

CHAPTER 157

HOTELS, RESORTS, RESTAURANTS; REGULATION,
PROTECTION

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157.01 [Repealed, 1995 c 207 art 9 s 61]

157.011 RULES.

Subdivision 1. **Establishments.** The commissioner shall adopt rules establishing standards for food, beverage, and lodging establishments.

Subd. 2. **Certification of food service managers.** The commissioner shall:

(1) adopt rules for certification requirements for managers of food service operations; and

(2) establish in rule, criteria for training and certification.

History: 1995 c 165 s 11

157.02 [Repealed, 1995 c 207 art 9 s 61]

157.03 LICENSES REQUIRED; FEES.

(a) A license is required annually for every person, firm, or corporation engaged in the business of conducting a hotel, motel, restaurant, alcoholic beverage establishment, lodging establishment, boarding establishment, resort, mobile food unit, seasonal food stand, food cart, or special event food stand or who thereafter engages in conducting such a business. Any person wishing to operate a place of business as licensed under this section shall first make application, pay the required fee, and receive approval for operation, including plan review approval. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, and the lessee and manager of the hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, resort, mobile food unit, seasonal food stand, food cart, or special event food stand. Initial and renewal licenses for all hotels, motels, restaurants, alcoholic beverage establishments, lodging establishments, boarding establishments, resorts, mobile food units, seasonal food stands, food carts, or special event food stands shall be issued for the calendar year for which application is made and shall expire on December 31 of that year. Any person who operates a place of business after the expiration date of a license or without having paid the fee shall be deemed to have violated the provisions of this chapter and be subject to enforcement action as provided in the health enforcement consolidation act, sections 144.989 to 144.993. In addition, a penalty of \$25 shall be added to the total of the license fee for any mobile food unit, seasonal food stand, and food cart operating without a license, and a penalty of \$50 shall be added to the total of the license fee for hotels, motels, restaurants, alcoholic beverage establishments, lodging establishments, boarding establishments, and resorts.

No school, as defined in sections 120.05 and 120.101, may be required to pay a license fee.

(b) Establishments licensed under chapter 157 shall pay the following fees:

(1) all establishments except special event food stands shall pay an annual base fee of \$100;

(2) in addition to the base fee in clause (1) each establishment shall pay annually a fee for each fee category as specified in this clause:

- (i) limited food menu selection, \$30;
 - (ii) small menu selection with limited equipment, \$55;
 - (iii) small establishment with full menu selection, \$150;
 - (iv) large establishment with full menu selection, \$250;
 - (v) temporary food service, \$30;
 - (vi) alcohol service from bar, \$75;
 - (vii) beer or wine table service, \$30;
 - (viii) lodging per unit, \$4, a maximum of \$400;
 - (ix) first swimming pool, \$100;
 - (x) additional swimming pool, \$50;
 - (xi) first spa, \$50;
 - (xii) additional spa, \$25;
 - (xiii) private water or sewer, \$30;
- (3) a special event food stand shall pay a fee of \$60 per event; and

(4) an initial license application for food, beverage, or lodging establishments must be accompanied by a fee of \$150 for review of the construction or remodeling plans.

When hotels, motels, restaurants, alcoholic beverage establishments, lodging establishments, boarding establishments, resorts, and mobile food units are extensively remodeled, a fee of \$150 must accompany the remodeling plans. Neither an initial license plan review fee nor a remodeling plan review fee shall be required for seasonal food stands, food carts, and special event food stands.

History: 1995 c 207 art 9 s 40

157.031 [Repealed, 1995 c 207 art 9 s 61]

157.04 [Repealed, 1995 c 207 art 9 s 61]

157.045 [Repealed, 1995 c 207 art 9 s 61]

157.05 [Repealed, 1995 c 207 art 9 s 61]

157.08 [Repealed, 1995 c 207 art 9 s 61]

157.12 [Repealed, 1995 c 207 art 9 s 61]

157.13 [Repealed, 1995 c 207 art 9 s 61]

157.14 [Repealed, 1995 c 207 art 9 s 61]

157.15 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to sections 157.03 and 157.15 to 157.22.

Subd. 2. **Alcoholic beverage establishment.** "Alcoholic beverage establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where alcoholic beverages are served.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Boarding establishment.** "Boarding establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where food or nonalcoholic beverages are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

Subd. 5. **Food and beverage establishment.** "Food and beverage establishment" means a restaurant, alcoholic beverage establishment, boarding establishment, mobile food unit, seasonal food stand, food cart, or special event food stand.

Subd. 6. **Food cart.** "Food cart" means a nonmotorized vehicle limited to serving food that is not defined by rule as potentially hazardous food, except precooked frankfurters and other ready-to-eat link sausages.

Subd. 7. **Hotel or motel.** "Hotel or motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

Subd. 8. **Lodging establishment.** "Lodging establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

Subd. 9. **Mobile food unit.** "Mobile food unit" means a food service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable without disassembling, for transport to another location and remaining for no more than 14 days, annually, at any one place.

