**SECTION 46.** Subchapter V (title) of chapter 97 [precedes 97.70] of the statutes is created to read:

**CHAPTER 97**

**SUBCHAPTER V**

**GENERAL PROVISIONS**

**SECTION 47.** 97.70 of the statutes is created to read:

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

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

**SECTION 48.** 97.703 of the statutes is created to read:

**97.703 Joint employment.** The department and the department of safety

and professional services may employ experts, inspectors, or other assistants jointly.

**SECTION 49.** 100.36 of the statutes is amended to read:

**100.36 Frauds; substitute for butter; advertisement.** No person may use

the word “butter” in any way in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for

1 butter. No person may use terms such as “cream”, “creamery” or “dairy”, or the name  
2 or representation of any breed of dairy cattle, or any combination of such words and  
3 representation, or any other words or symbols or combinations thereof commonly  
4 used in the sale of butter unless at least 40% of the substitute is butterfat. If the term  
5 “butter” is used in connection with the name of any such product, it shall be qualified  
6 so as to distinguish it from butter as defined in s. 97.01 ~~(1)~~ (1r).

7 **SECTION 50.** 101.05 (2) of the statutes is amended to read:

8 101.05 (2) A bed and breakfast establishment, as defined under s. 254.61 (1)  
9 97.01 (1g), is not subject to building codes adopted by the department under this  
10 subchapter.

11 **SECTION 51.** 101.123 (1) (bn) 1. of the statutes is amended to read:

12 101.123 (1) (bn) 1. A bed and breakfast establishment, as defined in s. 254.61  
13 ~~(1)~~ 97.01 (1g).

14 **SECTION 52.** 101.123 (1) (bn) 2. of the statutes is amended to read:

15 101.123 (1) (bn) 2. A hotel, as defined in s. 254.61 ~~(3)~~ 97.01 (7).

16 **SECTION 53.** 101.123 (1) (bn) 3. of the statutes is amended to read:

17 101.123 (1) (bn) 3. A tourist rooming house, as defined in s. 254.61 ~~(6)~~ 97.01  
18 (15k).

19 **SECTION 54.** 101.123 (1) (f) of the statutes is amended to read:

20 101.123 (1) (f) “Restaurant” ~~means an establishment as defined~~ has the  
21 meaning given in s. 254.61 (5) 97.01 (14g).

22 **SECTION 55.** 101.128 (1) (c) of the statutes is amended to read:

23 101.128 (1) (c) “Hotel” has the meaning given in s. 254.61 ~~(3)~~ 97.01 (7).

24 **SECTION 56.** 101.128 (1) (e) of the statutes is amended to read:

25 101.128 (1) (e) “Restaurant” has the meaning given in s. 254.61 ~~(5)~~ 97.01 (14g).



1           **SECTION 57.** 101.149 (1) (ag) of the statutes is amended to read:

2           101.149 (1) (ag) “Bed and breakfast establishment” has the meaning given in  
3 s. ~~254.61(1)~~ 97.01 (1g).

4           **SECTION 58.** 101.149 (1) (cm) of the statutes is amended to read:

5           101.149 (1) (cm) “Tourist rooming house” has the meaning given in s. ~~254.61~~  
6 ~~(6)~~ 97.01 (15k).

7           **SECTION 59.** 101.149 (5) (c) of the statutes is amended to read:

8           101.149 (5) (c) All of the fuel-burning appliances in the residential building  
9 have sealed combustion units that are inspected as provided in the rules  
10 promulgated by the department under sub. (6) (b) or in the rules promulgated by the  
11 department of health services under s. ~~254.74~~ 97.625 (1) (am).

12           **SECTION 60.** 101.149 (8) (a) of the statutes is amended to read:

13           101.149 (8) (a) If the department of safety and professional services or the  
14 department of health services agriculture, trade and consumer protection  
15 determines after an inspection of a building under this section or s. ~~254.74~~ 97.625  
16 (1g) that the owner of the building has violated sub. (2) or (3), the respective  
17 department shall issue an order requiring the person to correct the violation within  
18 5 days or within such shorter period as the respective department determines is  
19 necessary to protect public health and safety. If the person does not correct the  
20 violation within the time required, he or she shall forfeit \$50 for each day of violation  
21 occurring after the date on which the respective department finds that the violation  
22 was not corrected.

