



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0602/P3

SWB/TJD/RCT:eev:rs

IN 1/28/15

TODAY

JLD RMR

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

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

INSERT AND NOTE

4

do not gen

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

Analysis by the Legislative Reference Bureau

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.

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

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

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

3 20.115 (1) (gb) Food regulation, lodging, 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,

SECTION 1

1 97.20, 97.21, 97.22, 97.24, 97.27, 97.29, 97.30 (3) (a), (b) and (c), 97.41, 97.60 to
2 97.653, 97.67, 98.145 and 98.146 for the regulation of food, lodging, and recreation
3 shall be credited to this appropriation.

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

as affected by 2015 Wisconsin Act ... (this act) ↑

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

AUTO REF A

5 20.435 (1) (gm) *Licensing, review and certifying activities; fees; supplies and*
6 *services.* The amounts in the schedule for the purposes specified in ss. 252.23, 252.24,

7 252.245, 253.12, 254.176, 254.178, 254.179, 254.20 (5) and (8), 254.31 to 254.39,
8 254.41, 254.47, 254.61 to 254.88, 255.08 (2), and 256.15 (8), ch. 69, for the purchase

9 and distribution of medical supplies, and to analyze and provide data under s.
10 250.04. All moneys received under ss. 250.04 (3m), 252.23 (4) (a), 252.24 (4) (a),

11 252.245 (9) 254.176, 254.178, 254.181, 254.20 (5) and (8), 254.31 to 254.39, 254.41,
12 254.47, 254.61 to 254.88, 255.08 (2) (b), and 256.15 (5) (f) and (8) (d) and ch. 69, other

13 than s. 69.22 (1m), and as reimbursement for medical supplies shall be credited to
14 this appropriation account.

* → INSERT 2-15 ✓

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

16 29.541 (1) (a) (intro.) Except as authorized under s. 29.934 (2) or 254.715
17 97.305, no innkeeper, manager or steward of any restaurant, club, hotel, boarding

18 house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause
19 to be sold, bartered, served or given, to its guests or boarders any of the following:

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

AUTO REF B

21 45.44 (1) (a) 14. A license, certification, certification card, or permit issued
22 under s. ss. 97.33, 252.23, 252.24, 254.176, 254.178, 254.20, 254.71, and 256.15.

→ INSERT 2-23 ✓

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

AUTO REF C

as affected by 2015 Wisconsin Act ... (this act) ↑

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

✓
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 3-6 →

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

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

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

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

SECTION 7

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

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

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

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

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

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

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

SECTION 9

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

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

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

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

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

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

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

as affected by 2015 Wisconsin Act... (this act)

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

* (25) AutoRef D

1 73.0301 (1) (d) 3. A license, certificate of approval, provisional license,
 2 conditional license, certification, certification card, registration, permit, training
 3 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)
 4 (b) 11., 51.421 (3) (a), 51.45 (8), 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 14.** 76.80 (3) of the statutes is amended to read:

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

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

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

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

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

6
Insert
7-8-7

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

3 (a) This state.

4 (b) Local health departments.

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

6 (d) The federal Indian health service.

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

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

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

13 93.135 (1) (ng) A certificate under s. 97.33.

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

15 93.135 (1) (nt) A license under s. 97.605 (1) or 97.67 (1) or (2m).

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

17 **CHAPTER 97**

18 **FOOD REGULATION, LODGING, AND**

19 **RECREATION**

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

22 **CHAPTER 97**

23 **SUBCHAPTER I**

24 **DEFINITIONS**

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

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

3 **CHAPTER 97**

4 SUBCHAPTER II

5 FOOD SAFETY AND REGULATION

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

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

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

21 97.12 (5) Any person who fails to comply with an order issued under this
22 chapter may be required to forfeit \$50 for each day of noncompliance.

23 **SECTION 26.** 97.18 (5m) of the statutes is repealed.

24 **SECTION 27.** 97.20 (2) (e) 2. of the statutes is amended to read:

1 97.20 (2) (e) 2. The retail preparation and processing of meals for sale directly
2 to consumers or through vending machines, if the preparation and processing is
3 covered under a ~~restaurant permit or other permit~~ license issued under s. 254.64
4 97.605.

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

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

* ← INSERT 10-14 ✓

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

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

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

22 97.29 (1) (g) 3. 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 31.** 97.29 (1) (h) of the statutes is amended to read:

2 97.29 (1) (h) “Food processing plant” means any place where food processing
3 is conducted. “Food processing plant” does not include any establishment subject to
4 the requirements of s. 97.30 ~~or any restaurant or other~~ an establishment holding a
5 ~~permit license~~ under s. 254.64 97.605, to the extent that the activities of that
6 establishment are covered by s. 97.30 or the ~~permit license~~ under s. 254.64 97.605.