Subd. 10. **Person.** "Person" has the meaning given in section 1031.005, subdivision 16.

Subd. 11. **Resort.** "Resort" means a building, structure, enclosure, or any part thereof located on, or on property neighboring, any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

Subd. 12. **Restaurant.** "Restaurant" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where food or nonalcoholic beverages are served or prepared for service to the public.

Subd. 13. **Seasonal food stand.** "Seasonal food stand" means a food stand that is disassembled and moved from location to location, remaining no more than 14 days, annually, at any one place; or a permanent food service stand or building that operates no more than 14 days annually.

Subd. 14. **Special event food stand.** "Special event food stand" means a food service used in conjunction with celebrations and special events, used not more than twice annually, and remaining no more than three consecutive days at any one location.

History: 1995 c 207 art 9 s 41

157.16 LICENSES REQUIRED; FEES.

Subdivision 1. **License required annually.** A license is required annually for every person engaged in the business of conducting a hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, resort, mobile food unit, seasonal food stand, food cart, or special event food stand or who thereafter engages in conducting any such business. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee, and receive approval for operation, including plan review approval. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, resort, mobile food unit, seasonal food stand, food cart, or special event food stand; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. **License renewal.** Initial and renewal licenses for all hotels, motels, restaurants, alcoholic beverage establishments, lodging establishments, boarding establishments, resorts, mobile food units, seasonal food stands, and food carts shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the health enforcement consolidation act, sections 144.989 to 144.993. In addition, a penalty of \$25 shall be added to the total of the license fee for any mobile food unit, seasonal food stand, and food cart operating without a license, and a penalty of \$50 shall be added to the total of the license fee for all other food, beverage, and lodging establishments.

Subd. 3. Establishment fees; definitions. For the purposes of establishing food, beverage, and lodging establishment fees, the following definitions have the meanings given them.

(a) "Limited food menu selection" means a fee category that provides one or more of the following:

- (1) prepackaged food that receives heat treatment and is served in the package;
- (2) frozen pizza that is heated and served;
- (3) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (4) soft drinks, coffee, or nonalcoholic beverages; or
- (5) does not prepare food on site, however serves food that was prepared elsewhere and provides cleaning of eating, drinking, or cooking utensils.

(b) "Small menu selection with limited equipment" means a fee category that has no salad bar and provides one or more of the following:

- (1) food service equipment that is limited to a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (2) service of dipped ice cream or soft serve frozen desserts;
- (3) service of breakfast in an owner-occupied bed and breakfast establishment; or
- (4) is a boarding establishment.

(c) "Small establishment with full menu selection" means a fee category that provides one or more of the following:

- (1) food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;
- (2) food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or
- (3) an establishment where food is prepared at one location and served at one or more separate locations.

(d) "Large establishment with full menu selection" means either a fee category that meets the criteria in paragraph (c), clause (1) or (2), for a small establishment with full menu selection and:

- (1) seats more than 175 people;
- (2) offers the full menu selection an average of five or more days a week during the weeks of operation; or means a service category that meets the criteria in paragraph (c), clause (3), for a small establishment with full menu selection; and
- (3) prepares and serves 500 meals per day.

(e) "Temporary food service" means a fee category where food is prepared and served from a mobile food unit, seasonal food stand, or food cart.

(f) "Alcohol service from bar" means a fee category where alcoholic mixed drinks are served, or where beer or wine are served from a bar.

(g) "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(h) "Individual water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720.

(i) "Individual sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(j) "Lodging per unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(k) "Public pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(l) "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(m) "Special event food stand" means a fee category where food is prepared and served in conjunction with celebrations or special events, but not more than twice annually, and where the facility is used no more than three consecutive days per event.

History: 1995 c 207 art 9 s 42

157.17 ADDITIONAL REGISTRATION REQUIRED FOR BOARDING AND LODGING ESTABLISHMENTS OR LODGING ESTABLISHMENTS; SPECIAL SERVICES.

Subdivision 1. Definitions. (a) "Supportive services" means the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, and arranging for medical and social services. Supportive services also include providing reminders to residents to take medications that are self-administered or providing storage for medications if requested.

(b) "Health supervision services" means the provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in dressing, grooming, bathing, or with walking devices.

Subd. 2. Registration. A board and lodging establishment or a lodging establishment that provides supportive services or health supervision services must register with the commissioner annually. The registration must include the name, address, and telephone number of the establishment, the types of services that are being provided, a description of the residents being served, the type and qualifications of staff in the facility, and other information that is necessary to identify the needs of the residents and the types of services that are being provided. The commissioner shall develop and furnish to the boarding and lodging establishment or lodging establishment the necessary form for submitting the registration. The requirement for registration is effective until the rules required by sections 144B.01 to 144B.17 are effective.