23           **SECTION 61.** 101.63 (1) (intro.) of the statutes is amended to read:

24           101.63 (1) (intro.) Adopt rules which establish standards for the construction  
25 and inspection of one- and 2-family dwellings and components thereof. Where

**SECTION 61**

1 feasible, the standards used shall be those nationally recognized and shall apply to  
2 the dwelling and to its electrical, heating, ventilating, air conditioning and other  
3 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be  
4 adopted which has not taken into account the conservation of energy in construction  
5 and maintenance of dwellings and the costs of specific code provisions to home buyers  
6 in relationship to the benefits derived from the provisions. Rules promulgated under  
7 this subsection do not apply to a bed and breakfast establishment, as defined under  
8 s. ~~254.61 (1)~~ 97.01 (1g), except that the rules apply to all of the following:

9 **SECTION 62.** 101.647 (1) (am) of the statutes is amended to read:

10 101.647 (1) (am) Notwithstanding s. 101.61 (1), “dwelling” does not include a  
11 tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

12 **SECTION 63.** 101.935 (2) (e) of the statutes is amended to read:

13 101.935 (2) (e) Section ~~254.69 (2)~~ 97.615 (2), as it applies to an agent for the  
14 department of ~~health services~~ agriculture, trade and consumer protection in the  
15 administration of s. ~~254.47~~ 97.67, applies to an agent for the department of safety  
16 and professional services in the administration of this section.

17 **SECTION 64.** 106.52 (1) (d) 1. of the statutes is amended to read:

18 106.52 (1) (d) 1. A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~  
19 97.01 (1g).

20 **SECTION 65.** 106.52 (1) (d) 2. of the statutes is amended to read:

21 106.52 (1) (d) 2. A hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7).

22 **SECTION 66.** 106.52 (1) (d) 3. of the statutes is amended to read:

23 106.52 (1) (d) 3. A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).

24 **SECTION 67.** 108.227 (1) (e) 3. of the statutes is amended to read:

1           108.227 (1) (e) 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), 146.40 (3), (3g), or (3m), 252.23 (2), 252.24 (2),  
5 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or  
6 343.305 (6) (a) or a ~~permit~~ license for operation of a campground specified in s. ~~254.47~~  
7 ~~(1)~~ 97.67 (1).

8           **SECTION 68.** 125.02 (3r) of the statutes is amended to read:

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

15           **SECTION 69.** 125.02 (7) of the statutes is amended to read:

16           125.02 (7) “Hotel” means a hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7), that is  
17 provided with a restaurant.

18           **SECTION 70.** 125.02 (18) of the statutes is amended to read:

19           125.02 (18) “Restaurant” means a restaurant, as defined in s. ~~254.61 (5)~~ 97.01  
20 (14g).

21           **SECTION 71.** 125.06 (12) of the statutes is amended to read:

22           125.06 (12) **BED AND BREAKFAST ESTABLISHMENTS.** The provision by a bed and  
23 breakfast establishment, as defined under s. ~~254.61 (1)~~ 97.01 (1g), of not more than  
24 2 complimentary 4–fluid–ounce glasses of wine per day to a person renting a room

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

3 **SECTION 72.** 125.07 (3) (a) 6. of the statutes is amended to read:

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

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

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

14 **SECTION 74.** 125.29 (6) of the statutes is amended to read:

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

23 **SECTION 75.** 125.295 (2) (a) 3. of the statutes is amended to read:

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

4           **SECTION 76.** 125.295 (2) (b) of the statutes is amended to read:

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

12 (a), the department may revoke under s. 125.12 (5) the <sup>plain</sup> ~~permit license~~ issued under  
13 this section.

14           **SECTION 77.** 125.68 (5) of the statutes is amended to read:

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

22           **SECTION 78.** 250.041 (1) (e) of the statutes is amended to read:

23           250.041 (1) (e) A permit under s. 254.47 (1), ~~254.64 (1) (a) or (b) or~~ 255.08 (2).

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

25           **SECTION 80.** 252.02 (4) of the statutes is amended to read:

1           252.02 (4) The Except as provided in ss. 93.07 (24) (e) and 97.59, the  
2 department may promulgate and enforce rules or issue orders for guarding against  
3 the introduction of any communicable disease into the state, for the control and  
4 suppression of communicable diseases, for the quarantine and disinfection of  
5 persons, localities and things infected or suspected of being infected by a  
6 communicable disease and for the sanitary care of jails, state prisons, mental health  
7 institutions, schools, ~~hotels~~ and public buildings and connected premises. Any rule  
8 or order may be made applicable to the whole or any specified part of the state, or to  
9 any vessel or other conveyance. The department may issue orders for any city, village  
10 or county by service upon the local health officer. Rules that are promulgated and  
11 orders that are issued under this subsection supersede conflicting or less stringent  
12 local regulations, orders or ordinances.

