



In 3/19  
State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1736/P1 → /P2  
MCP:jld:rs  
RMNR

Redraft  
(no due date)  
due 3/20

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Agency draft

x

Gen

1 AN ACT *to repeal* 97.42 (1) (a), 97.42 (1) (c), 97.42 (1) (d) 2., 97.42 (1) (g), 97.42  
2 (1) (j), 97.42 (1) (m), 97.42 (1) (o), 97.42 (4) (c), 97.42 (5), 97.42 (6) (a) 4. and 97.45;  
3 *to amend* 97.42 (title), 97.42 (1) (b), 97.42 (1) (d) (intro.), 97.42 (1) (d) 3., 97.42  
4 (1) (e), 97.42 (1) (f), 97.42 (1) (fm), 97.42 (1) (h), 97.42 (1) (i), 97.42 (1) (k), 97.42  
5 (1) (L), 97.42 (2) (a), 97.42 (2) (b), 97.42 (2) (c), 97.42 (3) (a), 97.42 (3) (b), 97.42  
6 (3) (c), 97.42 (3) (d), 97.42 (3) (e), 97.42 (3) (em), 97.42 (3) (f), 97.42 (4) (a), 97.42  
7 (4) (b), 97.42 (4) (d), 97.42 (4) (e) 2., 97.42 (4) (e) 3., 97.42 (4) (f), 97.42 (4) (g),  
8 97.42 (4) (h), 97.42 (4) (i), 97.42 (4m), 97.42 (6) (a) (intro.), 97.42 (6) (b), 97.42  
9 (6) (c), 97.42 (6) (d), 97.42 (7), 97.42 (9) (a), 97.42 (9) (b) 1., 97.42 (9) (b) 2., 97.42  
10 (10) and 97.42 (11); and *to create* 97.42 (1) (bg), 97.42 (1) (br), 97.42 (1) (em),  
11 97.42 (2) (bg) and 97.42 (3) (cm) of the statutes; **relating to:** regulation of

1 establishments where animals are slaughtered or meat is processed, and  
2 granting rule-making authority.

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*Analysis by the Legislative Reference Bureau*

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

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

3 SECTION 1. 97.42 (title) of the statutes is amended to read:

4 **97.42 (title) Compulsory inspection of animals, livestock and poultry,**  
5 **and meat or poultry and carcasses products.**

6 SECTION 2. 97.42 (1) (a) of the statutes is repealed.

✓ **\*\*\*NOTE:** The proposed statutory language you provided included a definition of “adulterated,” which was defined to have the meaning given in 9 CFR 301.2. However, s. 97.02 provides a meaning of “adulterated” that applies to chapter 97 as a whole, under which “a food is adulterated if it is adulterated within the meaning of 21 USC 342.” The definitions of “adulterated” in 9 CFR 301.2 and 21 USC 342 appear to be nearly identical, so I have not included the addition definition referencing 9 CFR 301.2 in this draft. Is this okay?

7 SECTION 3. 97.42 (1) (b) of the statutes is amended to read:

8 97.42 (1) (b) “Capable of use as human food” applies to any ~~carcass or part of~~  
9 ~~a carcass of any animal or poultry or animal~~ meat or poultry product unless it is  
10 denatured ~~or otherwise~~, identified as unfit for human consumption as required by  
11 department rules, or is naturally inedible by humans.

✓ **\*\*\*NOTE:** The term “denatured” is not defined.

12 SECTION 4. 97.42 (1) (bg) of the statutes is created to read:

13 97.42 (1) (bg) “Captive game animal” means an animal of a normally wild type  
14 that is produced in captivity for slaughter and consumption. “Captive game animal”  
15 does not include a farm-raised deer, ratite, captive game bird, fish, or an animal that  
16 is kept solely for hunting purposes at a hunting preserve.

1 SECTION 5. 97.42 (1) (br) of the statutes is created to read:

2 97.42 (1) (br) "Captive game bird" means a bird of a normally wild type that  
3 is produced in captivity for slaughter and consumption, including a pheasant, quail,  
4 wild turkey, migratory wildfowl, or ~~exotic~~<sup>other</sup> bird. "Captive game bird" does not include  
5 poultry, ratites, or birds kept solely for hunting purposes at a hunting preserve.

*that the department designates as a captive game bird by rule*

6 SECTION 6. 97.42 (1) (c) of the statutes is repealed.

\*\*\*\*NOTE: The plain language description of this request indicates that the term "meat products" would replace the use of carcasses, parts of carcasses, and meat food products. The proposed statutory changes that were provided used the terms "meat products" and "carcasses" interchangeably, and both terms were defined to have the same meaning. This draft eliminates the use of "carcass" entirely, in favor of "meat or poultry products."

Instr. 3-6

7 SECTION 7. 97.42 (1) (d) (intro.) of the statutes is amended to read:

8 97.42 (1) (d) (intro.) "Establishment" means a plant or premises, including  
9 retail premises, where ~~animals~~ livestock or poultry are slaughtered for human  
10 consumption, or ~~a plant or premises, including retail premises,~~ where meat or  
11 poultry products ~~or meat food products~~ are processed, but ~~shall~~ does not include any  
12 of the following:

13 SECTION 8. 97.42 (1) (d) 2. of the statutes is repealed.

14 SECTION 9. 97.42 (1) (d) 3. of the statutes is amended to read:

15 97.42 (1) (d) 3. Premises of a person who is the owner of the ~~animals~~ livestock  
16 or poultry to be slaughtered or of ~~carcasses~~ the meat or poultry products to be  
17 processed, ~~and if the resulting product is for exclusive use by him or her and the~~  
18 owner, members of ~~his or her~~ the owner's household ~~and his or her,~~ or the owner's  
19 nonpaying guests and employees.

20 SECTION 10. 97.42 (1) (e) of the statutes is amended to read:

1 97.42 (1) (e) "Inspector" means any person employed by the department or any  
2 cooperating agency who is authorized by the department to do any work or perform  
3 any duty in connection with the department's meat and poultry inspection program.

4 SECTION 11. 97.42 (1) (em) of the statutes is created to read:

5 97.42 (1) (em) "Livestock" means cattle, sheep, swine, goats, farm-raised deer,  
6 alpacas, llamas, bison, ratites, rabbits, and other species that the department  
7 designates as livestock by rule.

8 SECTION 12. 97.42 (1) (f) of the statutes is amended to read:

9 97.42 (1) (f) "Meat broker" means any person engaged in the business of buying  
10 or selling meat and or poultry products, or meat and poultry food products on  
11 commission, or otherwise negotiating purchases or sales of such articles meat or  
12 poultry products other than for the person's own account or as an employee of another  
13 person.

14 SECTION 13. 97.42 (1) (fm) of the statutes is amended to read:

15 97.42 (1) (fm) "Meat distributor" means a person who is engaged in the  
16 business of distributing in this state meat and or poultry products at wholesale.

17 SECTION 14. 97.42 (1) (g) of the statutes is repealed.

18 SECTION 15. 97.42 (1) (h) of the statutes is amended to read:

19 97.42 (1) (h) "Meat products" and "or poultry products" means the carcasses or  
20 any parts, including the viscera, of carcasses of animals and slaughtered livestock  
21 or poultry that are capable of use as human food.

22 SECTION 16. 97.42 (1) (i) of the statutes is amended to read:

23 97.42 (1) (i) "Mobile processor" means a person, other than the owner of the  
24 meat or poultry products being processed, who provides a meat processing service to  
25 processes meat or poultry products for the general public for compensation other

1 than the trading of services on an exchange basis, and ~~conducts the meat processing~~  
2 who processes the meat or poultry products at the premises of the owner of the  
3 ~~carcasses~~ meat or poultry products being processed.

4 SECTION 17. 97.42 (1) (j) of the statutes is repealed.

5 SECTION 18. 97.42 (1) (k) of the statutes is amended to read:

6 97.42 (1) (k) "Official inspection mark" means the symbol formulated under the  
7 rules of the department to ~~state~~ indicate that the meat, ~~or~~ poultry ~~or~~ product was  
8 inspected pursuant to ~~such~~ the department's rules.

9 SECTION 19. 97.42 (1) (L) of the statutes is amended to read:

10 97.42 (1) (L) "Poultry" means any domesticated ~~fowl~~ birds, including ~~but not~~  
11 ~~limited to~~ chickens, turkeys, geese, ducks, or guineas, but ~~shall~~ does not include  
12 ~~commercially produced captive game birds or ratites~~.

13 SECTION 20. 97.42 (1) (m) of the statutes is repealed.

14 SECTION 21. 97.42 (1) (o) of the statutes is repealed.

\*\*\*\*NOTE: The definition of "wholesome" is repealed here according to the drafting request. However, under the proposed statutory language, the term "wholesome" was still used in s. 97.42. Because the term "unwholesome" is replaced with "adulterated" in this draft, I have replaced the term "wholesome" with "not adulterated." But note that unlike the term "wholesome" which is defined under current law, the term "not adulterated" (or "unadulterated") is not defined in this draft.

15 SECTION 22. 97.42 (2) (a) of the statutes is amended to read:

16 97.42 (2) (a) ~~No~~ Subject to pars. (b) and (bg), no person may operate an  
17 establishment ~~as defined in sub. (1) (d)~~ without a valid license issued by the  
18 department ~~for each such establishment~~. That license expires on June 30 annually,  
19 except that a license issued for a new establishment on or after March 30 but before  
20 July 1 expires on June 30 of the following year. No license may be issued unless the  
21 applicant has complied with the requirements of this section. The department shall  
22 establish by rule the annual license fee is fees for establishments, not to exceed \$200,

1 ~~except the~~ based on the type of mandatory inspection required to be performed at the  
 2 establishment. The department shall establish a reduced annual license fee shall be  
 3 \$80 for those establishments engaged only in slaughtering uninspected animals  
 4 livestock or poultry or processing uninspected meat or poultry products as a custom  
 5 service, and but not in for other operations ~~subject to~~ for which a license under this  
 6 section is required. No person may be required to obtain a license under s. 97.29 or  
 7 97.30 for activities licensed under this section or ~~which is~~ for activities <sup>establishments</sup> inspected  
 8 under 21 USC 451 to 472 and 601 to 695.

