

CHAPTER 28A

LICENSING FOOD HANDLERS

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28A.03 DEFINITIONS.

As used in sections 28A.01 to 28A.16 the terms defined in this section shall have the following meanings:

- (a) "Commissioner" means the commissioner of agriculture of the state of Minnesota.
- (b) "Person" means any individual, firm, corporation, company, association, cooperative or partnership and includes any trustee, receiver, assignee or other similar representative thereof.
- (c) "Place of business" means every location where food or food items are manufactured, processed, sold, stored or handled, including buildings, locations, permanent or portable structures, carnivals, circuses, fairs, or any other permanent or temporary location.
- Any vehicle or similar mobile unit from which food is sold shall be considered a place of business for purposes of this section if the food therefrom has been manufactured, packaged or dispensed from bulk, or processed in any manner thereon.
- (d) "Food" includes every article used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans, whether simple, mixed or compound.
- (1) "Perishable food" is food which includes, but is not limited to fresh fruits, fresh vegetables, and other products which need protection from extremes of temperatures in order to avoid decomposition by microbial growth or otherwise.
- (2) "Readily perishable food" is food or a food ingredient consisting in whole or in part of milk, milk products, eggs, meat, fish, poultry or other food or food ingredient which is capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.
- (3) "Frozen food" is food which is processed and preserved by freezing in accordance with good commercial practices and which is intended to be sold in the frozen state.
- (4) For the purposes of this definition, packaged food in hermetically sealed containers processed by heat to prevent spoilage; packaged pickles; jellies, jams and condiments in sealed containers; bakery products such as bread, rolls, buns, donuts, fruit-filled pies and pastries; dehydrated packaged food; and dry or packaged food so low in moisture content as to preclude development of microorganisms are not "perishable food," "readily perishable food," or "frozen food" within the meaning of definitions (1), (2) and (3) herein when they are stored and handled in accordance with good commercial practices.
- (e) "Sell and sale" includes the keeping, offering, or exposing for sale, use, transporting, transferring, negotiating, soliciting, or exchange of food, the having in possession with intent to sell, use, transport, negotiate, solicit, or exchange the same and the storing, or carrying thereof in aid of traffic therein whether done or permitted in person or through others.
- (f) "Principal mode of business" means that type of business described under either (a), (b), (c) or (d) in section 28A.05 within which category the greatest amount of the applicant's food business lies.
- (g) "Custom processor" means a person who slaughters animals or processes noninspected meat for the owner of the animals, and returns the meat products derived from the slaughter or processing to the owner. "Custom processor" does not include a person who slaughters animals or poultry or processes meat for the owner of the animals or poultry on the farm or premises of the owner of the animals, meat, or poultry. For the purpose of this clause, "animals" or "meat" do not include poultry or game animals or meat derived therefrom.
- (h) "Major violation" includes conditions that cause food products to become adulterated, as defined in section 31.121, or fraudulently misbranded, as defined in section 31.123.

History: 1995 c 220 s 42

28A.08 LICENSE FEES; PENALTIES.

Subdivision 1. **General.** License fees, penalties for late renewal of licenses, and penalties for not obtaining a license before conducting business in food handling that are set in this section apply to the sections named except as provided under section 28A.09. Except as specified herein, bonds and assessments based on number of units operated or volume handled or processed which are provided for in said laws shall not be affected, nor shall any penalties for late payment of said assessments, nor shall inspection fees, be affected by this chapter. The penalties may be waived by the commissioner.

Subd. 2. Fees for fiscal year 1996.

