

CR 94-146

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Gerald Whitburn, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels, motels and tourist rooming houses, restaurants, bed and breakfast establishments and food vending operations were duly approved and adopted by this Department on December 8, 1994.

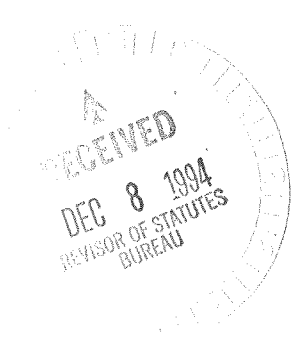
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 8th day of December, 1994.



Gerald Whitburn, Secretary
Department of Health and Social Services

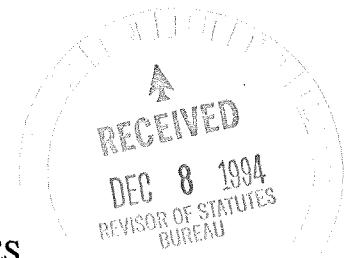
SEAL:



2-1-95

12/94

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES



To amend HSS 172.04(1), 175.04(1), 178.05(1), 195.04(1), 196.04(1)(a), 197.04(1) and 198.04(1), and to create HSS 172.04 (1m), 175.04 (1m), 178.05 (1m), 195.04 (1m), 196.04 (1m), 197.04 (1m), 198.04 (1m) and 198.04 (2) (title) and (3) (title), relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels, motels and tourist rooming houses, restaurants, bed and breakfast establishments, and food and beverage vending operations.

Analysis Prepared by the Department of Health and Social Services

The Department and agent local government health departments regulate campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations, under the authority of ss. 254.47 and 254.61 to 254.88, Stats., as renumbered and otherwise affected by 1993 Wisconsin Acts 16 and 27, to ensure that these facilities comply with health, sanitation and safety standards established by the Department by rule. The Department's rules are in chs. HSS 172, 175, 178, 195, 196, 197 and 198, Wis. Adm. Code. None of these facilities may operate without receiving a permit from the Department or an agent local government health department. A permit is evidence that a facility complies with the Department's rules on the date of issuance of the permit. A facility is charged a permit fee. Permit fee revenues help support the regulatory programs.

Permit fees for these 8 types of facilities have until recently been set by statute. The current Budget Act, 1993 Wisconsin Act 16, directs the Department to instead establish these fees, as well as preinspection fees and extra fees for late payment of a permit fee, by rule. Emergency rules were published on July 1, 1994. They consist of rule-set fees in the same amounts as the former statute-set fees. Emergency rules expire after a maximum of 270 days. These are the replacement permanent rules.

This rulemaking order establishes fees for permits, duplicate permits, preinspections and late payment of permit fees for campgrounds; recreational and educational camps; the operation of swimming pools that serve the public; restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending operators, machines and commissaries.

Until July 1, 1995, the rule-set permit fees, preinspection fees and penalty fees for late payment of the permit fee will be the same as those in ss. 50.53 and 140.05 (17), 1991 Stats., and in the emergency rules. For most facilities the fee for a duplicate permit will also be the same as the former statute-set fee. However, the fee for a duplicate permit for a camp, campground or public swimming pool is new. Beginning July 1, 1995 all fees except for duplicate vending machine permits will increase to cover program costs.

The fees established by this order do not apply to facilities regulated by local health departments granted agent status under s. 254.69, Stats., as renumbered and otherwise affected by 1993 Wisconsin Acts 16 and 27. Permit fees for those facilities are established by the local health departments, pursuant to s. 254.69 (2)(d), Stats., as renumbered and otherwise affected by 1993 Wisconsin Acts 16 and 27.

The Department's authority to amend and create these rules is found in ss. 254.47 (4) and 254.68, Stats., as renumbered and otherwise affected by 1993 Wisconsin Acts 16 and 27. The rules interpret ss. 254.47 and 254.68, Stats., as renumbered and otherwise affected by 1993 Wisconsin Acts 16 and 27.

SECTION 1. HSS 172.04 (1) is amended to read:

HSS 172.04 PERMIT. (1) APPLICATION. Before opening a public swimming pool for public use, the operator shall obtain a permit from the department or its agent by application made on a form furnished by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fee required under sub. (1m) (a).