\*\*\*\*NOTE: It is not clear to me whether the "which" in the final sentence of s. 97.42 (2) (a) refers to activities or establishments. Is the above change okay, or should the end of that sentence read "or for establishments inspected under 21 USC 451 to 472 and 601 to 695"?

\*\*\*\*NOTE: The plain language description of the request states that the license fee for more complex establishments would not exceed the current level, but this concept was not included in the proposed statutory language that was provided. I have limited the annual fees that are to be established by DNR to \$200; there is not a similar limitation for the reduced fees. Is this okay?

9 **SECTION 23.** 97.42 (2) (b) of the statutes is amended to read:

10 97.42 (2) (b) Paragraph (a) does not apply to any person operating an  
 11 establishment that only processes meat or poultry products, ~~or meat or poultry food~~  
 12 ~~products~~, for sale directly to consumers at retail on the premises where the products  
 13 were processed, if only inspected meat is or poultry products are permitted on the  
 14 premises and sales to <sup>plain</sup> restaurants and institutions, and retail food establishments  
 15 are restricted to 25% of the <sup>gross</sup> volume annual value of meat sales or \$28,800 annually  
 16 the adjusted dollar limitation published by the federal department of agriculture  
 17 under 9 CFR 303.1 (d) (2) (iii) (b), whichever is less. No person exempt from licensure  
 18 under this paragraph may sell any cured, smoked, <sup>plain</sup> ~~seasoned~~, ~~canned~~, or cooked meat  
 19 ~~food~~ or poultry products produced by that person to restaurants ~~or~~ institutions or  
 20 retail food establishments.

1           **SECTION 24.** 97.42 (2) (bg) of the statutes is created to read:

2           97.42 (2) (bg) Paragraph (a) does not apply to any person operating an  
3 establishment that meets the requirements under 9 CFR 303.1 (d) (2) (iv) (c) or (e)  
4 (1), or 381.10 (d) (2) (iv) (c) or (e) (1).

5           **SECTION 25.** 97.42 (2) (c) of the statutes is amended to read:

6           97.42 (2) (c) No person may operate as ~~a mobile slaughterer or~~ as a mobile  
7 processor without an annual registration certificate issued by the department,  
8 except that no registration certificate is required for ~~a mobile slaughterer or~~ a mobile  
9 processor who holds a license issued under par. (a). A registration certificate expires  
10 on June 30, annually. An application for an annual registration certificate shall be  
11 submitted on a form provided by the department and shall include information  
12 reasonably required by the department for registration purposes. The department  
13 shall promulgate rules regulating ~~mobile slaughterers and~~ mobile processors,  
14 including rules related to facilities, sanitation, identification of carcasses, and record  
15 keeping.

16           **SECTION 26.** 97.42 (3) (a) of the statutes is amended to read:

17           97.42 (3) (a) *Examination before slaughter.* For the purpose of preventing the  
18 sale and use in this state of meat ~~products and~~ or poultry products ~~which~~ that are  
19 ~~unwholesome~~ adulterated or otherwise ~~unfit for~~ not capable of use as human food,  
20 the department shall cause to be made, by inspectors who may be veterinarians on  
21 either a full-time or part-time basis, under supervision of the department, an  
22 examination and inspection of all ~~animals~~ livestock and poultry before they are  
23 slaughtered in any establishment, except as provided in pars. (d) and (em). All  
24 ~~animals~~ livestock and poultry found ~~on such inspection~~ to show symptoms of disease  
25 shall be condemned or set apart and slaughtered separately from all other animals

1 livestock and poultry, and when so slaughtered the carcasses meat or poultry  
2 products thereof shall be subject to careful examination, inspection, and disposition,  
3 in accordance with rules issued by the department.

4 **SECTION 27.** 97.42 (3) (b) of the statutes is amended to read:

5 97.42 (3) (b) *Examination after slaughter.* For the purpose stated in par. (a),  
6 the department shall cause to be made, by inspectors ~~under supervision of the~~  
7 ~~department,~~ who may be veterinarians on either a full-time or part-time basis,  
8 under supervision of the department, an examination and inspection of the carcasses  
9 ~~and parts thereof~~ meat or poultry products of all animals livestock and poultry  
10 slaughtered at any establishment, except as provided in pars. (d) and (em). ~~The~~  
11 ~~carcasses and parts thereof of all animals and~~ Meat or poultry products found to be  
12 ~~wholesome and fit for~~ not adulterated and capable of use as human food shall be  
13 marked, stamped, tagged, or labeled by inspectors as “Wis. inspected and passed”.  
14 Inspectors shall mark, stamp, tag, or label as “Wis. inspected and condemned” all  
15 ~~carcasses and parts thereof of animals and~~ meat or poultry products found to be  
16 ~~unwholesome or otherwise unfit for human food~~ adulterated or otherwise not  
17 capable of use as human food, and all carcasses ~~and parts thereof~~ meat or poultry  
18 products so inspected and condemned shall be destroyed, in accordance with rules  
19 issued by the department. Inspection marks, stamps, tags, and labels shall be  
20 prescribed by the department and shall include thereon the identification number  
21 of the establishment assigned by the department.

22 **SECTION 28.** 97.42 (3) (c) of the statutes is amended to read:

23 97.42 (3) (c) *Reexaminations.* Inspectors shall, when deemed advisable,  
24 reinspect carcasses, ~~parts thereof or meat food~~ or poultry products to determine  
25 whether ~~the same~~ they have become ~~unwholesome~~ adulterated or in any other way



1 ~~unfit for otherwise not capable of use as~~ human food. If any carcasses, parts thereof  
2 ~~or meat feed or poultry~~ products, upon a reexamination, are found to be unwholesome  
3 ~~adulterated~~ or otherwise ~~unfit for not capable of use as~~ human food, they shall be  
4 destroyed, in accordance with rules issued by the department.

5 SECTION 29. 97.42 (3) (cm) of the statutes is created to read:

6 97.42 (3) (cm) *Voluntary reimbursable inspection services.* The department  
7 shall provide slaughter inspection services for licensed establishments for certain  
8 captive game animals and captive game birds, and shall designate by rule the species  
9 of captive game animals and captive game birds for which these services may be  
10 provided. The establishment requesting these services shall reimburse the  
11 department for the actual cost of providing the services at rates established by rule  
12 by the department.

13 SECTION 30. 97.42 (3) (d) of the statutes is amended to read:

14 97.42 (3) (d) *Custom service slaughtering.* This subsection shall does not apply  
15 to ~~animals~~ livestock and poultry slaughtered as a custom service for the owner of the  
16 livestock or poultry exclusively for use by the owner ~~and~~, members of the owner's  
17 household, and the owner's nonpaying guests and employees, unless department  
18 inspection is specifically requested and performed at establishments where  
19 examinations before and after slaughter are otherwise required. The rules of the  
20 department shall make provision for the furnishing of such this inspection service,  
21 subject to availability of inspector personnel, and for the identification of all ~~animals~~  
22 livestock and poultry custom slaughtered for the owners thereof without department  
23 inspection.

24 SECTION 31. 97.42 (3) (e) of the statutes is amended to read:

1           97.42 (3) (e) *Periodic inspections.* The department shall make periodic  
 2 inspections of construction, operation, facilities, equipment, labeling, sanitation,  
 3 and wholesomeness ~~safety~~ of meat and ~~or~~ poultry products ~~and meat food products~~ <sup>practices for ensuring</sup> ~~are not adulterated~~  
 4 at establishments or any other premises, including vehicles engaged in  
 5 transportation of such ~~meat or poultry~~ products. Inspection of products and plant  
 6 operations shall cover such operations such as cutting and boning, curing and  
 7 smoking, grinding and fabrication, manufacturing, packaging, labeling, storage and  
 8 transportation. Periodic inspections of processing operations shall be conducted as  
 9 uniformly as possible among establishments subject to overtime inspection under  
 10 sub. (4) (f) to avoid the imposition of undue inspection fees against any  
 11 establishment. Inspections at overtime rates shall only be held where necessary to  
 12 assure ~~wholesomeness and~~ the safety of products for human consumption and  
 13 compliance with the requirements of this section and rules of the department.

\*\*\*\*NOTE: Your instructions were to delete the definition of "wholesomeness," which has largely been substituted with "not adulterated" throughout this draft. Because "wholesome" is no longer a defined term, "wholesomeness" should be substituted with something else in this paragraph. I am not sure that "safety" encompasses the entire meaning of "wholesomeness."

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

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

22           **SECTION 33.** 97.42 (3) (f) of the statutes is amended to read:

1           97.42 (3) (f) *Label requirements.* In addition to label requirements otherwise  
2 provided by law, meat ~~food~~ or poultry products shall bear a label, stamp, mark or tag  
3 including thereon the official inspection mark and identification number of the  
4 establishment where processed. Meat ~~and~~ or poultry products processed and sold at  
5 retail to household consumers on the premises ~~shall do~~ not require official inspection  
6 marks and identification numbers.

7           **SECTION 34.** 97.42 (4) (a) of the statutes is amended to read:

8           97.42 (4) (a) The inspection before and after slaughter of all ~~animals~~ livestock  
9 and poultry killed or dressed for human consumption at any establishment.

10          **SECTION 35.** 97.42 (4) (b) of the statutes is amended to read:

11          97.42 (4) (b) The inspection and marking of ~~carcasses or parts thereof~~ meat or  
12 poultry products intended for human consumption, and prohibiting the  
13 unauthorized use of any official inspection mark or simulation or counterfeit thereof.

14          **SECTION 36.** 97.42 (4) (c) of the statutes is repealed.