13           **SECTION 81.** 252.18 of the statutes is renumbered 97.59 and amended to read:

14           **97.59 Handling foods.** No person in charge of any public eating place or other  
15 establishment where food products to be consumed by others are handled may  
16 knowingly employ any person handling food products who has a disease in a form  
17 that is communicable by food handling. If required by the local health officer or any  
18 officer of the department for the purposes of an investigation, any person who is  
19 employed in the handling of foods or is suspected of having a disease in a form that  
20 is communicable by food handling shall submit to an examination by the officer or  
21 by a physician, physician assistant, or advanced practice nurse prescriber  
22 designated by the officer. The expense of the examination, if any, shall be paid by the  
23 person examined. Any person knowingly infected with a disease in a form that is  
24 communicable by food handling who handles food products to be consumed by others

1 and any persons knowingly employing or permitting such a person to handle food  
2 products to be consumed by others shall be punished as provided by s. ~~252.25~~ 97.72.

3 **SECTION 82.** 254.02 (3) (a) of the statutes is amended to read:

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

11 **SECTION 83.** 254.115 (1) (c) of the statutes is repealed.

12 **SECTION 84.** 254.47 (title) of the statutes is renumbered 97.67 (title) and  
13 amended to read:

14 **97.67 Recreational permits licenses and fees.**

15 **SECTION 85.** 254.47 (1) of the statutes is renumbered 97.67 (1) and amended  
16 to read:

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

25 **SECTION 86.** 254.47 (1g) of the statutes is renumbered 97.67 (1g).

**SECTION 87**

1           **SECTION 87.** 254.47 (1m) of the statutes is renumbered 97.67 (1m) and amended  
2 to read:

3           **97.67 (1m)** The department or a local health department granted agent status  
4 under s. ~~254.69~~ 97.615 (2) may not, without a ~~preinspection~~ pre-licensing inspection,  
5 grant a ~~permit~~ license to a person intending to operate a new public swimming pool,  
6 campground, or recreational or educational camp or to a person intending to be the  
7 new operator of an existing public swimming pool, campground, or recreational or  
8 educational camp.

9           **SECTION 88.** 254.47 (2) of the statutes is renumbered 97.67 (2) and amended  
10 to read:

11           **97.67 (2) (a)** A separate ~~permit~~ license is required for each campground,  
12 camping resort, recreational or educational camp, and public swimming pool. Except  
13 as provided in par. (b) or (c), no ~~permit~~ license issued under this section is  
14 transferable from one premises to another or from one person, state or local  
15 government to another.

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

21           (c) A sole proprietorship that reorganizes as a business entity, as defined in s.  
22 179.70 (1), or a business entity that reorganizes as a sole proprietorship or a different  
23 type of business entity may transfer a ~~permit~~ license issued under this section for a  
24 campground, camping resort, recreational or educational camp, or public swimming



1 pool to the newly formed business entity or sole proprietorship if all of the following  
2 conditions are satisfied:

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

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

9 **SECTION 89.** 254.47 (2m) of the statutes is renumbered 97.67 (2m) and amended  
10 to read:

11 97.67 (2m) Except as provided in ~~ss. 250.041 and 254.115~~ s. 93.135, the initial  
12 issuance, renewal or continued validity of a permit license issued under this section  
13 may be conditioned upon the requirement that the permittee licensee correct a  
14 violation of this section, rules promulgated by the department under this section or  
15 ordinances adopted under ~~s. 254.69~~ 97.615 (2) (g), within a period of time that is  
16 specified. If the condition is not met within the specified period of time, the permit  
17 license is void.

18 **SECTION 90.** 254.47 (3) of the statutes is repealed.

19 **SECTION 91.** 254.47 (4) of the statutes is renumbered 97.67 (4) and amended  
20 to read:

21 97.67 (4) ~~Permits Licenses~~ issued under this section expire on June 30, except  
22 that permits licenses initially issued during the period beginning on April 1 and  
23 ending on June 30 expire on June 30 of the following year. Except as provided in s.  
24 ~~254.69~~ 97.615 (2) (d) and (e), the department shall promulgate rules that establish,  
25 for permits licenses issued under this section, amounts of permit license fees,

**SECTION 91**

1 ~~preinspection~~ pre-licensing inspection fees, reinspection fees, fees for operating  
2 without a license, and late fees for untimely ~~permit~~ license renewal.

3 **SECTION 92.** 254.47 (5) of the statutes is renumbered 97.67 (5) and amended  
4 to read:

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

18 **SECTION 93.** 254.47 (5m) of the statutes is renumbered 97.67 (5m).

19 **SECTION 94.** 254.47 (6) of the statutes is renumbered 97.67 (6).

20 **SECTION 95.** 254.47 (7) of the statutes is renumbered 97.67 (7) and amended  
21 to read:

22 97.67 (7) The department may not require that a swimming pool be staffed by  
23 a lifeguard as a condition of receiving a ~~permit~~ license under this section if the  
24 swimming pool is less than 2,500 square feet, the swimming pool is located in a

1 private club in the city of Milwaukee, and the club has a policy that prohibits a minor  
2 from using the swimming pool when not accompanied by an adult.