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

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

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

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

SECTION 33

1 ~~department of health services agrees to inspect the retail food establishment~~
2 ~~operations on behalf of the department.~~

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

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

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

12 97.30 (3m) FEE AMOUNTS. (intro.) The department shall specify by rule the
13 amount of the fees under sub. (3) for a restaurant. Unless otherwise required by
14 department rule, the fees required under sub. (3) for a retail food establishment other
15 than a restaurant are:

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

17 97.30 (3m) (a) (intro.) For a retail food establishment, other than a restaurant,
18 that has annual food sales of \$25,000 or more but less than \$1,000,000 and that
19 processes potentially hazardous food, the following amounts:

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

21 97.30 (3m) (b) (intro.) For a retail food establishment, other than a restaurant,
22 that has annual food sales of \$1,000,000 or more and that processes potentially
23 hazardous food, the following amounts:

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

1 97.30 (3m) (c) (intro.) For a retail food establishment, other than a restaurant,
2 that has annual food sales of \$25,000 or more and that is engaged in food processing,
3 but that does not process potentially hazardous food, the following amounts:

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

5 97.30 (3m) (cm) For a retail food establishment, other than a restaurant, that
6 has annual food sales of less than \$25,000 and that is engaged in food processing, an
7 annual license fee of \$40 and a reinspection fee of \$40.

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

9 97.30 (3m) (d) For a retail food establishment, other than a restaurant, that
10 is not engaged in food processing, an annual license fee of \$20 and a reinspection fee
11 of \$50.

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

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

1 provided by the department of agriculture, trade and consumer protection, a local
2 health department granted agent status shall regulate all types of establishments
3 for which this subsection permits the department of agriculture, trade and consumer
4 protection to delegate regulatory authority.

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

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

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

21 97.42 (3) (em) *Slaughter of farm-raised deer.* The requirements of pars. (a) and
22 (b) do not apply to the slaughter of a farm-raised deer if its meat food products are
23 not sold by a person holding a restaurant permit under s. 254.64 or by an operator
24 of a retail food establishment, as defined under s. 97.30 (1) (c). The operator of an
25 establishment in which farm-raised deer, their carcasses or their meat food products

1 are examined and inspected under this subsection shall pay the department for the
2 cost of the department's examination and inspection.

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

5 **CHAPTER 97**

6 **SUBCHAPTER III**

7 **LODGING AND VENDING MACHINES**

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

10 **CHAPTER 97**

11 **SUBCHAPTER IV**

12 **RECREATIONAL SANITATION**

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

15 **CHAPTER 97**

16 **SUBCHAPTER V**

17 **GENERAL PROVISIONS**

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

19 **97.70 Authority of department of safety and professional services.**

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

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

24 **97.703 Joint employment.** The department and the department of safety
25 and professional services may employ experts, inspectors, or other assistants jointly.

SECTION 49

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

2 **100.36 Frauds; substitute for butter; advertisement.** No person may use
3 the word “butter” in any way in connection or association with the sale or exposure
4 for sale or advertisement of any substance designed to be used as a substitute for
5 butter. No person may use terms such as “cream”, “creamery” or “dairy”, or the name
6 or representation of any breed of dairy cattle, or any combination of such words and
7 representation, or any other words or symbols or combinations thereof commonly
8 used in the sale of butter unless at least 40% of the substitute is butterfat. If the term
9 “butter” is used in connection with the name of any such product, it shall be qualified
10 so as to distinguish it from butter as defined in s. 97.01 ~~(1)~~ (1r).

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

12 101.05 ~~(2)~~ A bed and breakfast establishment, as defined under s. ~~254.61(1)~~
13 97.01 (1g), is not subject to building codes adopted by the department under this
14 subchapter.

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

16 101.123 (1) (bn) 1. A bed and breakfast establishment, as defined in s. ~~254.61~~
17 ~~(1)~~ 97.01 (1g).

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

19 101.123 (1) (bn) 2. A hotel, as defined in s. ~~254.61(3)~~ 97.01 (7).

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

21 101.123 (1) (bn) 3. A tourist rooming house, as defined in s. ~~254.61(6)~~ 97.01
22 (15k).

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

24 101.123 (1) (f) “Restaurant” ~~means an establishment as defined~~ has the
25 meaning given in s. 254.61(5) 97.01 (14g).

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

2 101.128 (1) (c) “Hotel” has the meaning given in s. ~~254.61(3)~~ 97.01 (7).