Subd. 3. Restriction on the provision of services. Effective July 1, 1995, and until one year after the rules required under sections 144B.01 to 144B.17 are adopted, a boarding and lodging establishment or lodging establishment registered under subdivision 2 may provide health supervision services only if a licensed nurse is on site in the establishment for at least four hours a week to provide monitoring of health supervision services for the residents. A boarding and lodging establishment or lodging establishment that admits or retains residents using wheelchairs or walkers must have the necessary clearances from the office of the state fire marshal.

Subd. 4. Residential care home license required. Upon adoption of the rules required by sections 144B.01 to 144B.17, a boarding and lodging establishment or lodging establishment registered under subdivision 2, that provides either supportive care or health supervision services, must obtain a residential care home license from the commissioner within one year from the adoption of those rules.

Subd. 5. Services that may not be provided in a boarding and lodging establishment or lodging establishment. A boarding and lodging establishment or lodging establishment may not admit or retain individuals who:

(1) would require assistance from establishment staff because of the following needs: bowel incontinence, catheter care, use of injectable or parenteral medications, wound care, or dressing changes or irrigations of any kind; or

(2) require a level of care and supervision beyond supportive services or health supervision services.

Subd. 6. Certain individuals may provide services. This section does not prohibit the provision of health care services to residents of a boarding and lodging establishment or lodging establishment by family members of the resident or by a registered or licensed home care agency employed by the resident.

Subd. 7. Exemption for establishments with a human services license. This section does not apply to a boarding and lodging establishment or lodging establishment that is licensed by the commissioner of human services under chapter 245A.

Subd. 8. Violations. The commissioner may revoke the establishment license if the establishment is found to be in violation of this section. Violation of this section is a gross misdemeanor.

History: 1995 c 207 art 9 s 43

157.18 POSTING REQUIREMENTS.

Every hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, resort, mobile food unit, seasonal food stand, food cart, or special event food stand securing a license or license fee receipt under the provisions of this chapter shall post in a conspicuous place a copy of the license or receipt.

History: 1995 c 207 art 9 s 44

157.19 LEVELS OF RISK; DEFINITIONS.

Subdivision 1. High-risk establishment. "High-risk establishment" means any hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort that:

- (1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;
- (2) prepares foods several hours or days before service;
- (3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;
- (4) has a public swimming pool; or
- (5) draws its drinking water from a surface water supply.

Subd. 2. Medium-risk establishment. "Medium-risk establishment" means a hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort that:

- (1) serves potentially hazardous foods but with minimal holding between preparation and service; or
- (2) serves medium-risk foods, such as pizza, that require extensive handling, followed by heat treatment.

Subd. 3. Low-risk establishment. "Low-risk establishment" means a hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

Subd. 4. Temporary food service and special event food stands. Mobile food units, seasonal food stands, food carts, and special event food stands are not defined as high-, medium-, or low-risk establishments.

History: 1995 c 207 art 9 s 45

157.20 INSPECTION; FREQUENCY; ORDERS.

Subdivision 1. Inspections. It shall be the duty of the commissioner to inspect, or cause to be inspected, every hotel, motel, restaurant, alcoholic beverage establishment, boarding establishment, lodging establishment, resort, mobile food unit, seasonal food stand, food cart, and special event food stand in this state. For the purpose of conducting inspections, the commissioner shall have the right to enter and have access thereto at any time during the conduct of business.

Subd. 2. Inspection frequency. The frequency of inspections of the establishments shall be based on the degree of health risk.

- (a) High-risk establishments must be inspected at least once a year.
- (b) Medium-risk establishments must be inspected at least once every 18 months.
- (c) Low-risk establishments must be inspected at least once every two years.

Subd. 3. Orders. When, upon inspection, it is found that the business and property so inspected is not being conducted, or is not equipped, in the manner required by the provisions of this chapter or the rules of the commissioner, or is being conducted in violation of any of

the laws of this state pertaining to the business, it is the duty of the commissioner to notify the person in charge of the business, or the owner or agent of the buildings so occupied, of the condition found and issue an order for correction of the violations. Each person shall comply with the provisions of this chapter or the rules of the commissioner. A reasonable time may be granted by the commissioner for compliance with the provisions of this chapter.

History: 1995 c 207 art 9 s 46

157.21 INSPECTION RECORDS.

The commissioner shall keep inspection records for all hotels, motels, restaurants, alcoholic beverage establishments, boarding establishments, lodging establishments, resorts, mobile food units, seasonal food stands, food carts, and special event food stands, together with the name of the owner and operator.

History: 1995 c 207 art 9 s 47

157.22 EXEMPTIONS.

This chapter shall not be construed to apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;
- (3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;
- (4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;
- (5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;
- (6) nonprofit senior citizen centers for the sale of home-baked goods; and
- (7) food not prepared at an establishment and brought in by members of an organization for consumption by members at a potluck event.

History: 1995 c 207 art 9 s 48