15          **SECTION 37.** 97.42 (4) (d) of the statutes is amended to read:

16          97.42 (4) (d) The seizure, retention, and destruction ~~for human consumption~~  
17 of any ~~animal~~ livestock or poultry, ~~carcasses, parts thereof,~~ or meat ~~food~~ or poultry  
18 products which have not been inspected or passed or are ~~unwholesome or~~  
19 ~~adulterated or misbranded,~~ for the purpose of preventing human consumption.

20          **SECTION 38.** 97.42 (4) (e) 2. of the statutes is amended to read:

21          97.42 (4) (e) 2. The rate of slaughter for the different classes of animals  
22 livestock and poultry conform to reasonable ~~minimums~~ minimum levels per hour;

23          **SECTION 39.** 97.42 (4) (e) 3. of the statutes is amended to read:

24          97.42 (4) (e) 3. Inspection of ~~animals~~ livestock and poultry slaughtered as a  
25 custom service be restricted to the time of the regular slaughter schedule fixed for

1 the establishment. When inspection is provided for custom slaughtering and custom  
2 processing the inspection shall be conducted in accordance with sub. (3) (a) to (c) and  
3 rules prescribed under this subsection; and

4 **SECTION 40.** 97.42 (4) (f) of the statutes is amended to read:

5 97.42 (4) (f) Overtime agreements with the department whereby the operator  
6 of any establishment subject to a license under sub. (2), agrees to pay the cost for  
7 salaries, at overtime rates, and other expenses of department inspectors whenever  
8 slaughtering, carcass preparation, or the processing of meat or poultry products ~~or~~  
9 ~~meat food products~~ is conducted beyond hours or days limited under par. (e), or on  
10 Saturdays, Sundays, or holidays for state employees under s. 230.35 (4), or before 6  
11 a.m. or after 6 p.m., or in excess of 40 hours in any week. Overtime charges for  
12 periodic inspections under sub. (3) (e) shall, insofar as possible, be limited to the  
13 minimum number of hours reasonably required for ~~the conduct of such~~ conducting  
14 those inspections. The department may assess overtime charges under this  
15 paragraph even though the department provides compensatory time in lieu of  
16 overtime compensation under s. 103.025.

17 **SECTION 41.** 97.42 (4) (g) of the statutes is amended to read:

18 97.42 (4) (g) Specifications and standards for location, construction, operation,  
19 facilities, equipment, and sanitation for any premises, establishment, or mobile  
20 facility where slaughter or processing is carried on, including custom slaughtering  
21 of ~~animals~~ livestock or poultry and custom or retail processing of meat ~~and~~ or poultry  
22 products.

23 **SECTION 42.** 97.42 (4) (h) of the statutes is amended to read:

24 97.42 (4) (h) Conditions of sanitation under which ~~carcasses, parts of carcasses,~~  
25 ~~poultry and meat and~~ or poultry products shall be stored, transported, or otherwise

1 handled by any person engaged in the business of buying, selling, freezing, storing,  
2 transporting, or processing such meat or poultry products.

3 **SECTION 43.** 97.42 (4) (i) of the statutes is amended to read:

4 97.42 (4) (i) Record-keeping requirements for persons engaged in slaughtering  
5 or processing operations, or in the storage or transportation of meat, or poultry, ~~or~~  
6 ~~meat-food~~ products, including record-keeping requirements for meat brokers and  
7 the registration of meat brokers with the department.

8 **SECTION 44.** 97.42 (4m) of the statutes is amended to read:

9 97.42 (4m) FEDERAL REQUIREMENTS. Except as provided in rules promulgated  
10 under sub. (4), the operator of an establishment that is required to be licensed under  
11 this section shall comply with 9 CFR parts 307 to 311, 313 to 315, 317 to ~~319~~ 320, 325,  
12 412, 416, and 417, and part 381 subparts G, H, I, J, K, L, O and P as they apply to  
13 federally licensed establishments.

14 **SECTION 45.** 97.42 (5) of the statutes is repealed.

15 **SECTION 46.** 97.42 (6) (a) (intro.) of the statutes is amended to read:

16 97.42 (6) (a) (intro.) No person shall may slaughter any ~~animals~~ livestock or  
17 poultry for the purpose of selling the meat ~~products~~ or poultry products thereof for  
18 human food, or sell, offer for sale, or have in his or her possession with intent to sell  
19 such any meat ~~products~~ or poultry products for human food, unless ~~such animals and~~  
20 the livestock or poultry and the carcasses meat or poultry products thereof have been  
21 first inspected and approved as provided by any of the following:

22 **SECTION 47.** 97.42 (6) (a) 4. of the statutes is repealed.

23 **SECTION 48.** 97.42 (6) (b) of the statutes is amended to read:

24 97.42 (6) (b) No person shall may sell, offer for sale, or have in his or her  
25 possession with intent to sell any meat or poultry products, ~~or meat-food products~~

1 unless ~~they~~ those products have been processed in accordance with this section, ~~or~~  
2 the federal meat inspection act, ~~or county or municipal ordinances approved by the~~  
3 department.

4 SECTION 49. 97.42 (6) (c) of the statutes is amended to read:

5 97.42 (6) (c) No person shall ~~may~~ slaughter horses, mules, or other equines or  
6 process equine carcasses or meat at establishments where ~~other animals~~ livestock  
7 or poultry are slaughtered or where ~~other~~ meat or poultry products are processed.

8 SECTION 50. 97.42 (6) (d) of the statutes is amended to read:

9 97.42 (6) (d) No county or municipality shall ~~may~~ prohibit the sale of any meat  
10 products or poultry products if such the meat products or poultry products are  
11 inspected and passed by the department, or by the U.S. federal department of  
12 agriculture, ~~or by a county or municipal inspection service approved by the~~  
13 department, provided such the meat products ~~and~~ or poultry products are wholesome  
14 and not adulterated or misbranded at the time of sale.

15 SECTION 51. 97.42 (7) of the statutes is amended to read:

16 97.42 (7) RIGHT OF ACCESS. No person shall ~~may~~ prevent or attempt to prevent  
17 an inspector or other officer or agent of the department from entering, at any time,  
18 any establishment or any other place where meat products or poultry products, ~~or~~  
19 foods derived therefrom, are processed, sold, or held for sale, for the purpose of any  
20 examination, inquiry, or inspection in connection with the administration and  
21 enforcement of this section. The examination, inquiry, or inspection may include  
22 taking samples, pictures, and documentary and physical evidence pertinent to  
23 enforcement of this section.

24 SECTION 52. 97.42 (9) (a) of the statutes is amended to read:

1           97.42 (9) (a) When in the opinion of the department, the use of any equipment,  
2           ~~utensil, container,~~ compartment, room, or ~~facilities~~ facility which is unclean or  
3           unsanitary or improperly constructed could lead to contamination of ~~the~~ a meat or  
4           poultry product, the department may attach a “Rejected” tag to ~~it~~ the item, room, or  
5           facility. No equipment, utensil, container, compartment, room, or facility so tagged  
6           may be used until made acceptable and released by a department representative, or  
7           until ~~such equipment~~ that item, room, or facility is replaced with an acceptable  
8           ~~equipment~~ item, room, or facility.

9           **SECTION 53.** 97.42 (9) (b) 1. of the statutes is amended to read:

10           97.42 (9) (b) 1. When in the opinion of the department any ~~carcass,~~ meat or  
11           poultry product, ~~meat food product,~~ or supplies or ingredients used in the processing  
12           thereof, may be ~~unwholesome,~~ adulterated or misbranded, or otherwise fail to meet  
13           standards or requirements of this section or rules adopted under this section, the  
14           department may tag ~~them~~ the product, supplies, or ingredients with a “Retained” tag  
15           to hold them for further inspection, analysis, or examination. No ~~carcass,~~ meat or  
16           poultry product, ~~meat food product,~~ or supplies, or ingredients so tagged may be  
17           used, removed from the premises, or otherwise disposed of unless released by a  
18           department representative. ~~Such products~~ A tagged item may not be retained for  
19           more than 30 days without prior notice to the owner or custodian and the right to an  
20           immediate hearing.

21           **SECTION 54.** 97.42 (9) (b) 2. of the statutes is amended to read:

22           97.42 (9) (b) 2. When in the opinion of the department any ~~carcass,~~ meat or  
23           poultry product, or supplies or ingredients used in the processing thereof, is  
24           ~~unwholesome,~~ adulterated or misbranded, or otherwise ~~fail~~ <sup>fails</sup> to meet standards or  
25           requirements of this section or rules adopted under this section, the department may

1 tag ~~them~~ the product, supplies, or ingredients with a "Detained" tag to hold them for  
2 destruction or other disposition. No ~~carcass, meat or poultry product, meat-food~~  
3 ~~product, or supplies, or ingredients~~ so tagged may be used, removed from the  
4 premises, or otherwise disposed of unless released by a department representative.  
5 Such ~~products~~ A tagged item may not be destroyed or detained for more than 30 days  
6 without prior notice to the owner or custodian and the right to an immediate hearing.

\*\*\*\*NOTE: Section 97.42 (9) (b) 1. applies when a product may be adulterated; s.  
97.42 (9) (b) 2. applies when a product is adulterated. Is this difference okay?

7 **SECTION 55.** 97.42 (10) of the statutes is amended to read:

8 97.42 (10) **SUSPENSION.** The department may, upon written notice, summarily  
9 suspend the operations in whole or in part at any establishment for substantial  
10 violations of this section or rules issued hereunder when, in the opinion of the  
11 department, a continuation of the operation would constitute an imminent danger  
12 to public health. The department may, upon written notice, summarily suspend  
13 inspection at any establishment for acts punishable under sub. (8) where ~~such~~ those  
14 acts substantially impair an inspector's ability to conduct an orderly inspection.  
15 Upon suspension of operations or inspection, the operator of the establishment may  
16 demand a hearing to determine whether the suspension should be vacated. The  
17 department shall, within 5 days after receipt of ~~such~~ the demand, hold a hearing and  
18 adjudicate the issues as provided in ch. 227. A demand for hearing ~~shall~~ does not,  
19 ~~however,~~ operate to stay the suspension pending the hearing.