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

4 101.128 (1) (e) “Restaurant” has the meaning given in s. ~~254.61(5)~~ 97.01 (14g).

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

6 101.149 (1) (ag) “Bed and breakfast establishment” has the meaning given in
7 s. ~~254.61(1)~~ 97.01 (1g).

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

9 101.149 (1) (cm) “Tourist rooming house” has the meaning given in s. ~~254.61~~
10 ~~(6)~~ 97.01 (15k).

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

12 101.149 (5) (c) All of the fuel-burning appliances in the residential building
13 have sealed combustion units that are inspected as provided in the rules
14 promulgated by the department under sub. (6) (b) or in the rules promulgated by the
15 department of ~~health services~~ under s. ~~254.74~~ 97.625 (1) (am).

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

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

1 occurring after the date on which the respective department finds that the violation
2 was not corrected.

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

4 101.63 (1) (intro.) Adopt rules which establish standards for the construction
5 and inspection of one- and 2-family dwellings and components thereof. Where
6 feasible, the standards used shall be those nationally recognized and shall apply to
7 the dwelling and to its electrical, heating, ventilating, air conditioning and other
8 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be
9 adopted which has not taken into account the conservation of energy in construction
10 and maintenance of dwellings and the costs of specific code provisions to home buyers
11 in relationship to the benefits derived from the provisions. Rules promulgated under
12 this subsection do not apply to a bed and breakfast establishment, as defined under
13 s. ~~254.61(1)~~ 97.01 (1g), except that the rules apply to all of the following:

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

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

as affected by 2015 Wisconsin Act ... (this act)

17 SECTION ~~63~~ 101.935 (2) (e) of the statutes is amended to read:

*AutoRef
E*

18 101.935 (2) (e) Section ~~254.69 (2)~~ 97.615 (2), as it applies to an agent for the
19 department of ~~health services~~ agriculture, trade and consumer protection in the
20 administration of s. ~~254.47~~ 97.67, applies to an agent for the department of safety

21 and professional services in the administration of this section.

INSERT 18-22

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

23 106.52 (1) (d) 1. A bed and breakfast establishment, as defined in s. ~~254.61 (1)~~
24 97.01 (1g).

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

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

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

3 106.52 (1) (d) 3. A tourist rooming house, as defined in s. ~~254.61 (6)~~ 97.01 (15k).
as affected by 2015 Wisconsin Act ... (this act)

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

*AutoRef
F*

5 108.227 (1) (e) 3. A license, certificate of approval, provisional license,
6 conditional license, certification, certification card, registration, permit, training
7 permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7)

8 (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), (3g), or (3m), 252.23 (2), 252.24 (2),

9 254.176, 254.20 (3), 255.08 (2) (a), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or
10 343.305 (6) (a) or a ~~permit~~ license for operation of a campground specified in s. 254.47

11 ~~(1)~~ 97.67 (1).
* ← INSERT 19-12 ✓

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

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

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

20 125.02 (7) "Hotel" means a hotel, as defined in s. ~~254.61 (3)~~ 97.01 (7), that is
21 provided with a restaurant.

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

23 125.02 (18) "Restaurant" means a restaurant, as defined in s. ~~254.61 (5)~~ 97.01
24 (14g).

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

SECTION 71

1 125.06 (12) BED AND BREAKFAST ESTABLISHMENTS. The provision by a bed and
2 breakfast establishment, as defined under s. ~~254.61(1)~~ 97.01 (1g), of not more than
3 2 complimentary 4-fluid-ounce glasses of wine per day to a person renting a room
4 at the bed and breakfast establishment for consumption on the premises of the bed
5 and breakfast establishment.

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

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

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

15 125.07 (3) (a) 6m. Premises operating under both a “Class C” license and a
16 ~~restaurant permit~~ license under s. 97.30 for a restaurant.

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

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

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

2 125.295 (2) (a) 3. The applicant operates a restaurant on the premises for which
3 the permit is issued, for which a restaurant permit license is issued under s. 254.64
4 97.30 for a restaurant.

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

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

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

16 125.68 (5) RESTAURANT SANITATION RULES. No applicant may obtain a "Class B"
17 license or permit or a "Class C" license unless the premises complies with the rules
18 promulgated by the department of health services agriculture, trade and consumer
19 protection governing sanitation in restaurants. However, the department of health

20 services agriculture, trade and consumer protection may not restrict the serving of
21 cheese without charge in individual portions to customers as permitted by s. 254.61

22 (5) 97.01 (14g).

as affected by 2015 Wisconsin Act ... (this act)

23 SECTION 78. 250.041 (1) (e) of the statutes is amended to read: ^{repealed!}

24 250.041 (1) (e) A permit under s. 254.47 (1), 254.64 (1) (a) or (b) or 255.08 (2).