SECTION 2. HSS 172.04 (1m) is created to read:

HSS 172.04 (1m) DEPARTMENT FEES. (a) Annual permit fee. Before July 1, 1995, the operator of a public swimming pool shall pay an annual permit fee of \$90 to the department. Beginning July 1, 1995, the operator of a public swimming pool shall pay an annual permit fee of \$100 to the department.

(b) Penalty fee. Before July 1, 1995, if the operator of a public swimming pool does not pay to the department the annual permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the operator of the public swimming pool to pay a penalty fee of \$10, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual permit fee is not paid within the first 15 days of the permit renewal period, the department shall require the operator of the public swimming pool to pay a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995, the department shall charge the operator of a public swimming pool \$5 for a duplicate permit. Beginning July 1, 1995, the department shall charge the operator of a public swimming pool \$10 for a duplicate permit.

SECTION 3. HSS 175.04 (1) is amended to read:

HSS 175.04 PERMIT. (1) APPLICATION. Before a camp is opened for public use ~~business~~, the operator shall obtain a permit from the department or ~~an its agent of the department~~. Application for a permit shall be made on a form provided by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fee required under sub. (1m) (a).

SECTION 4. HSS 175.04 (1m) is created to read:

HSS 175.04 (1m) DEPARTMENT FEES. (a) Annual permit fee. Before July 1, 1995, the operator of a camp shall pay an annual permit fee of \$50 to the department. Beginning July 1, 1995, the operator of a camp shall pay an annual permit fee of \$55 to the department.

(b) Penalty fee. Before July 1, 1995, if the operator of a camp does not pay to the department the annual permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the operator of the camp to pay a penalty fee of \$10, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual fee is not paid within the first 15 days of the permit renewal period, the department shall require the operator of the camp to pay a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995, the department shall charge the operator of a camp \$5 for a duplicate permit. Beginning July 1, 1995 the department shall charge the operator of a camp \$10 for a duplicate permit

SECTION 5. HSS 178.05 (1) is amended to read:

HSS 178.05 PERMIT. (1) APPLICATION. Before opening a campground for ~~public use~~ business, the operator shall obtain a permit from the department or its agent by application made on a form furnished by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fee required under sub. (1m) (a).

SECTION 6. HSS 178.05 (1m) is created to read:

HSS 178.05 (1m) DEPARTMENT FEES. (a) Annual permit fee. 1. The operator of a campground shall pay an annual permit fee to the department.

2. Before July 1, 1995, the annual permit fee shall be as follows:

- a. For a campground with 1-25 sites, \$70;
- b. For a campground with 26-50 sites, \$90;
- c. For a campground with 51-100 sites, \$110; and
- d. For a campground with over 100 sites, \$125.

3. Beginning July 1, 1995, the annual permit fee shall be as follows:

- a. For a campground with 1-25 sites, \$80;
- b. For a campground with 26-50 sites, \$100;
- c. For a campground with 51-100 sites, \$120; and
- d. For a campground with over 100 sites, \$135.

(b) Penalty fee. Before July 1, 1995, if the operator of a campground does not pay to the department the annual permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the operator of the campground to pay a penalty fee of \$10, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual fee is not paid within the first 15 days of the permit period, the department shall require the operator of the campground to pay a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995 the department shall charge the operator of a campground \$5 for a duplicate permit. Beginning July 1, 1995 the department shall charge the operator of a campground \$10 for a duplicate permit.

SECTION 7. HSS 195.04 (1) is amended to read:

HSS 195.04 PERMITS. (1) APPLICATION. Before opening for business, every hotel, motel and tourist rooming house shall obtain a permit from the department or its agent by application made by the hotel, motel or tourist rooming house operator upon a form furnished by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m) (a) and (d).

SECTION 8. HSS 195.04 (1m) is created to read:

HSS 195.04 (1m) DEPARTMENT FEES. (a) Annual permit fee. 1. The operator of a hotel, motel or tourist rooming house shall pay an annual permit fee to the department.

2. Before July 1, 1995, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$85;
- b. For a hotel or motel with 31 to 99 rooms, \$120;
- c. For a hotel or motel with 100 or more rooms, \$150; and
- d. For a tourist rooming house, \$40.

3. Beginning July 1, 1995, the annual permit fee shall be as follows:

- a. For a hotel or motel with 5 to 30 rooms, \$95;
- b. For a hotel or motel with 31 to 99 rooms, \$130;

- c. For a hotel or motel with 100 or more rooms, \$165; and
- d. For a tourist rooming house, \$45.