3 **SECTION 96.** Subchapter VII (title) of chapter 254 [precedes 254.61] of the  
4 statutes is repealed.

5 **SECTION 97.** 254.61 (title) of the statutes is repealed.

6 **SECTION 98.** 254.61 (intro.) of the statutes is repealed.

7 **SECTION 99.** 254.61 (1) of the statutes is renumbered 97.01 (1g).

8 **SECTION 100.** 254.61 (2) of the statutes is repealed.

9 **SECTION 101.** 254.61 (3) of the statutes is renumbered 97.01 (7).

10 **SECTION 102.** 254.61 (3m) of the statutes is renumbered 97.01 (13g).

11 **SECTION 103.** 254.61 (4) of the statutes is renumbered 97.01 (13r) and amended  
12 to read:

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

18 **SECTION 104.** 254.61 (5) of the statutes is renumbered 97.01 (14g), and 97.01  
19 (14g) (intro.), as renumbered, is amended to read:

20 97.01 (14g) (intro.) “Restaurant” means any building, room or place where  
21 ~~meals are prepared or served or sold~~ at which the predominant activity is the  
22 preparation, service, or sale of meals to transients or the general public, and  
23 including all places used in connection with it and ~~includes~~ including any public or  
24 private school lunchroom for which food service is provided by contract. “Meals” does

1 not include soft drinks, ice cream, milk, milk drinks, ices and confections.

2 “Restaurant” does not include:

3 SECTION 105. 254.61 (5m) of the statutes is renumbered 97.01 (15b).

4 SECTION 106. 254.61 (5r) of the statutes is renumbered 97.01 (15f).

5 SECTION 107. 254.61 (6) of the statutes is renumbered 97.01 (15k).

6 SECTION 108. 254.61 (7) of the statutes is renumbered 97.01 (15p).

7 SECTION 109. 254.61 (8) of the statutes is renumbered 97.01 (15s) and amended  
8 to read:

9 97.01 (15s) “Vending machine commissary” means any building, room or place  
10 where the food, beverage, ingredients, containers, transport equipment or supplies  
11 for vending machines are kept, handled, prepared or stored by a vending machine  
12 operator. “Vending machine commissary” does not mean any place at which the  
13 operator is licensed to manufacture, distribute or sell food products under ~~ch. 97~~ this  
14 chapter.

15 SECTION 110. 254.61 (9) of the statutes is renumbered 97.01 (15w).

16 SECTION 111. 254.61 (10) of the statutes is renumbered 97.01 (15y).

17 SECTION 112. 254.62 of the statutes is renumbered 97.60.

18 SECTION 113. 254.63 of the statutes is renumbered 97.603.

19 SECTION 114. 254.64 of the statutes is renumbered 97.605, and 97.605 (title),  
20 (1), (1m), (1p), (2), (3), (4) (b), (d) and (e) and (5), as renumbered, are amended to read:

21 **97.605 (title) Permit Lodging and vending licenses.** (1) (a) No person may  
22 conduct, maintain, manage or operate a hotel, ~~restaurant, temporary restaurant,~~  
23 tourist rooming house, vending machine commissary or vending machine if the  
24 person has not been issued an annual permit license by the department or by a local  
25 health department that is granted agent status under s. 254.69 97.615 (2).

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

4 (c) Except as provided in s. ~~250.041~~ 93.135, no permit license may be issued  
5 under this section until all applicable fees have been paid. If the payment is by check  
6 or other draft drawn upon an account containing insufficient funds, the permit  
7 license applicant shall, within 15 days after receipt of notice from the department of  
8 the insufficiency, pay by cashier's check or other certified draft, money order or cash  
9 the fees, late fees and processing charges that are specified by rules promulgated by  
10 the department. If the permit license applicant fails to pay all applicable fees, late  
11 fees and processing charges within 15 days after the applicant receives notice of the  
12 insufficiency, the permit license is void. In an appeal concerning voiding of a permit  
13 license under this paragraph, the burden is on the permit license applicant to show  
14 that the entire applicable fees, late fees and processing charges have been paid.  
15 During any appeal process concerning payment dispute, operation of the  
16 establishment in question is deemed to be operation without a permit license.

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

23 (1m) No county, city, village or town may require any permit license of, or  
24 impose any permit license or inspection fee on, a vending machine operator, vending

1 machine commissary or vending machine ~~permitted~~ licensed under this subchapter  
2 chapter.

3 (1p) Except as provided in s. ~~250.041~~ 93.135, the department may condition the  
4 initial issuance, renewal or continued validity of a ~~permit~~ license issued under this  
5 section on correction by the ~~permittee~~ licensee of a violation of this subchapter, rules  
6 promulgated by the department under this subchapter or ordinances or regulations  
7 adopted under s. ~~254.69~~ 97.615 (2) (g), within a specified period of time. If the  
8 ~~permittee~~ licensee fails to meet the condition within the specified period of time, the  
9 ~~permit~~ license is void.