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

INSERT 21-24

* INSERT 21-23
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1 **SECTION 80.** 252.02 (4) of the statutes is amended to read:

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

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

15 **97.59 Handling foods.** No person in charge of any public eating place or other
16 establishment where food products to be consumed by others are handled may
17 knowingly employ any person handling food products who has a disease in a form
18 that is communicable by food handling. If required by the local health officer or any
19 officer of the department for the purposes of an investigation, any person who is
20 employed in the handling of foods or is suspected of having a disease in a form that
21 is communicable by food handling shall submit to an examination by the officer or
22 by a physician, physician assistant, or advanced practice nurse prescriber
23 designated by the officer. The expense of the examination, if any, shall be paid by the
24 person examined. Any person knowingly infected with a disease in a form that is
25 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

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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

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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:

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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.

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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

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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

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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.

as affected by 2015 Wisconsin Act ... (this act)

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

AutoRet

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 ^(CS) (title), (1), (2), (3), (4), (5), and (6), 254.85,
 8 254.86, 254.87, 254.88, 321.60 (1) (a) 4, ^(by SECTION AutoRef G) 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. ^{July 1, 2016}

(END)

the repeal of section 250.041 (1)(e) of the statutes;

D-NOTE
INSERT

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

LRB-0602/P4ins
SWB:.....

1 INSERT 2-15

 ****NOTE: This is reconciled s. 20.435 (1) (gm).[✓] This SECTION has been affected by drafts with the following LRB numbers: -602/P3 and -0807/P5.[✓]

2 END INSERT 2-15

3 INSERT 2-23

 ****NOTE: This is reconciled s. 45.44 (1) (a) 14.[✓] This SECTION has been affected by drafts with the following LRB numbers: -0602/P3 and -0807/P5.

4 END INSERT 2-2

5 INSERT 3-6

 ****NOTE: This is reconciled s. 49.857 (1) (d) 4.[✓] This SECTION has been affected by drafts with the following LRB numbers: -0602/P3 and -0807/P5.

6 END INSERT 3-6

7 INSERT 7-8

 ****NOTE: This is reconciled s. 73.0301 (1) (d) 3.[✓] This SECTION has been affected by drafts with the following LRB numbers: -0602/P3 and -0807/P5.

8 END INSERT 7-8

9 INSERT 10-14

10 **SECTION 1.** 97.27 (1) (b) 3.[✗] of the statutes is amended to read:

11 97.27 (1) (b) 3. A retail food establishment, ~~restaurant~~[✓] or other retail facility
12 at which food is stored on a temporary basis incidental to retail preparation or sale.

13 **History:** 1987 a. 399; 1989 a. 174; 1991 a. 39, 210; 1999 a. 83; 2013 a. 302.

13 END INSERT 10-14

14 INSERT 21-23

15 **SECTION 2.** 126.56 (2) (b) of the statutes is amended to read:

16 126.56 (2) (b) A restaurant or other[✓] retail food establishment that procures
17 processing vegetables solely for retail sale at the restaurant or other[✓] retail food
18 establishment.

History: 2001 a. 16; 2005 a. 80, 441; 2009 a. 296.

1 END INSERT 21-23

2 INSERT 18-22

 ***NOTE: This is reconciled s. 101.935 (2) (e). This SECTION has been affected by
 drafts with the following LRB numbers: -0602/P3 and -0807/P5.

3 END INSERT 18-22

4 INSERT 19-12

 ***NOTE: This is reconciled s. 108.227 (1) (e) 3. This SECTION has been affected by
 drafts with the following LRB numbers: -0602/P3 and -0807/P5.

5 END INSERT 19-12

6 INSERT 21-24

 ***NOTE: This is reconciled s. 250.041 (1) (e). This SECTION has been affected by
 drafts with the following LRB numbers: -0602/P3 and -0807/P5.

7 END INSERT 21-24

8 INSERT 45-3

 ***NOTE: This is reconciled s. 321.60 (1) (a) 4. This SECTION has been affected by
 drafts with the following LRB numbers: -0602/P3 and -0807/P5.

9 END INSERT 45-3

10

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0602/P4dn

SWB:.....

date

Jed

This draft reconciles LRB-602/P3 and LRB-807/P5. ✓ All of these drafts should continue to appear in the compiled bill.

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

LRB-0602/P4dn
SWB:jld:rs

January 29, 2015

This draft reconciles LRB-602/P3 and LRB-807/P5. All of these drafts should continue to appear in the compiled bill.

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