20 **SECTION 56.** 97.42 (11) of the statutes is amended to read:

21 97.42 (11) **EXEMPTION.** This section ~~shall~~ does not apply to owners of poultry  
22 with respect to poultry produced on the owner's farm, provided his or her sales do not  
23 exceed 1,000 ~~fowl~~ birds annually, and the birds are labeled and tagged to identify the



1 name and address of the producer and are marked "NOT INSPECTED". Persons  
2 processing more than 1,000 fowl birds but less than 20,000 fowl birds shall be fully  
3 subject to the provisions of this section relating to licensing, sanitation, facilities, and  
4 wholesomeness safety of product. If, except that, if the department determines that  
5 the protection of consumers from unwholesome adulterated poultry products will not  
6 be impaired, it may exempt such these persons from sub. (3) (a) and (b) provided the  
7 birds are labeled or tagged to identify the name and address of the producer and are  
8 marked "NOT INSPECTED".

\*\*\*\*NOTE: Again, I am not sure whether "safe" is an adequate substitute for  
"wholesome." (See the note following SECTION 31 of this draft.)

SECTION 57. 97.45 of the statutes is repealed.

(END)

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

LRB-1736/P2ins  
MCP:jld:rs

**INSERT 3-6**

**SECTION 1.** 97.42 (1) (cm)<sup>✓</sup> of the statutes is created to read:

97.42 (1) (cm) "Denature" means to intentionally make an item unfit for human consumption by adding a substance to it to alter the item's appearance or other natural characteristics.<sup>✓</sup>



In 4/1/15  
State of Wisconsin  
2015 - 2016 LEGISLATURE

Redraft

LRB-1736/P2 → /P3  
MCP:jld:jd

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

d-note

Regen

X

1 AN ACT *to repeal* 97.42 (1) (a), 97.42 (1) (c), 97.42 (1) (d) 2., 97.42 (1) (g), 97.42  
2 (1) (j), 97.42 (1) (m), 97.42 (1) (o), 97.42 (4) (c), 97.42 (5), 97.42 (6) (a) 4. and 97.45;  
3 *to amend* 97.42 (title), 97.42 (1) (b), 97.42 (1) (d) (intro.), 97.42 (1) (d) 3., 97.42  
4 (1) (e), 97.42 (1) (f), 97.42 (1) (fm), 97.42 (1) (h), 97.42 (1) (i), 97.42 (1) (k), 97.42  
5 (1) (L), 97.42 (2) (a), 97.42 (2) (b), 97.42 (2) (c), 97.42 (3) (a), 97.42 (3) (b), 97.42  
6 (3) (c), 97.42 (3) (d), 97.42 (3) (e), 97.42 (3) (em), 97.42 (3) (f), 97.42 (4) (a), 97.42  
7 (4) (b), 97.42 (4) (d), 97.42 (4) (e) 2., 97.42 (4) (e) 3., 97.42 (4) (f), 97.42 (4) (g),  
8 97.42 (4) (h), 97.42 (4) (i), 97.42 (4m), 97.42 (6) (a) (intro.), 97.42 (6) (b), 97.42  
9 (6) (c), 97.42 (6) (d), 97.42 (7), 97.42 (9) (a), 97.42 (9) (b) 1., 97.42 (9) (b) 2., 97.42  
10 (10) and 97.42 (11); and *to create* 97.42 (1) (bg), 97.42 (1) (br), 97.42 (1) (cm),  
11 97.42 (1) (em), 97.42 (2) (bg) and 97.42 (3) (cm) of the statutes; **relating to:**

1 regulation of establishments where animals are slaughtered or meat is  
2 processed, and granting rule-making authority.

*Analysis by the Legislative Reference Bureau*

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

✓  
Ins  
Analysis

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

3 SECTION 1. 97.42 (title) of the statutes is amended to read:

4 **97.42 (title) Compulsory inspection of animals, livestock and poultry,**  
5 **and meat or poultry and carcasses products.**

OR  
N  
B

6 SECTION 2. 97.42 (1) (a) of the statutes is repealed.

7 SECTION 3. 97.42 (1) (b) of the statutes is amended to read:

8 97.42 (1) (b) “Capable of use as human food” applies to any ~~carcass or part of~~  
9 ~~a carcass of any animal or poultry or animal~~ meat or poultry product unless it is  
10 denatured ~~or otherwise~~, identified as unfit for human consumption as required by  
11 department rules, or is naturally inedible by humans.

12 SECTION 4. 97.42 (1) (bg) of the statutes is created to read:

13 97.42 (1) (bg) “Captive game animal” means an animal of a normally wild type  
14 that is produced in captivity for slaughter and consumption. “Captive game animal”  
15 does not include a farm-raised deer, ratite, captive game bird, fish, or an animal that  
16 is kept solely for hunting purposes at a hunting preserve.

17 SECTION 5. 97.42 (1) (br) of the statutes is created to read:

18 97.42 (1) (br) “Captive game bird” means a bird of a normally wild type that  
19 is produced in captivity for slaughter and consumption, including a pheasant, quail,  
20 wild turkey, migratory wildfowl, or other bird that the department designates as a

1 captive game bird by rule. “Captive game bird” does not include poultry, ratites, or  
2 birds kept solely for hunting purposes at a hunting preserve.

3 **SECTION 6.** 97.42 (1) (c) of the statutes is repealed.

4 **SECTION 7.** 97.42 (1) (cm) of the statutes is created to read:

5 97.42 (1) (cm) “Denature” means to intentionally make an item unfit for human  
6 consumption by adding a substance to it to alter the item’s appearance or other  
7 natural characteristics.

8 **SECTION 8.** 97.42 (1) (d) (intro.) of the statutes is amended to read:

9 97.42 (1) (d) (intro.) “Establishment” means a plant or premises, including  
10 retail premises, where ~~animals~~ livestock or poultry are slaughtered for human  
11 consumption, or ~~a plant or premises, including retail premises,~~ where meat or  
12 poultry products ~~or meat food products~~ are processed, but shall does not include any  
13 of the following:

14 **SECTION 9.** 97.42 (1) (d) 2. of the statutes is repealed.

15 **SECTION 10.** 97.42 (1) (d) 3. of the statutes is amended to read:

16 97.42 (1) (d) 3. Premises of a person who is the owner of the ~~animals~~ livestock  
17 or poultry to be slaughtered or of ~~carcasses~~ the meat or poultry products to be  
18 processed, and if the resulting product is for exclusive use by him ~~or her~~ and the  
19 owner, members of his ~~or her~~ the owner’s household and ~~his or her,~~ or the owner’s  
20 nonpaying guests and employees.

21 **SECTION 11.** 97.42 (1) (e) of the statutes is amended to read:

22 97.42 (1) (e) “Inspector” means any person employed by ~~the department or any~~  
23 ~~cooperating agency who is~~ or authorized by the department to do any work or perform  
24 any duty in connection with the department’s meat and poultry inspection program.

25 **SECTION 12.** 97.42 (1) (em) of the statutes is created to read:

1           97.42 (1) (em) “Livestock” means cattle, sheep, swine, goats, farm-raised deer,  
2           alpacas, llamas, bison, ratites, rabbits, and other species that the department  
3           designates as livestock by rule.

4           **SECTION 13.** 97.42 (1) (f) of the statutes is amended to read:

5           97.42 (1) (f) “Meat broker” means any person engaged in the business of buying  
6           or selling meat and or poultry products, ~~or meat and poultry food products~~ on  
7           commission, or otherwise negotiating purchases or sales of ~~such articles~~ meat or  
8           poultry products other than for the person’s own account or as an employee of another  
9           person.

10          **SECTION 14.** 97.42 (1) (fm) of the statutes is amended to read:

11          97.42 (1) (fm) “Meat distributor” means a person who is engaged in the  
12          business of distributing in this state meat and or poultry products at wholesale.

13          **SECTION 15.** 97.42 (1) (g) of the statutes is repealed.

14          **SECTION 16.** 97.42 (1) (h) of the statutes is amended to read:

15          97.42 (1) (h) “Meat ~~products~~” and “or poultry products” means ~~the carcasses or~~  
16          ~~any parts, including the viscera, of carcasses of animals and slaughtered livestock~~  
17          or poultry that are capable of use as human food.

18          **SECTION 17.** 97.42 (1) (i) of the statutes is amended to read:

19          97.42 (1) (i) “Mobile processor” means a person, other than the owner of the  
20          meat or poultry products being processed, ~~who provides a meat processing service to~~  
21          processes meat or poultry products for the general public for compensation other  
22          than the trading of services on an exchange basis, and ~~conducts the meat processing~~  
23          who processes the meat or poultry products at the premises of the owner of the  
24          ~~carcasses~~ meat or poultry products being processed.

25          **SECTION 18.** 97.42 (1) (j) of the statutes is repealed.

1 SECTION 19. 97.42 (1) (k) of the statutes is amended to read:

2 97.42 (1) (k) "Official inspection mark" means the symbol formulated under the  
3 rules of the department to state indicate that the meat, or poultry or product was  
4 inspected pursuant to ~~such~~ the department's rules.

5 SECTION 20. 97.42 (1) (L) of the statutes is amended to read:

6 97.42 (1) (L) "Poultry" means any domesticated fowl birds, including ~~but not~~  
7 ~~limited to~~ chickens, turkeys, geese, ducks, or guineas, but ~~shall~~ does not include  
8 ~~commercially produced~~ captive game birds or ratites.