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

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

15 (b) A restaurant may operate as a vending machine commissary without a  
16 vending machine commissary ~~permit~~ license.

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

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

23 (e) A sole proprietorship that reorganizes as a business entity or a business  
24 entity that reorganizes as either a sole proprietorship or a different type of business  
25 entity may transfer a ~~permit~~ license issued under this section for operation of an a

1 hotel, tourist rooming house, bed and breakfast establishment, or vending machine  
2 commissary to the newly formed business entity or sole proprietorship if the  
3 following conditions are satisfied:

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

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

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

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

18 2. The holder of a permit license for a ~~restaurant or~~ bed and breakfast  
19 establishment may request an extension to the term of a permit license issued under  
20 this section by the local health department of a city of the 1st class that has entered  
21 into an agreement with the department under s. ~~254.69~~ 97.615 (2) for the purpose  
22 of aligning the annual term of any other license or permit issued to that permit  
23 license holder with the annual term of a permit license to be issued to that permit  
24 license holder under subd. 1. The local health department may require a permit  
25 license holder that receives an extension under this subdivision to pay a prorated fee

## SECTION 114

1 in an amount determined by dividing the ~~permit license~~ fee imposed under s. ~~254.69~~  
2 97.615 (2) by 12 and multiplying the quotient by the number of months by which the  
3 ~~permit license~~ issued under this section is extended under this subdivision.

4 SECTION 115. 254.65 of the statutes is renumbered 97.607 and amended to  
5 read:

6 **97.607 Preinspection Pre-licensing inspection.** (1) The department or  
7 a local health department granted agent status under s. ~~254.69~~ 97.615 (2) may not  
8 grant a ~~permit license~~ to a person intending to operate a new hotel, tourist rooming  
9 house, bed and breakfast establishment, ~~restaurant~~ or vending machine commissary  
10 or to a person intending to be the new operator of an existing hotel, tourist rooming  
11 house, bed and breakfast establishment, ~~restaurant~~ or vending machine commissary  
12 without a ~~preinspection~~ pre-licensing inspection. This section does not apply to a  
13 ~~temporary restaurant~~ or when a ~~permit license~~ is transferred under s. ~~254.64~~ 97.605  
14 (4) (d) or (e).

15 (2) Agents designated by the department under s. ~~254.69~~ 97.615 (1) shall make  
16 ~~preinspections~~ pre-licensing inspections of vending machine commissaries as  
17 required under this subsection and shall be reimbursed for those services at the rate  
18 of 80% of the ~~preinspection~~ pre-licensing inspection fee designated in this  
19 subsection. Agents designated by the department under s. ~~254.69~~ 97.615 (2) shall  
20 make ~~preinspections~~ pre-licensing inspections of hotels, ~~restaurants~~ and tourist  
21 rooming houses and establish and collect ~~preinspection~~ pre-licensing inspection fees  
22 under s. ~~254.69~~ 97.615 (2) (d).

23 SECTION 116. 254.66 of the statutes is renumbered 97.307 and amended to  
24 read:



1           **97.307. Average annual surveys.** The department or a local health  
2 department granted agent status under s. ~~254.69 (2)~~ 97.41 shall annually make a  
3 number of inspections of restaurants in this state that shall equal the number of  
4 restaurants for which annual ~~permits~~ licenses are issued under s. ~~254.64 (1) (a)~~  
5 97.30.

6           **SECTION 117.** 254.67 of the statutes is renumbered 97.61.

7           **SECTION 118.** 254.68 of the statutes is renumbered 97.613 and amended to  
8 read:

9           **97.613 Fees.** Except as provided in s. ~~254.69~~ 97.615 (2) (d) and (e), the  
10 department shall promulgate rules that establish, for ~~permits~~ licenses issued under  
11 s. ~~254.64~~, ~~permit~~ 97.605, license fees, ~~preinspection~~ pre-licensing inspection fees,  
12 reinspection fees, fees for operating without a ~~permit~~ license, late fees for untimely  
13 ~~permit~~ renewal, fees for comparable compliance or variance requests, and fees for  
14 ~~pre-permit~~ pre-license review of restaurant plans.

