

No. 200, A.]

[Published August 8, 1947.]

CHAPTER 510.

AN ACT to amend 100.26 (5); to repeal and recreate 97.06; and to create 100.03 of the statutes, relating to food processing plants and providing penalties.

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

SECTION 1. 97.06 of the statutes is repealed and recreated to read:

97.06 FOOD PROCESSOR'S LICENSE. (1) No person shall operate a food processing plant without a license from the department. Such license shall be granted under such reasonable rules and regulations as the department may from time to time prescribe pertaining to the proper handling and storing of food and the construction and sanitary condition of the building and equipment to be used.

(2) The term "food processing plant" means any place where food is received in a raw or partly processed form for the purpose of canning, extracting, fermenting, distilling, pickling, freezing, drying, smoking, grinding, mixing, stuffing, packing, bottling, or otherwise treating or preserving the same for sale as and for food; but no license under this section shall be required of any person licensed by the department as a bakery, confectionery, soda water bottler, dairy plant or counter freezer as to business covered by such licenses, nor shall such a license be required of retail merchants having a fixed or established place of business in this state if such merchant does not also sell at wholesale any food processed by him.

(3) (a) Application for a license shall be in writing and shall state such pertinent information in such form as the department may require and shall be accompanied by a graduated fee, which shall be retained whether or not a license is issued, and which shall be an amount based on the dollar volume of output for the preceding license year, as follows: For less than \$1,000, a fee of \$1; for \$1,000 or more but less than \$10,000, a fee of \$10; for \$10,000 or more, a fee of \$25. Dollar volume of output shall be determined by gross sales of product processed plus inventory value of any portion of such product not sold.

(b) If the plant of the applicant has not operated during such year, the fee shall be estimated by the department from

pertinent facts, at not less than the minimum fee for such operation. One year after the filing of such application the licensee shall report to the department the dollar volume of output, at which time the fee shall be computed thereon and the licensee shall pay the balance due or receive credit upon the fee for the next license period for overpayment.

(4) Before any license is issued to any food processing plant operator who buys or otherwise takes title to farm products from the producer thereof, except by payment to the producer of the full agreed price at the time of obtaining such possession or control, the applicant shall be required to comply with the provisions of section 100.03.

(5) As soon as convenient after the filing of a proper application, the department shall investigate the construction and the sanitary condition of the plant and equipment. A renewal license may be issued before such sanitary inspection is completed. When the application is for a new license and in all cases where such action appears advisable, the department may issue to the applicant an interim permit to operate, and such permit shall have the effect of a license for 3 months or until such earlier time at which the department shall have completed its investigation and issued the license or notified the applicant of the denial of his application. When the application is denied the permit shall be void.

(6) Licenses to canners of farm produce shall expire on March 31 of each year. Applications for such licenses shall be filed not later than March 1 for the license year beginning the next April 1. All applications filed after March 1 shall be accompanied by a fee equal to 2 times the regular fee. No such license shall be granted or renewed unless the applicant shall certify that all growers who have supplied or contracted to supply farm produce to the licensee any previous year of operation have been fully paid in cash at the agreed price.

(7) All other licenses shall expire annually. The department may divide persons required to be licensed under this section into such groups by geographical location, type of operation or other method of classification as it believes will best promote the economical, effective and convenient execution of this section and shall determine on what day of each year licenses in each group shall expire. The department may change such groups or the methods of classification from time to time. A licensee, the license period of whose group is shortened by such grouping

or change thereof, shall pay only such proportion of the annual license fee as the shortened period bears to one year and receive credit on the fee for the next license year for any overpayment; and if the period of a group is lengthened, a permit holder or licensee shall pay additional fees proportionate to the time by which it is lengthened.

(8) No license shall be transferable. A transfer of the business or the discontinuance of its operation by the licensee in the premises covered by the license voids the license, and the certificate thereof shall thereupon be surrendered to the department immediately.

SECTION 2. 100.03 of the statutes is created to read:

100.03 (1) No operator of any food processing plant, for which a license is required by section 97.06, shall buy or otherwise take title to or possession of any farm product from the producer thereof without paying to the producer the full agreed price at the time of obtaining such possession or control, unless the applicant shall first satisfy the department that his financial condition is such as to reasonably assure prompt payment to growers of the produce contracted for or received by him as and when the same becomes due and payable. Such application shall be accompanied by a financial statement of the applicant's most recently completed fiscal year and such supplemental and additional information as the department may require.

(2) In any case where the department is not satisfied that the financial condition of the applicant does reasonably assure such prompt payment, it may require as a condition to the issuing of such license that the applicant either:

(a) Make and file a surety bond in such sum as it may deem sufficient, executed by the applicant as principal and by a surety company qualified and authorized to do business in this state as surety; such bond shall be in such form as the department may prescribe, be made payable to the state of Wisconsin for the benefit of producers who might suffer by reason of default of the principal, and be conditioned that the principal shall pay or cause to be paid to producers all sums owing producers for products contracted for or received by the principal as the same become due.

(b) Make and file with the department an agreement providing for the "set aside" of not less than 30 per cent of the processed produce in trust for the producers. No part of such "set aside" shall be released by the trustee unless an amount

equivalent to the value of such released portion shall have been paid to apply prorata on the claims of producers or is paid over to the trustee for such payment. The applicant shall agree to pay all expenses of such trust.

(3) Upon receipt of evidence of default by any licensee in making payment to producers the department may commence an action for the recovery of claims of all producers or otherwise assist the producers to establish an organization for the purpose of making collection.

SECTION 3. 100.26 (5) of the statutes is amended to read:

100.26 (5) Any person violating section 100.03, 100.05 or 100.06 or any order or regulation of the department thereunder, or section 100.13 (7), shall be fined not less than \$25 nor more than \$1,000, or imprisoned in the county jail or state prison not more than one year, or both. Each day shall constitute a separate offense.

Approved July 30, 1947.

No. 324, A.]

[Published August 9, 1947.

CHAPTER 511.

AN ACT to repeal and recreate 140.09 of the statutes, relating to county and multiple county health departments.

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

140.09 of the statutes is repealed and recreated to read:

140.09 COUNTY, CITY-COUNTY AND MULTIPLE COUNTY HEALTH DEPARTMENTS. (1) DEFINITIONS. As used in this section:

(a) "County health department" and "County board of health" refer to a single county health department or board of health, a multiple county health department or board of health, or a city-county health department or board of health.

(b) "County health officer" refers to the position of a health officer either in a county health department, multiple county health department or city-county health department.

(c) "Health department" means a full-time health department unless otherwise specified and refers to one whose personnel, other than consultants and clinicians, devote their full time to health department duties.