9 SECTION 21. 97.42 (1) (m) of the statutes is repealed.

10 SECTION 22. 97.42 (1) (o) of the statutes is repealed.

11 SECTION 23. 97.42 (2) (a)<sup>X</sup> of the statutes is amended to read:

12 97.42 (2) (a) ~~No~~ Subject to pars. (b) and (bg), no person may operate an  
13 establishment ~~as defined in sub. (1) (d)~~ without a valid license issued by the  
14 department ~~for each such~~ establishment. That license expires on June 30 annually,  
15 except that a license issued for a new establishment on or after March 30 but before  
16 July 1 expires on June 30 of the following year. No license may be issued unless the

17 applicant has complied with the requirements of this section. The department shall

18 establish by rule the annual license ~~fee is~~ <sup>plain</sup> fees for establishments, not to exceed \$200,

19 <sup>plain</sup> except the based on the type of mandatory inspection required to be performed at the

20 establishment. The department shall establish a reduced annual license fee <sup>plain</sup> shall be

21 <sup>plain</sup> \$80 for those establishments engaged only in slaughtering uninspected animals

22 livestock or poultry or processing uninspected meat or poultry products as a custom

23 service, and but not in for other operations subject to for which a license under this

24 section is required. No person may be required to obtain a license under s. 97.29 or

1 97.30 for activities licensed under this section or ~~which is~~ for establishments  
2 inspected under 21 USC 451 to 472 and 601 to 695.

3 Dns,  
6-2 SECTION 24. 97.42 (2) (b) of the statutes is amended to read:

4 97.42 (2) (b) Paragraph (a) does not apply to any person operating an  
5 establishment that only processes meat or poultry products, ~~or meat or poultry food~~  
6 ~~products~~, for sale directly to consumers at retail on the premises where the products  
7 were processed, if only inspected meat is or poultry products are permitted on the

8 premises and sales to <sup>hotels,</sup> restaurants, and institutions are restricted to 25% of the  
9 volume gross annual value of <sup>plain</sup> meat sales or <sup>or poultry product</sup> \$28,800 annually the adjusted dollar  
10 limitation published by the federal department of agriculture under 9 CFR 303.1 (d)

11 (2) (iii) (b), whichever is less. No person exempt from licensure under this paragraph  
12 may sell any cured, smoked, ~~seasoned~~, canned, or cooked meat ~~food~~ or poultry  
13 products produced by that person to <sup>hotels,</sup> restaurants, or institutions. ✓

14 SECTION 25. 97.42 (2) (bg) of the statutes is created to read:

15 97.42 (2) (bg) Paragraph (a) does not apply to any person operating an  
16 establishment that meets the requirements under 9 CFR 303.1 (d) (2) (iv) (c) or (e)  
17 (1), or 381.10 (d) (2) (iv) (c) or (e) (1).

18 SECTION 26. 97.42 (2) (c) of the statutes is amended to read:

19 97.42 (2) (c) No person may operate as ~~a mobile slaughterer~~ or as a mobile  
20 processor without an annual registration certificate issued by the department,  
21 except that no registration certificate is required for ~~a mobile slaughterer~~ or a mobile  
22 processor who holds a license issued under par. (a). A registration certificate expires  
23 on June 30, annually. An application for an annual registration certificate shall be  
24 submitted on a form provided by the department and shall include information  
25 reasonably required by the department for registration purposes. The department



1 shall promulgate rules regulating ~~mobile slaughterers and~~ mobile processors,  
2 including rules related to facilities, sanitation, identification of carcasses, and record  
3 keeping.

4 **SECTION 27.** 97.42 (3) (a) of the statutes is amended to read:

5 97.42 (3) (a) *Examination before slaughter.* For the purpose of preventing the  
6 sale and use in this state of meat products ~~and or~~ poultry products which ~~that~~ are  
7 ~~unwholesome~~ adulterated or otherwise ~~unfit for~~ not capable of use as human food,  
8 the department shall cause to be made, by inspectors who may be veterinarians on  
9 either a full-time or part-time basis, under supervision of the department, an  
10 examination and inspection of all ~~animals~~ livestock and poultry before they are  
11 slaughtered in any establishment, except as provided in pars. (d) and (em). All  
12 ~~animals~~ livestock and poultry found ~~on such inspection~~ to show symptoms of disease  
13 shall be condemned or set apart and slaughtered separately from all other ~~animals~~  
14 livestock and poultry, and when so slaughtered the carcasses meat or poultry  
15 products thereof shall be subject to careful examination, inspection, and disposition,  
16 in accordance with rules issued by the department.

17 **SECTION 28.** 97.42 (3) (b) of the statutes is amended to read:

18 97.42 (3) (b) *Examination after slaughter.* For the purpose stated in par. (a),  
19 the department shall cause to be made, by inspectors ~~under supervision of the~~  
20 ~~department,~~ who may be veterinarians on either a full-time or part-time basis,  
21 under supervision of the department, an examination and inspection of the carcasses  
22 ~~and parts thereof~~ meat or poultry products of all ~~animals~~ livestock and poultry  
23 slaughtered at any establishment, except as provided in pars. (d) and (em). ~~The~~  
24 ~~carcasses and parts thereof of all animals and~~ Meat or poultry products found to be  
25 ~~wholesome and fit for~~ not adulterated and capable of use as human food shall be

1 marked, stamped, tagged, or labeled by inspectors as “Wis. inspected and passed”.  
2 Inspectors shall mark, stamp, tag, or label as “Wis. inspected and condemned” all  
3 ~~carcasses and parts thereof of animals and~~ meat or poultry products found to be  
4 ~~unwholesome or otherwise unfit for human food~~ adulterated or otherwise not  
5 capable of use as human food, and all ~~carcasses and parts thereof~~ meat or poultry  
6 products so inspected and condemned shall be destroyed, in accordance with rules  
7 issued by the department. Inspection marks, stamps, tags, and labels shall be  
8 prescribed by the department and shall include thereon the identification number  
9 of the establishment assigned by the department.

10 **SECTION 29.** 97.42 (3) (c) of the statutes is amended to read:

11 97.42 (3) (c) *Reexaminations.* Inspectors shall, when deemed advisable,  
12 reinspect ~~carcasses, parts thereof or meat food or poultry~~ products to determine  
13 whether the same ~~they~~ they have become ~~unwholesome~~ adulterated or ~~in any other way~~  
14 ~~unfit for~~ otherwise not capable of use as human food. If any ~~carcasses, parts thereof~~  
15 ~~or meat food or poultry~~ products, upon a reexamination, are found to be ~~unwholesome~~  
16 adulterated or otherwise ~~unfit for~~ not capable of use as human food, they shall be  
17 destroyed, in accordance with rules issued by the department.

18 **SECTION 30.** 97.42 (3) (cm) of the statutes is created to read:

19 97.42 (3) (cm) *Voluntary reimbursable inspection services.* The department  
20 shall provide slaughter inspection services for licensed establishments for certain  
21 captive game animals and captive game birds, and shall designate by rule the species  
22 of captive game animals and captive game birds for which these services may be  
23 provided. The establishment requesting these services shall reimburse the  
24 department for the actual cost of providing the services at rates established by rule  
25 by the department.

1           **SECTION 31.** 97.42 (3) (d) of the statutes is amended to read:

2           97.42 (3) (d) *Custom service slaughtering.* This subsection shall does not apply  
3 to ~~animals~~ livestock and poultry slaughtered as a custom service for the owner of the  
4 livestock or poultry exclusively for use by the owner ~~and~~, members of the owner's  
5 household, and the owner's nonpaying guests and employees, unless department  
6 inspection is specifically requested and performed at establishments where  
7 examinations before and after slaughter are otherwise required. The rules of the  
8 department shall make provision for the furnishing of such this inspection service,  
9 subject to availability of inspector personnel, and for the identification of all ~~animals~~  
10 livestock and poultry custom slaughtered for the owners thereof without department  
11 inspection.

12           **SECTION 32.** 97.42 (3) (e) of the statutes is amended to read:

13           97.42 (3) (e) *Periodic inspections.* The department shall make periodic  
14 inspections of construction, operation, facilities, equipment, labeling, sanitation,  
15 and ~~wholesomeness of practices for ensuring meat and or~~ poultry products, ~~and meat~~  
16 ~~food products~~ are not adulterated, at establishments or any other premises,  
17 including vehicles engaged in transportation of such meat or poultry products.  
18 Inspection of products and plant operations shall cover such operations such as  
19 cutting and boning, curing and smoking, grinding and fabrication, manufacturing,  
20 packaging, labeling, storage and transportation. Periodic inspections of processing  
21 operations shall be conducted as uniformly as possible among establishments  
22 subject to overtime inspection under sub. (4) (f) to avoid the imposition of undue  
23 inspection fees against any establishment. Inspections at overtime rates shall only  
24 be held where necessary to assure ~~wholesomeness and~~ the safety of products for

1 human consumption and compliance with the requirements of this section and rules  
2 of the department.

3 **SECTION 33.** 97.42 (3) (em) of the statutes is amended to read:

4 97.42 (3) (em) *Slaughter of farm-raised deer.* The requirements of pars. (a) and  
5 (b) do not apply to the slaughter of a farm-raised deer if its meat food products are  
6 not sold by a person holding a restaurant permit under s. 254.64 or by an operator  
7 of a retail food establishment, as defined under s. 97.30 (1) (c). The operator of an  
8 establishment in which farm-raised deer, ~~their carcasses~~ or their meat food products  
9 are examined and inspected under this subsection shall pay the department for the  
10 cost of the department's examination and inspection.

11 **SECTION 34.** 97.42 (3) (f) of the statutes is amended to read:

12 97.42 (3) (f) *Label requirements.* In addition to label requirements otherwise  
13 provided by law, meat food or poultry products shall bear a label, stamp, mark or tag  
14 including thereon the official inspection mark and identification number of the  
15 establishment where processed. Meat ~~and or~~ poultry products processed and sold at  
16 retail to household consumers on the premises ~~shall do~~ not require official inspection  
17 marks and identification numbers.

18 **SECTION 35.** 97.42 (4) (a) of the statutes is amended to read:

19 97.42 (4) (a) The inspection before and after slaughter of all animals livestock  
20 and poultry killed or dressed for human consumption at any establishment.