15           **SECTION 119.** 254.69 of the statutes is renumbered 97.615, and 97.615 (2)  
16 (title), (am), (b), (c), (d), (dm), (e), (f), (g), (h) and (j) 1. and 2., as renumbered, are  
17 amended to read:

18           **97.615 (2) (title)** HOTELS, ~~RESTAURANTS~~, TOURIST ROOMING HOUSES, AND OTHER  
19 ESTABLISHMENTS. (am) In the administration of this subchapter or s. ~~254.47~~ 97.67,  
20 the department may enter into a written agreement with a local health department  
21 with a jurisdictional area that has a population greater than 5,000, which designates  
22 the local health department as the department's agent in issuing ~~permits~~ licenses to  
23 and making investigations or inspections of hotels, ~~restaurants~~, temporary  
24 ~~restaurants~~, tourist rooming houses, bed and breakfast establishments,  
25 campgrounds and camping resorts, recreational and educational camps, and public

**SECTION 119**

1 swimming pools. In a jurisdictional area of a local health department without agent  
2 status, the department of ~~health services~~ may issue ~~permits~~ licenses, collect fees  
3 established by rule under s. ~~254.68~~ 97.613 and make investigations or inspections  
4 of hotels, ~~restaurants, temporary restaurants,~~ tourist rooming houses, bed and  
5 breakfast establishments, campgrounds and camping resorts, recreational and  
6 educational camps, and public swimming pools. If the department designates a local  
7 health department as its agent, the department or local health department may  
8 require no ~~permit~~ license for the same operations other than the ~~permit~~ license  
9 issued by the local health department under this subsection. The department shall  
10 ~~coordinate~~ oversee the designation of agents under this subsection ~~with the~~  
11 ~~department of agriculture, trade and consumer protection~~ to ensure that, to the  
12 extent feasible, the same local health department is granted agent status under this  
13 subsection and under s. 97.41. ~~Except as otherwise provided by the department, a~~  
14 ~~local health department granted agent status shall regulate all types of~~  
15 ~~establishments for which this subchapter permits the department of health services~~  
16 ~~to delegate regulatory authority.~~

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

1 (c) The department shall provide education and training to agents designated  
2 under this subsection to ensure uniformity in the enforcement of this subchapter, s.  
3 ~~254.47~~ 97.67 and rules promulgated under this subchapter and s. ~~254.47~~ 97.67.

4 (d) Except as provided in par. (dm), a local health department granted agent  
5 status under this subsection shall establish and collect the ~~permit~~ license fee for each  
6 type of establishment specified in par. (am). The local health department may  
7 establish separate fees for ~~preinspections~~ pre-licensing inspections of new  
8 establishments, for ~~preinspections~~ pre-licensing inspections of existing  
9 establishments for which a person intends to be the new operator or for the issuance  
10 of duplicate ~~permits~~ licenses. No fee may exceed the local health department's  
11 reasonable costs of issuing ~~permits~~ licenses to, making investigations and  
12 inspections of, and providing education, training and technical assistance to the  
13 establishments, plus the state fee established under par. (e). A local health  
14 department granted agent status under this subsection or under s. 97.41 may issue  
15 a single ~~permit~~ license and establish and collect a single fee which authorizes the  
16 operation on the same premises of more than one type of establishment for which it  
17 is granted agent status under this subsection or under s. 97.41.

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

22 (e) The department shall establish state fees for its costs related to setting  
23 standards under this subchapter and s. ~~254.47~~ 97.67 and monitoring and evaluating  
24 the activities of, and providing education and training to, agent local health  
25 departments. Agent local health departments shall include the state fees in the

## SECTION 119

1 ~~permit license~~ fees established under par. (d), collect the state fees and reimburse the  
2 department for the state fees collected. For each type of establishment specified in  
3 par. (am), the state fee may not exceed 20% of the permit license fees charged under  
4 ss. ~~254.47 97.67~~ and ~~254.68 97.613~~.

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

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

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

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

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

5           **SECTION 120.** 254.70 of the statutes is renumbered 97.617 and amended to  
6 read:

7           **97.617 Application; lodging and vending.** (1) An applicant for a permit  
8 license under this subchapter shall complete the application prepared by the  
9 department or the local health department granted agent status under s. ~~254.69~~  
10 97.615 (2) and provide, in writing, any additional information the department of  
11 ~~health services~~ agriculture, trade and consumer protection or local health  
12 department issuing the permit license requires.

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

23           **SECTION 121.** 254.71 of the statutes is renumbered 97.33, and 97.33 (2), (3), (5)  
24 and (6) (c), as renumbered, are amended to read:

**SECTION 121**

1           97.33 (2) Except as provided in s. ~~250.041~~ 93.135, the department may issue  
2 a certificate of food protection practices to an individual who satisfactorily completes  
3 an approved examination or who has achieved comparable compliance.

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

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

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

13           **SECTION 122.** 254.715 of the statutes is renumbered 97.305.

14           **SECTION 123.** 254.72 of the statutes is renumbered 97.62 and amended to read:

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

20           **SECTION 124.** 254.73 of the statutes is renumbered 97.623.