Type of food handler	License Fee Effective July 1, 1995	Penalties	
		Late Renewal	No License
1. Retail food handler			
(a) Having gross sales of only prepackaged nonperishable food of less than \$15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner	\$ 42	\$ 15	\$ 25
(b) Having under \$15,000 gross sales including food preparation or having \$15,000 to \$50,000 gross sales for the immediately previous license or fiscal year	\$ 58	\$ 15	\$ 25
(c) Having \$50,000 to \$250,000 gross sales for the immediately previous license or fiscal year	\$111	\$ 35	\$ 75
(d) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$191	\$ 50	\$100
(e) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$530	\$100	\$175
(f) Having \$5,000,000 to \$10,000,000 gross sales for the immediately previous license or fiscal year	\$742	\$150	\$300
(g) Having over \$10,000,000 gross sales for the immediately previous license or fiscal year	\$848	\$200	\$350
2. Wholesale food handler			
(a) Having gross sales or service of less than \$25,000 for the immediately previous license or fiscal year	\$ 50	\$ 15	\$ 15
(b) Having \$25,000 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$212	\$ 50	\$100
(c) Having \$250,000 to \$1,000,000 gross sales or service from a mobile unit without a separate food			

	storage facility for the immediately previous license or fiscal year	\$318	\$ 75	\$150
	(d) Having \$250,000 to \$1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year	\$424	\$100	\$200
	(e) Having \$1,000,000 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$530	\$125	\$250
	(f) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$610	\$150	\$300
3.	Food broker	\$106	\$ 30	\$ 50
4.	Wholesale food processor or manufacturer			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$292	\$ 75	\$150
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$424	\$100	\$200
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$530	\$125	\$250
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$610	\$150	\$300
5.	Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$159	\$ 50	\$ 75
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$239	\$ 75	\$125
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$292	\$ 75	\$150
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$345	\$100	\$175
6.	Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota farmstead cheese	\$ 30	\$ 10	\$ 15
7.	Nonresident frozen dairy manufacturer	\$200	\$ 50	\$ 75
8.	Wholesale food manufacturer processing less than 70,000 pounds per year of cultured dairy food as defined in section 32.486, subdivision 1, paragraph (b)	\$ 30	\$ 10	\$ 15

9.	A milk marketing organization without facilities for processing or manufacturing that purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer	\$ 50	\$ 15	\$ 25
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Subd. 3. Fees effective July 1, 1996.

Type of food handler	License Fee Effective July 1, 1996	Penalties Late Renewal	No License
1. Retail food handler			
(a) Having gross sales of only prepackaged nonperishable food of less than \$15,000 for the immediately previous license or fiscal year and filing a statement with the commissioner	\$ 45	\$ 15	\$ 25
(b) Having under \$15,000 gross sales including food preparation or having \$15,000 to \$50,000 gross sales for the immediately previous license or fiscal year	\$ 61	\$ 15	\$ 25
(c) Having \$50,000 to \$250,000 gross sales for the immediately previous license or fiscal year	\$118	\$ 35	\$ 75
(d) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$202	\$ 50	\$100
(e) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$562	\$100	\$175
(f) Having \$5,000,000 to \$10,000,000 gross sales for the immediately previous license or fiscal year	\$787	\$150	\$300
(g) Having over \$10,000,000 gross sales for the immediately previous license or fiscal year	\$899	\$200	\$350
2. Wholesale food handler			
(a) Having gross sales or service of less than \$25,000 for the immediately previous license or fiscal year	\$ 50	\$ 15	\$ 15
(b) Having \$25,000 to \$250,000 gross sales or service for the immediately previous license or fiscal year	\$225	\$ 50	\$100
(c) Having \$250,000 to \$1,000,000 gross sales or service from a mobile unit without a separate food facility for the immediately previous license or fiscal year	\$337	\$ 75	\$150