21 **SECTION 36.** 97.42 (4) (b) of the statutes is amended to read:

22 97.42 (4) (b) The inspection and marking of ~~carcasses or parts thereof~~ meat or  
23 poultry products intended for human consumption, and prohibiting the  
24 unauthorized use of any official inspection mark or simulation or counterfeit thereof.

25 **SECTION 37.** 97.42 (4) (c) of the statutes is repealed.

1           **SECTION 38.** 97.42 (4) (d) of the statutes is amended to read:

2           97.42 (4) (d) The seizure, retention, and destruction ~~for human consumption~~  
3 of any animal livestock or poultry, ~~carcasses, parts thereof,~~ or meat food or poultry  
4 products which have not been inspected or passed or are ~~unwholesome or~~  
5 adulterated or misbranded, for the purpose of preventing human consumption.

6           **SECTION 39.** 97.42 (4) (e) 2. of the statutes is amended to read:

7           97.42 (4) (e) 2. The rate of slaughter for the different classes of ~~animals~~  
8 livestock and poultry conform to reasonable ~~minimums~~ minimum levels per hour;

9           **SECTION 40.** 97.42 (4) (e) 3. of the statutes is amended to read:

10          97.42 (4) (e) 3. Inspection of ~~animals~~ livestock and poultry slaughtered as a  
11 custom service be restricted to the time of the regular slaughter schedule fixed for  
12 the establishment. When inspection is provided for custom slaughtering and custom  
13 processing the inspection shall be conducted in accordance with sub. (3) (a) to (c) and  
14 rules prescribed under this subsection; and

15          **SECTION 41.** 97.42 (4) (f) of the statutes is amended to read:

16          97.42 (4) (f) Overtime agreements with the department whereby the operator  
17 of any establishment subject to a license under sub. (2), agrees to pay the cost for  
18 salaries, at overtime rates, and other expenses of department inspectors whenever  
19 slaughtering, carcass preparation, or the processing of meat or poultry products ~~or~~  
20 ~~meat food products~~ is conducted beyond hours or days limited under par. (e), or on  
21 Saturdays, Sundays, or holidays for state employees under s. 230.35 (4), or before 6  
22 a.m. or after 6 p.m., or in excess of 40 hours in any week. Overtime charges for  
23 periodic inspections under sub. (3) (e) shall, insofar as possible, be limited to the  
24 minimum number of hours reasonably required for ~~the conduct of such~~ conducting  
25 those inspections. The department may assess overtime charges under this

1 paragraph even though the department provides compensatory time in lieu of  
2 overtime compensation under s. 103.025.

3 SECTION 42. 97.42 (4) (g) of the statutes is amended to read:

4 97.42 (4) (g) Specifications and standards for location, construction, operation,  
5 facilities, equipment, and sanitation for any premises, establishment, or mobile  
6 facility where slaughter or processing is carried on, including custom slaughtering  
7 of ~~animals~~ livestock or poultry and custom or retail processing of meat ~~and~~ or poultry  
8 products.

9 SECTION 43. 97.42 (4) (h) of the statutes is amended to read:

10 97.42 (4) (h) Conditions of sanitation under which ~~carcasses, parts of carcasses,~~  
11 ~~poultry and meat and or~~ poultry products shall be stored, transported, or otherwise  
12 handled by any person engaged in the business of buying, selling, freezing, storing,  
13 transporting, or processing such meat or poultry products.

14 SECTION 44. 97.42 (4) (i) of the statutes is amended to read:

15 97.42 (4) (i) Record-keeping requirements for persons engaged in slaughtering  
16 or processing operations, or in the storage or transportation of meat, or poultry, ~~or~~  
17 ~~meat food~~ products, including record-keeping requirements for meat brokers and  
18 the registration of meat brokers with the department.

19 SECTION 45. 97.42 (4m) of the statutes is amended to read:

20

20 97.42 (4m) FEDERAL REQUIREMENTS. ~~Except as provided in rules promulgated~~  
21 ~~under sub. (4), the~~ <sup>The</sup> operator of an establishment that is required to be licensed under  
22 this section shall comply with ~~9 CFR parts 307 to 311, 313 to 315, 317 to 319~~ 320, 325,  
23 412, 416, and 417, and part 381 subparts G, H, I, J, K, L, O and P as they apply to  
24 federally licensed establishments. Federal requirements as provided in  
rules promulgated by the department

25 SECTION 46. 97.42 (5) of the statutes is repealed.

1           **SECTION 47.** 97.42 (6) (a) (intro.) of the statutes is amended to read:

2           97.42 (6) (a) (intro.) No person shall may slaughter any animals livestock or  
3           poultry for the purpose of selling the meat ~~products~~ or poultry products thereof for  
4           human food, or sell, offer for sale, or have in his or her possession with intent to sell  
5           such any meat ~~products~~ or poultry products for human food, unless ~~such animals and~~  
6           the livestock or poultry and the carcasses meat or poultry products thereof have been  
7           first inspected and approved as provided by any of the following:

8           **SECTION 48.** 97.42 (6) (a) 4. of the statutes is repealed.

9           **SECTION 49.** 97.42 (6) (b) of the statutes is amended to read:

10          97.42 (6) (b) No person shall may sell, offer for sale, or have in his or her  
11          possession with intent to sell any meat or poultry products, ~~or meat food products~~  
12          unless ~~they~~ those products have been processed in accordance with this section, or  
13          the federal meat inspection act, ~~or county or municipal ordinances approved by the~~  
14          department.

15          **SECTION 50.** 97.42 (6) (c) of the statutes is amended to read:

16          97.42 (6) (c) No person shall may slaughter horses, mules, or other equines or  
17          process equine carcasses or meat at establishments where ~~other animals~~ livestock  
18          or poultry are slaughtered or where ~~other~~ meat or poultry products are processed.

19          **SECTION 51.** 97.42 (6) (d) of the statutes is amended to read:

20          97.42 (6) (d) No county or municipality shall may prohibit the sale of any meat  
21          ~~products~~ or poultry products if such the meat ~~products~~ or poultry products are  
22          inspected and passed by the department, or by the U.S. federal department of  
23          agriculture, ~~or by a county or municipal inspection service approved by the~~  
24          department, provided such the meat ~~products~~ and or poultry products are wholesome  
25          and not adulterated or misbranded at the time of sale.

1           **SECTION 52.** 97.42 (7) of the statutes is amended to read:

2           97.42 (7) RIGHT OF ACCESS. No person shall may prevent or attempt to prevent  
3 an inspector or other officer or agent of the department from entering, at any time,  
4 any establishment or any other place where meat products or poultry products, or  
5 foods derived therefrom, are processed, sold, or held for sale, for the purpose of any  
6 examination, inquiry, or inspection in connection with the administration and  
7 enforcement of this section. The examination, inquiry, or inspection may include  
8 taking samples, pictures, and documentary and physical evidence pertinent to  
9 enforcement of this section.

10           **SECTION 53.** 97.42 (9) (a) of the statutes is amended to read:

11           97.42 (9) (a) When in the opinion of the department, the use of any equipment,  
12 utensil, container, compartment, room, or facilities facility which is unclean or  
13 unsanitary or improperly constructed could lead to contamination of ~~the a~~ meat or  
14 poultry product, the department may attach a “Rejected” tag to it the item, room, or  
15 facility. No equipment, utensil, container, compartment, room, or facility so tagged  
16 may be used until made acceptable and released by a department representative, or  
17 until ~~such equipment~~ that item, room, or facility is replaced with an acceptable  
18 equipment item, room, or facility.

19           **SECTION 54.** 97.42 (9) (b) 1. of the statutes is amended to read:

20           97.42 (9) (b) 1. When in the opinion of the department any ~~carcass,~~ meat or  
21 poultry product, ~~meat food product,~~ or supplies or ingredients used in the processing  
22 thereof, may be ~~unwholesome,~~ adulterated or misbranded, or otherwise fail to meet  
23 standards or requirements of this section or rules adopted under this section, the  
24 department may tag ~~them~~ the product, supplies, or ingredients with a “Retained” tag  
25 to hold them for further inspection, analysis, or examination. No ~~carcass,~~ meat or



1 poultry product, ~~meat food product, or supplies,~~ or ingredients so tagged may be  
2 used, removed from the premises, or otherwise disposed of unless released by a  
3 department representative. ~~Such products~~ A tagged item may not be retained for  
4 more than 30 days without prior notice to the owner or custodian and the right to an  
5 immediate hearing.

6 **SECTION 55.** 97.42 (9) (b) 2. of the statutes is amended to read:

7 97.42 (9) (b) 2. When in the opinion of the department any ~~carcass,~~ meat or  
8 poultry product, or supplies or ingredients used in the processing thereof, is  
9 ~~unwholesome,~~ adulterated or misbranded, or otherwise fail fails to meet standards  
10 or requirements of this section or rules adopted under this section, the department  
11 may tag ~~them~~ the product, supplies, or ingredients with a “Detained” tag to hold  
12 them for destruction or other disposition. No ~~carcass,~~ meat or poultry product, ~~meat~~  
13 ~~food product, or supplies,~~ or ingredients so tagged may be used, removed from the  
14 premises, or otherwise disposed of unless released by a department representative.  
15 ~~Such products~~ A tagged item may not be destroyed or detained for more than 30 days  
16 without prior notice to the owner or custodian and the right to an immediate hearing.

17 **SECTION 56.** 97.42 (10) of the statutes is amended to read:

18 97.42 (10) SUSPENSION. The department may, upon written notice, summarily  
19 suspend the operations in whole or in part at any establishment for substantial  
20 violations of this section or rules issued hereunder when, in the opinion of the  
21 department, a continuation of the operation would constitute an imminent danger  
22 to public health. The department may, upon written notice, summarily suspend  
23 inspection at any establishment for acts punishable under sub. (8) where ~~such~~ those  
24 acts substantially impair an inspector’s ability to conduct an orderly inspection.  
25 Upon suspension of operations or inspection, the operator of the establishment may

1 demand a hearing to determine whether the suspension should be vacated. The  
2 department shall, within 5 days after receipt of ~~such~~ the demand, hold a hearing and  
3 adjudicate the issues as provided in ch. 227. A demand for hearing shall does not,  
4 ~~however,~~ operate to stay the suspension pending the hearing.