21           **SECTION 125.** 254.74 of the statutes is renumbered 97.625, and 97.625 (1) (a),  
22 (am), (b), (d) and (e), (1p) (a) (intro.) and 2. and (b) and (2), as renumbered, are  
23 amended to read:

24           97.625 (1) (a) Administer and enforce this subchapter, the rules promulgated  
25 under this subchapter and any other rules or laws relating to the public health and

1 safety in hotels, tourist rooming houses, bed and breakfast establishments,  
2 ~~restaurants~~, vending machine commissaries, vending machines and vending  
3 machine locations.

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

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

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

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

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

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

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

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

23 SECTION 126. 254.76 of the statutes is renumbered 97.627.

24 SECTION 127. 254.78 of the statutes is renumbered 254.04 and amended to  
25 read:



1           **254.04 Authority of department of safety and professional services.**

2           Nothing in this chapter ~~shall affect~~ affects the authority of the department of safety  
3           and professional services relative to places of employment, elevators, boilers, fire  
4           escapes, fire protection, or the construction of public buildings.

5           **SECTION 128.** 254.79 of the statutes is renumbered 254.05.

6           **SECTION 129.** 254.80 of the statutes is renumbered 97.633.

7           **SECTION 130.** 254.81 of the statutes is renumbered 97.634.

8           **SECTION 131.** 254.82 of the statutes is renumbered 97.635.

9           **SECTION 132.** 254.83 of the statutes is renumbered 97.638.

10          **SECTION 133.** 254.84 (title), (1), (2), (3) and (4) of the statutes are renumbered  
11          97.639 (title), (1), (2), (3) and (4).

12          **SECTION 134.** 254.84 (5) of the statutes is renumbered 97.639 (5) and amended  
13          to read:

14                 **97.639 (5) CONSTRUCTION.** Nothing in this section may be construed to require  
15          establishments motels, motor courts, tourist cabins, or like accommodations to have  
16          outdoor or outside signs. This section shall be liberally construed so as to prevent  
17          untrue, misleading, false, or fraudulent representations relating to rates placed on  
18          outdoor or outside signs of the establishments.

19          **SECTION 135.** 254.84 (6) of the statutes is repealed.

20          **SECTION 136.** 254.85 of the statutes is renumbered 97.65, and 97.65 (1), (2), (3)  
21          and (4), as renumbered, are amended to read:

22                 **97.65 Enforcement.** (1) The department may enter, at reasonable hours, any  
23          premises for which a permit license is required under this subchapter or s. 254.47  
24          97.67 to inspect the premises, secure samples or specimens, examine and copy  
25          relevant documents and records or obtain photographic or other evidence needed to

**SECTION 136**

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

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

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

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

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

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

**SECTION 136**

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

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

11 **SECTION 137.** 254.86 of the statutes is renumbered 97.71 and amended to read:

12 **97.71 Suspension or revocation of permit license.** The department or a  
13 local health department designated as an agent under s. ~~254.69~~ 97.615 (2) or 97.41  
14 (2) may refuse or withhold issuance of a permit license under this chapter or may  
15 suspend or revoke a permit license for violation of this ~~subchapter~~ chapter or any rule  
16 or order of the department of health services, ordinance of the village, city or county  
17 or regulation of the local board of health.

18 **SECTION 138.** 254.87 of the statutes is repealed.

19 **SECTION 139.** 254.88 of the statutes is repealed.

20 **SECTION 140.** 321.60 (1) (a) 4. of the statutes is amended to read:

21 321.60 (1) (a) 4. A license, certificate of approval, provisional license,  
22 conditional license, certification, certification card, registration, permit, training  
23 permit, or approval specified in s. 49.45 (2) (a) 11., 51.42 (7) (b) 11., 51.421 (3) (a),  
24 97.33 (2), 97.605 (1) (a) or (b), 252.23 (2), 252.24 (2), 254.176, 254.178 (2) (a), 254.20  
25 (2), (3), or (4), ~~254.64~~ (1) (a) or (b), ~~254.71~~ (2), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g)

1 (a), (7), or (8) (a) or (f), or 343.305 (6) (a) or a ~~permit~~ license for the operation of a  
2 campground specified in s. ~~254.47 (1)~~ 97.67 (1).

3 **SECTION 141.** 350.01 (9m) (a) of the statutes is amended to read:

4 350.01 (9m) (a) A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~  
5 97.01 (1g).

6 **SECTION 142.** 350.01 (9m) (b) of the statutes is amended to read:

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

8 **SECTION 143.** 350.01 (9m) (c) of the statutes is amended to read:

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

10 **SECTION 144.** 941.237 (1) (dm) of the statutes is amended to read:

11 941.237 (1) (dm) “Hotel” has the meaning given in s. ~~254.61 (3)~~ 97.01 (7).

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

13 (1) TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, AND LODGING.

14 (a) *Assets and liabilities.* The assets and liabilities of the department of health  
15 services that the secretary of administration determines to be primarily related to  
16 food, lodging, and recreation oversight under sections 252.18, 254.47, and 254.61 to  
17 254.87, 2013 stats., become the assets and liabilities of the department of  
18 agriculture, trade and consumer protection on the effective date of this paragraph.