(b) Penalty fee. Before July 1, 1995, if the operator of a hotel, motel or tourist rooming house does not pay to the department the annual permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the operator of the hotel, motel or tourist rooming house to pay a penalty fee of \$20, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the hotel, motel or tourist rooming house to pay a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995, the department shall charge the operator of a hotel, motel or tourist rooming house \$5 for a duplicate permit. Beginning July 1, 1995, the department shall charge the operator of a hotel, motel or tourist rooming house \$10 for a duplicate permit.

(d) Preinspection fee. Before July 1, 1995, the operator of a hotel or motel shall pay to the department a preinspection fee of \$45.25 before issuance of the initial permit, and the operator of a tourist rooming house shall pay to the department a preinspection fee of \$18 before issuance of the initial permit. Beginning July 1, 1995, the operator of a hotel or motel shall pay to the department a preinspection fee of \$50, and the operator of a tourist rooming house shall pay to the department a preinspection fee of \$20.

SECTION 9. HSS 196.04 (1)(a) is amended to read:

HSS 196.04 PERMITS. (1) APPLICATION. (a) Before opening for business, every restaurant operator shall obtain a permit from the department or its agent by application made by the restaurant operator upon a form furnished by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m) (a) and (d).

SECTION 10. HSS 196.04 (1m) is created to read:

HSS 196.04 (1m) DEPARTMENT FEES. (a) Annual permit fee. 1. The operator of a restaurant shall pay an annual permit fee to the department.

2. Before July 1, 1995, the annual permit fee shall be as follows:

a. For a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods, \$105 and, in addition, \$30 per area for any physically separate food holding, serving or preparation area;

b. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, \$45; and

c. For a temporary restaurant, \$40.

3. Beginning July 1, 1995, the annual permit fee shall be as follows:

a. For a restaurant that serves meals prepared from raw, canned, dried, packaged or frozen foods, \$115 and, in addition, \$60 per area for any physically separate food holding, serving or preparation area;

b. For a restaurant that serves only individually wrapped, hermetically sealed single food servings supplied by a licensed processor, \$50; and

c. For a temporary restaurant, \$60, and for a mobile restaurant base with no food preparation, \$50.

(b) Penalty fee. Before July 1, 1995, if a restaurant operator does not pay to the department the annual permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the restaurant operator to pay a penalty fee of \$20, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual permit fee is not paid within the first 15 days of the permit period, the department shall require the operator of the restaurant to pay a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995 the department shall charge a restaurant operator \$5 for a duplicate permit. Beginning July 1, 1995 the department shall charge a restaurant operator \$10 for a duplicate permit.

(d) Preinspection fee. Before July 1, 1995 an operator of a restaurant shall pay to the department a preinspection fee of \$45.25 before issuance of the initial permit. Beginning July 1, 1995 the operator of a restaurant shall pay to the department a preinspection fee of \$50 before issuance of the initial permit.

SECTION 11. HSS 197.04 (1) is amended to read:

HSS 197.04 PERMITS. (1) APPLICATION. Before opening for business, every the operator of a bed and breakfast establishment shall obtain a permit from the department or its agent by application made upon a form furnished by the department or its agent. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m) (a) and (d).

SECTION 12. HSS 197.04 (1m) is created to read:

HSS 197.04 (1m) DEPARTMENT FEES. (a) Fees. Before July 1, 1995, the operator of a bed and breakfast establishment shall pay a biennial permit fee of \$75 to the department. Beginning July 1, 1995 the operator of a bed and breakfast establishment shall pay a biennial permit fee of \$85 to the department.

(b) Penalty fee. Before July 1, 1995, if the operator of a bed and breakfast establishment does not pay to the department the biennial permit fee required under par. (a) within the first 15 days of the permit renewal period, the department shall require the operator of the bed and breakfast establishment to pay a penalty fee of \$20, in addition to the biennial permit fee, for renewal of the permit. Beginning July 1, 1995, if the biennial fee is not paid within the first 15 days of the permit period, the operator of the bed and breakfast facility shall pay to the department a penalty fee of \$50, in addition to the biennial permit fee, for renewal of the permit.

(c) Fee for duplicate permit. Before July 1, 1995, the department shall charge the operator of a bed and breakfast establishment \$5 for a duplicate permit. Beginning July 1, 1995 the department shall charge a bed and breakfast operator \$10 for a duplicate permit.

(d) Preinspection fee. Until July 1, 1995, the operator of a bed and breakfast shall pay to the department a preinspection fee of \$18 before issuance of the initial permit. Beginning July 1, 1995 the operator of a bed and breakfast establishment shall pay to the department a preinspection fee of \$20 before issuance of the initial permit.