5 SECTION 57. 97.42 (11) of the statutes is amended to read:

6 97.42 (11) EXEMPTION. This section shall does not apply to owners of poultry  
7 with respect to poultry produced on the owner's farm, provided his or her sales do not  
8 exceed 1,000 ~~fewl~~ birds annually, and the birds are labeled and tagged to identify the  
9 name and address of the producer and are marked "NOT INSPECTED". Persons  
10 processing more than 1,000 ~~fewl~~ birds but less than 20,000 ~~fewl~~ birds shall be fully  
11 subject to the provisions of this section relating to licensing, sanitation, facilities, and  
12 ~~wholesomeness of practices for ensuring product. If is not adulterated, except that,~~  
13 if the department determines that the protection of consumers from unwholesome  
14 adulterated poultry products will not be impaired, it may exempt ~~such~~ these persons  
15 from sub. (3) (a) and (b) provided the birds are labeled or tagged to identify the name  
16 and address of the producer and are marked "NOT INSPECTED".

17 SECTION 58. 97.45 of the statutes is repealed.

18 (END)

17 Ins.  
18 16-17

d-note

1

**INSERT: ANALYSIS**

Under current law, the Department of Agriculture, Trade and Consumer Protection (DATCP) administers a licensing and inspection program for meat and poultry slaughtering and processing. Current law generally requires, with some exceptions, certain establishments that slaughter animals or poultry, or that process meat products or poultry products, to be licensed and pay an annual license fee; and for inspectors who are supervised by DATCP to inspect animals and poultry before they are slaughtered, and to inspect and label their carcasses after slaughter. This bill makes the following changes to the program.

***Terminology***

This bill combines the definitions of "carcass," "meat food products," "meat products," and "poultry products" into a single defined term, "meat or poultry products." The bill also replaces the term "animal" with "livestock," and eliminates the term "unwholesome" in favor of the term "adulterated" as that term is defined in the federal food, drug, and cosmetic act.

***License fees***

Current law requires certain establishments that slaughter livestock or poultry, or that process meat or poultry products, to pay an annual license fee of \$200. Establishments that only slaughter uninspected livestock or poultry or process uninspected meat or poultry products as a custom service pay a reduced annual license fee of \$80.

This bill requires DATCP to set, by rule, the annual license fees for establishments based on the type of inspection required, which are not to exceed \$200, and to establish a reduced annual license fee for establishments that only slaughter livestock or poultry or process meat or poultry products as a custom service.

***Exemptions***

Current law also creates an exemption to the licensing and fee requirements for establishments that only process meat or poultry products for retail sale directly to customers on the premises, if only inspected meat or poultry products are allowed on the premises, and if sales to restaurants and institutions do not exceed either 25% of the establishment's sales or \$28,800 annually, whichever amount is less.

This bill changes the third requirement to this exemption so that sales to hotels, restaurants, and institutions must not exceed either 25% of the establishment's gross annual value of sales of meat or poultry products or the adjusted dollar limitation that is published by the federal department of agriculture, whichever is less.

This bill creates an additional exemption to the licensing and fee requirements for establishments that meet certain federal department of agriculture requirements relating to operations traditionally done at retail stores and restaurants, such as cutting up, grinding, freezing, cooking, and wrapping. This bill also creates an exemption to the licensing and inspection requirements for



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percent

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establishments that slaughter or process captive game animals and captive game birds, as defined in the bill, and eliminates the registration requirements for mobile slaughterers. The bill also requires DATCP to provide slaughter inspection services to licensed establishments for captive game animals and captive game birds, and to designate by rule which species are eligible for those services. The bill also requires the establishment requesting the inspection services to reimburse DATCP for the cost of the services, at rates to be established by DATCP by rule.✓

**Inspections**

Current law allows DATCP to suspend an inspection at an establishment for acts that substantially impair an inspector's ability to conduct an orderly inspection. This bill adds the requirement that DATCP must provide written notice of suspension of the inspection.✓

**Other**

\* Current law requires the operator of a licensed establishment to comply with specific federal department of agriculture regulations. This bill instead requires operators to comply with federal requirements as provided in rules that are promulgated by DATCP.

\* Finally, current law allows DATCP to enter into agreements with counties and municipalities for inspection and enforcement services. Current law also allows livestock and poultry, and meat or poultry products, to be inspected and approved \* under state law, the federal meat inspection act, the federal poultry products inspection act, or county or municipal ordinances or regulations that have been approved by DATCP. This bill eliminates the provisions relating to county and municipal ordinances and inspections.

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

1 **INSERT: 6-2** auto ref A ✓

2 **SECTION (1.)** 97.42 (2) (a) of the statutes, as affected by 2015 Wisconsin Act ....

3 (this act), is amended to read:

4 97.42 (2) (a) Subject to pars. (b) and (bg),✓ no person may operate an  
5 establishment without a valid license issued by the department. That license expires  
6 on June 30 annually, except that a license issued for a new establishment on or after  
7 March 30 but before July 1 expires on June 30 of the following year. No license may  
8 be issued unless the applicant has complied with the requirements of this section.

9 The department shall establish by rule the✓ annual license fee— is fees for  
10 establishments, not to exceed \$200, except the based on the type of mandatory

1 inspection required to be performed at the establishment. The department shall  
 2 establish a reduced annual license fee shall be \$80 for those establishments engaged  
 3 only in slaughtering uninspected livestock or poultry or processing uninspected  
 4 meat or poultry products as a custom service, but not for other operations for which  
 5 a license under this section is required. No person may be required to obtain a license  
 6 under s. 97.29 or 97.30 for activities licensed under this section or for establishments  
 7 inspected under 21 USC 451 to 472 and 601 to 695.

History: 1971 c. 270 s. 104; 1973 c. 206; 1975 c. 308, 421; 1977 c. 196 s. 131; 1977 c. 216, 365; 1979 c. 110, 154; 1981 c. 314; 1983 a. 189, 261; 1983 a. 500 s. 44; 1985 a. 29; 1987 a. 399; 1989 a. 174; 1991 a. 39, 175, 269; 1993 a. 16, 27, 144, 492; 1995 a. 79, 225; 1999 a. 9, 185; 2001 a. 56; 2013 a. 302.

8 **INSERT: 16-17**

9 **SECTION 2. Effective dates.** This act takes effect on the day after publication,  
 10 except as follows:

11 (1) The treatment of sections 97.42 (2) (a) (by SECTION ~~24~~) and (4m) of the  
 12 statutes takes effect on the first day of the 25th month beginning after publication.

*AUTO  
REF A*

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

LRB-15-1736/P3dn  
MCP:jld:jd

date

Cheryl:

Attached is a redraft based on your instructions.

Please note that I have inserted a delayed effective date for the treatment of <sup>g</sup>ss. 97.42 (2) (a) and (4m), because these sections require DATCP to promulgate rules.

<sup>e</sup> these statutes  
Mary Pfothenauer  
Legislative Attorney  
(608) 266-6778  
mary.pfothenauer@legis.wisconsin.gov

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

LRB-1736/P3dn  
MCP;jld;jd

April 2, 2015

Cheryl:

Attached is a redraft based on your instructions.

Please note that I have inserted a delayed effective date for the treatment of s. 97.42 (2) (a) and (4m), because these statutes require DATCP to promulgate rules.

Mary Pfothenauer  
Legislative Attorney  
(608) 266-6778  
mary.pfothenauer@legis.wisconsin.gov

## Pfotenhauer, Mary

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**From:** Ingham, Steve C - DATCP <Steve.Ingham@wisconsin.gov>  
**Sent:** Thursday, April 09, 2015 3:16 PM  
**To:** Pfotenhauer, Mary  
**Cc:** Daniels, Cheryl F - DATCP; Cleveland, Sandy A - DATCP; Klug, Cindy A - DATCP  
**Subject:** Fixes in LRB-1736/P3dn

Hi, Mary,

I reviewed the redraft of LRB-1736/P3dn you sent over to Cheryl last week. The proposed drafted legislation is in good shape – thank you! However, there are a few things that I can tell we didn't clarify well enough because the "Analysis by the Legislative Reference Bureau" section isn't quite right.

The last (partial) paragraph on page 2 and the first two lines on page 3 should indicate something like:  
"This bill creates additional exemptions to the licensing and fee requirements for establishments that make meat pizzas and ship them hot for sale by a non-profit organization, and establishments which make meat items at a central commissary and ship them for meal sales at restaurants owned by the same company. These exempted establishments would already be licensed as restaurants or food processing plants."

Page 3, lines 5 and 6: We did not intend for the registration requirement for mobile slaughterers to be ended. What we wanted to do was remove the distinction between mobile slaughterer and mobile processor (sections 17 and 18). Because a mobile processor is defined as someone who processes meat or poultry products, and meat or poultry products are defined to include carcasses, we thought we could cover everything with the term mobile processor. Perhaps section 17, line 11 should be modified to read "...produces or processes meat or poultry products..." Please let us know what you think.

Page 3, later in line 6 and line 7: I think it would better convey what we're trying to do if it read "The bill also requires DATCP to provide voluntary inspection services to licensed establishments for slaughter and processing of captive game animal and captive game bird species designated by department rule as eligible for those services."

If this doesn't make sense, or if you have questions, please feel free to contact me by phone (608-224-4701) or e-mail.

