

CHAPTER 157

FOOD, BEVERAGE, AND LODGING
ESTABLISHMENTS

157.16 Licenses required; fees.
157.20 Inspection; frequency; risk categories;
orders.

157.22 Exemptions.

157.16 LICENSES REQUIRED; FEES.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Establishment fees; definitions.** (a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (e), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (e), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, and resorts shall pay an annual base fee of \$145.

(c) A special event food stand shall pay a flat fee of \$35 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, and resort shall pay an additional annual fee for each fee category as specified in this paragraph:

(1) Limited food menu selection, \$40. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, \$75. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or
- (v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment; \$210. "Medium establishment" means a fee category that meets one or more of the following:

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

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, \$350. "Large establishment" means either:

- (i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or
- (ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$40.

(6) Beer or wine table service, \$40. "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.

(7) Alcoholic beverage service, other than beer or wine table service, \$105.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$6, including hotels, motels, lodging establishments, and resorts, up to a maximum of \$600. "Lodging per sleeping accommodation 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.

(9) First public swimming pool, \$140; each additional public swimming pool, \$80. "Public swimming pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 8.

(10) First spa, \$80; each additional spa, \$40. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$40. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(e) A fee of \$150 for review of the construction plans must accompany the initial license application for food and beverage service establishments, hotels, motels, lodging establishments, or resorts.

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, or resorts are extensively remodeled, a fee of \$150 must be submitted with the remodeling plans.

(g) Seasonal temporary food stands and special event food stands are not required to submit construction or remodeling plans for review.

[For text of subd 4, see M.S.2000]

History: *1Sp2001 c 9 art 1 s 54*

157.20 INSPECTION; FREQUENCY; RISK CATEGORIES; ORDERS.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Alternative compliance methods for delegated agencies.** (a) A local agency operating with a delegation agreement under section 145A.07 may request

approval from the commissioner to supplant subdivisions 1 to 3 with alternative compliance methods. The local agency must submit to the commissioner:

- (1) the alternative compliance methods that will be taken to ensure an equivalent degree of protection to public health, safety, or the environment;
- (2) the reasons why alternative methods are requested;
- (3) a plan for evaluating the effectiveness of the alternative methods;
- (4) a statement that the local agency applying for approval of the alternative methods will comply with the terms, if granted; and
- (5) other relevant information the commissioner determines necessary to evaluate the request.

(b) The commissioner may approve the request if the alternative methods will have no potential adverse effect on public health, safety, or the environment and if the alternative methods are equivalent to or superior to those prescribed in subdivisions 1 to 3. In approving the request, the commissioner may attach conditions the commissioner determines are needed to protect public health, safety, or the environment. The commissioner shall notify the local agency in writing of the commissioner's decision to approve or deny the request. If a request is denied, the commissioner shall specify the reasons for the denial.

History: 2001 c 205 art 2 s 2

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;
- (7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to or affiliated with such fraternal or patriotic organizations. Such organizations may organize events at which home-prepared food is donated by organization members for sale at the events, provided:
 - (i) the event is not a circus, carnival, or fair;
 - (ii) the organization controls the admission of persons to the event, the event agenda, or both; and
 - (iii) the organization's licensed kitchen is not used in any manner for the event;
- (8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any manner for

the potluck event. For purposes of this clause, "school" means a public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections 120A.22 and 120A.24. Potluck event food shall not be brought into a licensed food establishment kitchen; and

(9) a home school in which a child is provided instruction at home.

History: 2001 c 65 s 1; 1Sp2001 c 9 art 1 s 55