

**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES**

- 1 The state of Wisconsin department of agriculture, trade and consumer protection adopts the
2 following order to amend ATCP 74.08(1), relating to fees required of agent cities and counties
3 that license and inspect retail food establishments.

**Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection**

Statutory authority: ss. 93.07(1), 97.41(2) and 97.41(5), Wis. Stats

Statute interpreted: s. 97.41(5), Wis. Stats.

The Department of Agriculture, Trade and Consumer Protection (“DATCP”) licenses and inspects retail food establishments under s. 97.30, Stats. Under s. 97.41, Stats., DATCP may enter into an agreement with a city or county, under which the city or county licenses and inspects retail food establishments as DATCP’s local agent. DATCP monitors, trains and assists the local agent. From the license fees it collects, the local agent must pay DATCP an annual fee to cover DATCP’s costs. DATCP sets the fee by rule.

Under current rules, a local agent must pay DATCP an annual fee for each locally licensed retail food establishment that is equal to 20% of the license fee DATCP would charge if DATCP licensed the establishment directly. Effective February 1, 1998, DATCP increased license fees for retail food establishments that it licenses. The fee increase resulted, in part, from a legislative budget change that required DATCP to recover 60% (rather than 50%) of its food safety program costs from license fees. The fee change approximately doubled DATCP’s license fees, increasing the maximum retail food license fee from \$210 to \$450 and the minimum fee from \$42 to \$90.

As an indirect consequence of DATCP’s 1998 license fee increase, local agents were also required to pay increased fees to DATCP beginning with the license year ending June 30, 2000. Because local agents were required to pay 20% of the increased license fee amounts, their fee obligations to DATCP effectively doubled. This projected fee increase exceeded DATCP’s needs and burdened local agents.

DATCP adopted an emergency rule to ease this fee burden for the license year ending June 30, 2000. The emergency rule temporarily reduced the local agents' percentage fee payment from 20% to 10%. This rule "permanently" reduces the local agents' percentage fee payment from 20% to 10%.

1 **SECTION 1.** ATCP 74.08(1) is amended to read:

2 ATCP 74.08(1) The fiscal year under an agency agreement shall begin on July 1 and end
3 on June 30, except as otherwise authorized by the department. Each agent city or county shall
4 pay the department ~~20%~~ 10% of the license fee charged under s. ATCP 75.015(2m), to
5 reimburse the department for costs as required under s. 97.41(5), Stats. By September 30 of
6 each year, the agent city or county shall file with the department all reimbursement required
7 under this subsection for licenses issued during the previous fiscal year.

8 **EFFECTIVE DATE.** The rules contained in this order shall take effect on the first day
9 of the month following publication in the Wisconsin administrative register, as provided in
10 s. 227.22(2)(intro.), Stats.

Dated this ____ day of July, 2001.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
James E. Harsdorf
Secretary