Thanks much,  
Steve Ingham  
Administrator, Division of Food Safety



§ 303.1

9 CFR Ch. III (1-1-12 Edition)

(c) Only federally or State inspected and passed product is handled or used in the preparation of any product, except that product resulting from the custom slaughter or custom preparation of product may be handled or used in accordance with paragraph (a)(2) and (b) of this section but not for sale;

(d) No sale of product is made in excess of a normal retail quantity as defined in paragraph (d)(2)(ii) of this section;

(e) The preparation of products for sale to household consumers is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section; and

(f) The preparation of products for sale to other than household consumers is limited to traditional and usual operations as defined in paragraph (d)(2)(i) (a), (b), (d), and (e) of this section. (A retail store at which custom slaughtering or preparation of products is conducted is not thereby disqualified from exemption as a retail store under this paragraph (d).)

(iv) *Restaurants.* (a) A restaurant is any establishment where:

(1) Product is prepared only for sale or service in meals or as entrees directly to individual consumers at such establishments;

(2) Only federally or State inspected and passed product or such product prepared at a retail store exempted under paragraph (d)(2)(iii) of this section is handled or used in the preparation of any product;

(3) No sale of product is made in excess of a normal retail quantity as defined in paragraph (d)(2)(ii) of this section; and

(4) The preparation of product is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section.

(b) The definition of a restaurant includes a caterer which delivers or serves product in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph.

(c) For purposes of this paragraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that

are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirements of this paragraph: *Provided*, That the requirements of §§ 320.1 through 320.4 of this subchapter apply to such facility. *Provided further*, That the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary, if the Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding.

(v) *Similar retail-type establishment:* Any establishment which is a combination retail store and restaurant; any delicatessen which meets the requirements for a retail store or restaurant as prescribed in paragraphs (d)(2) (iii) or (iv) of this section; or other establishment as determined by the Administrator in specific cases.

(vi) *Consumer:* Any household consumer, hotel, restaurant, or similar institution as determined by the Administrator in specific cases.

(3) Whenever any complaint is received by the Administrator from any person alleging that any retail store claiming exemption under this paragraph (d), in any designated State or organized Territory that is identified under section 205 of the Act (as one

that does not have or is not exercising adequate authority with respect to recordkeeping requirements) has been operated in violation of the conditions prescribed in this section for exemption, and the Administrator, upon investigation of the complaint, has reason to believe that any such violation has occurred, he shall so notify the operator of the retail store and afford him reasonable opportunity to present his views informally with respect to the matter. Thereafter, if the Administrator still has reason to believe that such a violation has occurred, and that a requirement that the operator keep records concerning the operations of the retail store would effectuate the purposes of the Act, the Administrator shall order the operator to maintain complete, accurate, and legible records of total monthly purchases and of total monthly sales of meat, meat byproducts, and meat food products, in terms of dollar values of the products involved. Such records shall separately show total sales to household consumers and total sales to other consumers and shall be maintained for the period prescribed in § 320.3 of this subchapter. If the operator maintains copies of bills of lading, receiving and shipping invoices, warehouse receipts, or similar documents which give the information required herein, additional records are not required by this subparagraph.

(e)(1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to meat pizzas containing meat food product ingredients which were prepared, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the meat pizzas are to be served in public or private nonprofit institutions, provided that the meat pizzas are ready-to-eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to

conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at Chapter 1, 1-102, except 1-102(z) and the provisions of Chapters 2 through 8, except sections 2-102(a) and (b), 2-302(d), 2-403(a), 2-403(c), 2-404, 2-405, 2-407, 2-502 through 2-506, 2-508, 2-509, 4-105, 4-201(c), 4-208, 5-101(a), 5-103, 5-104, 5-202(c), 5-203, and 6-105, part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78-2081, which is incorporated by reference, shall apply to the facilities and operations of businesses claiming this exemption. (These materials are incorporated as they exist on the date of approval. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/>

*federal\_register/  
code\_of\_federal\_regulations/  
ibr\_locations.html.*

(3) Facilities and operations of businesses claiming this exemption shall also conform to the following requirements:

(1) *Manual cleaning and sanitizing.* (A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with not fewer than three compartments shall be provided and used. Sink compartments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

of poultry products except canning of poultry products and except slaughtering of poultry unless such slaughtering is conducted at a retail store with respect to live poultry purchased by the consumer at the retail store and processed by the retail store operator in accordance with the consumer's instructions.

(ii) A normal retail quantity is any quantity of a poultry product purchased by a household consumer from a retail supplier that in the aggregate does not exceed 75 pounds. A normal retail quantity sold by a retail supplier to other than a household consumer is any quantity that in the aggregate does not exceed 150 pounds.

(iii) A retail store is any place of business where:

(a) The sales of poultry products are made to consumers only;

(b) At least 75 percent, in terms of dollar value, of total sales of product represents sales to household consumers and the total dollar value of sales of product to consumers other than household consumers does not exceed the dollar limitation per calendar year set by the Administrator. This dollar limitation is a figure which will automatically be adjusted during the first quarter of each calendar year, upward or downward, whenever the Consumer Price Index, published by the Bureau of Labor Statistics, Department of Labor, indicates a change in the price of this same volume of product which exceeds \$500. Notice of the adjusted dollar limitation will be published in the FEDERAL REGISTER.<sup>1</sup>

(c) Only federally or State inspected and passed, or exempted (or, as provided in § 381.223, State or local agency inspected and passed or exempted) poultry products are handled or used in the preparation of any poultry products;

(d) No sale of poultry products is made in excess of a normal retail quantity as defined in paragraph (d)(2)(ii) of this section; and

(e) The processing of poultry products for sale is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section.

(iv) *Restaurants.* (a) A restaurant is any establishment where:

(1) Poultry products are processed only for sale or service in meals or as entrees directly to individual consumers at such establishments;

(2) Only federally inspected and passed, or exempted (or, as provided in § 381.223, State or local agency inspected and passed or exempted) poultry products are handled or used in the preparation of any poultry products;

(3) No sale of poultry products is made in excess of a normal retail quantity as defined in paragraph (d)(2)(i) of this section; and

(4) The processing of poultry products is limited to traditional and usual operations as defined in paragraph (d)(2)(i) of this section.

(b) The definition of a restaurant includes a caterer which delivers or serves product in meals, or as entrees, only to individual consumers and otherwise meets the requirements of this paragraph.

(c) For purposes of this paragraph, operations conducted as a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to a receiving restaurant by its own employees, without intervening transfer or storage, maintained in a safe, unadulterated condition during transportation, and served in meals or as entrees only to customers at restaurants, or through vending machines, owned or operated by the same person that owns or operates such facility, and which otherwise meets the requirement of this paragraph: *Provided*, That the requirements of §§ 381.175 through 381.178 of this subchapter apply to such facility. *Provided further*, That the exempted facility may be subject to inspection requirements under the Act for as long as the Administrator deems necessary if the

<sup>1</sup>The dollar limitation currently in effect may be obtained by contacting Director, Slaughter Inspection Standards and Procedures Division, Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3219.

Administrator determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated. When the Administrator has made such determination and subjected a restaurant central kitchen facility to such inspection requirements, the operator of such facility shall be afforded an opportunity to dispute the Administrator's determination in a hearing pursuant to rules of practice which will be adopted for this proceeding.

(v) A similar retail-type establishment is any establishment which is a combination retail store and restaurant; any delicatessen which meets the requirements for a retail store or restaurant as prescribed in paragraph (d)(2) (iii) or (iv) of this section; or other establishment as determined by the Administrator in specific cases.

(vi) A consumer is any household consumer, hotel, or restaurant, or similar institution as determined by the Administrator in specific cases.

(3) Whenever any complaint is received by the Administrator from any person alleging that any retail establishment or restaurant claiming exemption under this paragraph (d) in any designated State or organized territory listed in § 381.221 that is also identified in § 381.224 as a jurisdiction that does not have or is not exercising adequate authority with respect to recordkeeping requirements, has been operated in violation of the conditions prescribed in this paragraph (d) for such exemption, and the Administrator, upon investigation of the complaint, has reason to believe that any such violation has occurred, he shall so notify the operator of the retail establishment or restaurant and afford him reasonable opportunity to present his views informally with respect to the matter. Thereafter, if the Administrator determines that such a violation has occurred, and that a requirement that the operator keep records concerning the operations of the retail establishment or restaurant would effectuate the purposes of the Act, the Administrator shall order the operator to maintain complete, accurate, and legible records of his total monthly pur-

chases and of his total monthly sales of poultry and poultry products. Such records shall separately show total sales to household consumers and total sales to other consumers, and shall be maintained for the period prescribed in § 381.177. If the operator maintains copies of bills of lading, receiving and shipping invoices, warehouse receipts, or similar documents which give the information required herein, additional records are not required by this subparagraph.

(4) The adulteration and misbranding provisions of the Act and the regulations other than the requirement of the official inspection legend, apply to articles which are exempted from inspection under this paragraph (d).

(e)(1) The requirements of the Act and the regulations in this subchapter for inspection of the preparation of products do not apply to poultry pizzas containing poultry product ingredients which were prepared, inspected, and passed in a cured or cooked form as ready-to-eat (i.e., no further cooking or other preparation is needed) in compliance with the requirements of the Act and these regulations; and the poultry pizzas are to be served in public or private nonprofit institutions, provided that the poultry pizzas are ready to eat (i.e., no further cooking or other preparation is needed, except that they may be reheated prior to serving if chilled during transportation), transported directly to the receiving institution by employees of the preparing firm, receiving institution, or a food service management company contracted to conduct food service at the public or private nonprofit institution, without intervening transfer or storage.

(2) The definitions at Chapter 1, 1-102, except 1-102(z) and the provisions of Chapters 2 through 8, except sections 2-102 (a) and (b), 2-302(d), 2-403(a), 2-403(c), 2-404, 2-405, 2-407, 2-502 through 2-506, 2-508, 2-509, 4-105, 4-201(c), 4-208, 5-101(a), 5-103, 5-104, 5-202(c), 5-203, and 6-105, Part IV, of the Food and Drug Administration's Food Service Sanitation Manual (1976 Recommendations), DHEW Publication No. (FDA) 78-2081, which is incorporated by reference,