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

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

7           (d) *Tangible personal property.* On the effective date of this paragraph, all  
8 tangible personal property, including records, of the department of health services  
9 that the secretary of administration determines to be primarily related to food,  
10 lodging, and recreation oversight under sections 252.18, 254.47, and 254.61 to  
11 254.87, 2013 stats., is transferred to the department of agriculture, trade and  
12 consumer protection.

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

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

1 254.47, and 254.61 to 254.87, 2013 stats., and that are in effect on the effective date  
2 of this paragraph shall remain in effect until their specified expiration date or until  
3 amended or repealed by the department of agriculture, trade and consumer  
4 protection.

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

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

14 (1) **TRANSFER OF FOOD SAFETY, RECREATIONAL FACILITIES, AND LODGING.** The  
15 treatment of sections 20.115 (1) (gb), 20.435 (1) (gm), 29.541 (1) (a) (intro.), 45.44 (1)  
16 (a) 14., 49.857 (1) (d) 4., 66.0417 (1), (2), (3), and (4), 66.0435 (9), 66.0436 (1) and (2),  
17 73.0301 (1) (d) 3., 76.80 (3), 87.305 (1) (intro.), 93.06 (14), 93.07 (24) (e), 93.135 (1) (ng)  
18 and (nt), chapter 97 (title), subchapter I (title) of chapter 97, 97.01 (1), subchapter  
19 II (title) of chapter 97, 97.12 (1) and (5), 97.18 (5m), 97.20 (2) (e) 2., 97.25 (3), 97.29  
20 (1) (c), (g) 3., and (h), 97.30 (1) (c), (2) (b) 1. c. and (c), (3m) (intro.), (a) (intro.), (b)  
21 (intro.), (c) (intro.), (cm), and (d), 97.41 (1m) and (4) (a), 97.42 (3) (em), subchapter  
22 III (title) of chapter 97, subchapter IV (title) of chapter 97, subchapter V (title) of  
23 chapter 97, 97.70, 97.703, 100.36, 101.05 (2), 101.123 (1) (bn) 1., 2., and 3. and (f),  
24 101.128 (1) (c) and (e), 101.149 (1) (ag) and (cm), (5) (c), and (8) (a), 101.63 (1) (intro.),  
25 101.647 (1) (am), 101.935 (2) (e), 106.52 (1) (d) 1., 2., and 3., 108.227 (1) (e) 3., 125.02

**SECTION 9418**

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

11 (END)



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

LRB-0602/P3ins  
SWB/TJD/RCT:eev:rs

**INSERT ANALYSIS**

**HEALTH AND HUMAN SERVICES** ✓

**OTHER HEALTH AND HUMAN SERVICES** ✓

The bill transfers oversight of restaurants, lodging, and recreation from DHS, which currently regulates those areas, to DATCP.

**(END OF INSERT ANALYSIS)**

## Walkenhorst Barber, Sarah

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**From:** Byrnes, Tyler - DOA <Tyler.Byrnes@wisconsin.gov>  
**Sent:** Wednesday, January 28, 2015 1:59 PM  
**To:** Walkenhorst Barber, Sarah  
**Cc:** Dodge, Tamara  
**Subject:** RE: Changes to 0602 (BB213) DHS to DATCP

Yes - Go ahead and make the changes. I suspected that the effective dates would be standardized at some point.

Thanks,

Tyler

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**From:** Walkenhorst Barber, Sarah [mailto:Sarah.WalkenhorstBarber@legis.wisconsin.gov]  
**Sent:** Wednesday, January 28, 2015 1:58 PM  
**To:** Byrnes, Tyler - DOA  
**Cc:** Dodge, Tamara - LEGIS  
**Subject:** Changes to 0602 (BB213) DHS to DATCP

Tyler,

We would like to make a couple more changes in the DHS to DATCP draft. Most importantly, we would like to use a date certain for the effective date (July 1, 2016) instead of having it take effect "on the first day of the 13<sup>th</sup> month beginning after publication," which could turn out to be later than July 1. This will help for reconciliation purposes in the budget draft. Please let me know if that is acceptable.

I also found a couple of references to "restaurants or retail food establishments" that I want to clean up in this new version to reflect that restaurants will now be a type of retail food establishment.

Thanks,  
Sarah

**Sarah Walkenhorst Barber**  
Legislative Attorney  
Wisconsin Legislative Reference Bureau  
P.O. Box 2037  
Madison, WI 53701-2037  
(608) 267 - 3215  
[sarah.walkenhorstbarber@legis.wisconsin.gov](mailto:sarah.walkenhorstbarber@legis.wisconsin.gov)