	(d) Having \$250,000 to \$1,000,000 gross sales or service not covered under paragraph (c) for the immediately previous license or fiscal year	\$449	\$100	\$200
	(e) Having \$1,000,000 to \$5,000,000 gross sales or service for the immediately previous license or fiscal year	\$562	\$125	\$250
	(f) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$647	\$150	\$300
3.	Food broker	\$112	\$ 30	\$ 50
4.	Wholesale food processor or manufacturer			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$310	\$ 75	\$150
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$449	\$100	\$200
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$562	\$125	\$250
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$647	\$150	\$300
5.	Wholesale food processor of meat or poultry products under supervision of the U. S. Department of Agriculture			
	(a) Having gross sales of less than \$250,000 for the immediately previous license or fiscal year	\$169	\$ 50	\$ 75
	(b) Having \$250,000 to \$1,000,000 gross sales for the immediately previous license or fiscal year	\$253	\$ 75	\$125
	(c) Having \$1,000,000 to \$5,000,000 gross sales for the immediately previous license or fiscal year	\$310	\$ 75	\$150
	(d) Having over \$5,000,000 gross sales for the immediately previous license or fiscal year	\$366	\$100	\$175
6.	Wholesale food manufacturer having the permission of the commissioner to use the name Minnesota Farmstead cheese	\$ 30	\$ 10	\$ 15
7.	Nonresident frozen dairy manufacturer	\$200	\$ 50	\$ 75
8.	Wholesale food manufacturer processing less than 70,000 pounds per year of cultured dairy food as defined in section 32.486, subdivision 1, paragraph (b)	\$ 30	\$ 10	\$ 15
9.	A milk marketing organization without facilities for processing or manufacturing that			

purchases milk from milk producers for delivery to a licensed wholesale food processor or manufacturer	\$ 50	\$ 15	\$ 25
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History: 1995 c 220 s 43

NOTE: Subdivision 2 is repealed by Laws 1995, chapter 220, section 141, paragraph (c), effective July 1, 1996. See Laws 1995, chapter 220, section 142.

28A.085 REINSPECTION FEES.

Subdivision 1. Violations; prohibited acts. The commissioner may charge a reinspection fee for each reinspection of a food handler that:

(1) is found with a major violation of requirements in chapter 28, 29, 30, 31, 31A, 32, 33, or 34, or rules adopted under one of those chapters;

(2) is found with a violation of section 31.02, 31.161, or 31.165, and requires a follow-up inspection after an administrative meeting held pursuant to section 31.14; or

(3) fails to correct equipment and facility deficiencies as required in rules adopted under chapter 28, 29, 30, 31, 31A, 32, or 34. The first reinspection of a firm with gross food sales under \$1,000,000 must be assessed at \$25. The fee for a firm with gross food sales over \$1,000,000 is \$50. The fee for a subsequent reinspection of a firm for the same violation is 50 percent of their current license fee. The establishment must be issued written notice of violations with a reasonable date for compliance listed on the notice. An initial inspection relating to a complaint is not a reinspection.

Subd. 2. Market withdrawal; food safety emergency. A food handler that requires a reinspection due to adulteration or misbranded foods that result in a food being recalled from commerce may be assessed for reasonable and direct reinspection costs incurred by the commissioner, including personnel, travel, laboratory analysis, and attorney general costs. Reinspection related to floods, earthquakes, storms, accidental fires, and power outages are excluded. The commissioner, upon request of the food handler, shall provide, within a reasonable time, an estimate of the anticipated cost for resolving the food safety emergency.

Subd. 3. Manner and timing of payment. Unless an appeal is filed under subdivision 5, a food handler must pay all fees and assessments in the manner and timing requested by the commissioner. If a timely appeal is requested, the fees and assessments are stayed until a decision on the appeal is issued by the hearing officer. A license may not be renewed until all fees and penalties under this chapter are paid.

Subd. 4. Deposit; appropriation. All reinspection fees and assessments collected must be deposited in the state treasury and are credited to an account in the special revenue fund. Money in the account, including interest accrued, is appropriated to the commissioner to pay the expenses relating to reinspections conducted under the chapters listed in subdivision 1.

Subd. 5. Appeals. Food handlers may appeal reinspection fees and assessments to the department hearing officer within 30 days of receipt of the notice of fee assessment. The appeal must be submitted to the commissioner in writing.

History: 1995 c 220 s 44