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WISCONSIN STATE SENATOR

## Senate Bill 106- *Micro Market Licensing Fees*

April 16, 2019

Good morning, members of the committee, and thank you for the opportunity to provide testimony today on Senate Bill 106, which removes an unnecessary fee and provides clarity for Wisconsin business owners.

A micro market is an indoor, unstaffed, self-checkout kiosk that sells food and beverages in an area that is accessible only by a limited group of people, for example, in an office building. Micro markets take an innovative approach to the traditional vending machine, offering pre-made food you may see at a deli, and because of their healthier options, employers are excited to bring these micro markets to their employees.

Last session, Representative Snyder and I worked with DATCP and other stakeholders to create language in statute to regulate this new industry. While 2017 Act 225 harmonized the annual licensing fee and process across the state, it was not able to anticipate a pre-license inspection fee issued by a handful of local health departments. It was our understanding these pre-license inspections would be unnecessary since micro markets do not require any specific infrastructure and there is no on-site food preparation. However, across the state, micro market owners have seen pre-license inspection fees ranging from \$16 up to \$300.

This bill looks to finish the work we started last session to standardize the process for licensing micro markets and eliminate further possibility of hidden fees.

Thank you again for the opportunity to speak on this bill. I would be happy to answer any questions you may have.

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**City of Milwaukee Testimony on SB 106 relating to micro market licensing fees**  
**Senate Committee on Public Benefits, Licensing and State-Federal Relations**

**April 16, 2019**

Good morning Members of the Committee on Public Benefits, Licensing and State-Federal Relations. Chairman Kapenga - thank you for allowing us to testify today against Senate Bill 106 relating to micro market licensing fees. The City of Milwaukee holds several concerns regarding the direct and indirect consequences of this proposed legislation. Please note the City has reached out to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) to clarify for all stakeholders the directives and statutes governing local preinspection processes and ability of municipalities to charge a preinspection fee.

Per WI Act 225, § 18 97.41(4)(a), municipalities are permitted to charge a separate preinspection fee of micromarkets. It provides that: "... local health department(s) may establish separate fees for pre-licensing inspections of new establishments, for pre-licensing inspections of existing establishments for which a person intends to be the new operator or for the issuance of duplicate licenses. No fee may exceed the local health department's reasonable costs of issuing licenses to, making investigations and inspections of, and providing education, training and technical assistance to the establishments, plus the state fee established under sub. (5)."

A locally-driven preinspection of every retail food operator who is selling potentially hazardous food is an essential step to safeguard public health. The demonstrable value of a local program is twofold: ensuring proper equipment and sanitary conditions to safeguard consumers from food and enhancing the ability of a retail food operator to safely operate, protecting operators from undergoing unnecessary expenses and dissatisfactory consumer reviews. Preventing municipalities from recouping our expenses forces municipalities to either absorb the cost of these inspections at taxpayer expense, or cancel the inspections entirely, putting public health unnecessarily at risk. In addition to the public health benefits, the preinspection process also directly benefits private sector operators as it serves as an essential component of their establishment's success from a consumer health and review standpoint. The program which conducts these preinspections is funded entirely by these fees.

ATCP 74.10 currently mandates preinspection of all retail food establishments. A retail food establishment is defined, in part, as "a permanent facility from which food is sold to consumers at retail, whether or not that facility sells potentially hazardous food or is engaged in food processing. Wis. Stat. § 97.30. The only significant difference between micro market venues and regular food retailers is the cashier-less point of sale. Therefore, the staff-free nature of a micromarket renders the need to ensure proper food storage before operation even more imperative.

Examples of potentially hazardous public health concerns that have been identified and eliminated during the preinspection process include faulty cold-holding equipment, pest harborages and infestations, and unapproved food sources. Given the multiple steps and personnel engaged in the inspection process and essential consumer safety protections furthered through this process, municipalities should preserve the ability to charge a reasonable fee as currently outlined by state law.

Thank you for the opportunity to share our concerns today and I would be pleased to answer any questions.