SECTION 13. HSS 198.04 (1) is amended to read:

HSS 198.04 PERMIT TO OPERATE. (1) APPLICATION. No person may conduct, maintain, manage or operate one or more vending machines or a vending machine commissary who has not been issued a permit by the department. Application for a permit shall be made on a form ~~prescribed~~ furnished by the department. An application for a permit submitted to the department shall be accompanied by the fees required under sub. (1m) (a) and (d).

SECTION 14. HSS 198.04 (1m) is created to read:

HSS 198.04 (1m) DEPARTMENT FEES. (a) Annual permit fee for the operator of a vending machine. The operator of a vending machine shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For the vending machine operator, \$50 before July 1, 1995, and \$55 beginning July 1, 1995; and

2. For each vending machine, \$5.

(b) Annual permit fee for the operator of a vending machine commissary. The operator of a vending machine commissary shall pay an annual permit fee to the department. The annual permit fee shall be as follows:

1. For a vending machine commissary where food is prepared, \$110 before July 1, 1995, and \$115 beginning July 1, 1995; and

2. For a vending machine commissary where food, transport equipment and vending supplies are only stored, \$50.

(c) Penalty fee. Before July 1, 1995, if the operator of a vending machine or vending machine commissary does not pay to the department the annual permit fee required under par. (a) or (b) within the first 15 days of the permit renewal period, the department shall require the operator to pay a penalty fee of \$20, in addition to the annual permit fee, for renewal of the permit. Beginning July 1, 1995, if the annual permit fee is not paid within the first 15 days of the permit period, the operator of the vending machine or vending machine commissary shall pay to the department a penalty fee of \$50, in addition to the annual permit fee, for renewal of the permit.

(d) Fee for duplicate permit. 1. The department shall charge the operator of a vending machine \$1 for a duplicate permit for the vending machine.

2. Before July 1, 1995, the department shall charge the operator of a vending machine \$5 for a duplicate vending machine operator permit. Beginning July 1, 1995, the department shall charge the operator of a vending machine \$10 for a duplicate vending machine operator permit.

3. Before July 1, 1995, the department shall charge the operator of a vending machine commissary \$5 for a duplicate vending machine commissary permit. Beginning July 1, 1995, the department shall charge the operator of a vending machine commissary \$10 for a duplicate permit.

(e) Preinspection fee. Before July 1, 1995, the operator of a vending machine commissary shall pay to the department a preinspection fee of \$45.25 before issuance of the initial permit. Beginning July 1, 1995 the operator of a vending machine commissary shall pay to the department a preinspection fee of \$50 before issuance of the initial permit.

SECTION 15. HSS 198.04 (2) (title) and (3) (title) are created to read:


HSS 198.04 (2) (title) ACTION BY THE DEPARTMENT.

(3) (title) COMPLIANCE WITH RESTAURANT RULES.

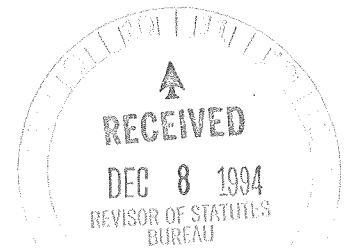
The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health
and Social Services

DATE: December 8, 1994

By: 
Gerald Whitburn
Secretary

SEAL:



Tommy G. Thompson
Governor
Gerald Whitburn
Secretary

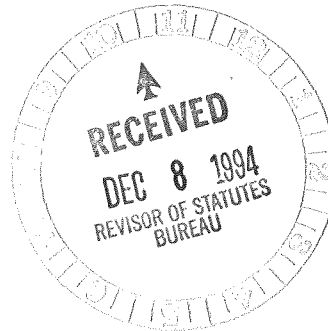


Mailing Address
1 West Wilson Street
Post Office Box 7850
Madison, WI 53707-7850
Telephone (608) 266-9622

State of Wisconsin Department of Health and Social Services

December 8, 1994

Mr. Bruce E. Munson
Revisor of Statutes
131 W. Wilson St., Suite 800
Madison, WI 53703



Dear Mr. Munson:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of chs. HSS 172, 175, 178 and 195 to 198, administrative rules relating to permit fees for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels, motels and tourist rooming houses, restaurants, bed and breakfast establishments and food vending operations.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gerald Whitburn".

Gerald Whitburn
Secretary

Enclosure