

CHAPTER 157

FOOD, BEVERAGE, AND LODGING
ESTABLISHMENTS

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157.01 [Repealed, 1995 c 207 art 9 s 61]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 and beverage service establishments, hotels, motels, lodging establishments, and resorts.

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; 1996 c 451 art 4 s 46

157.02 [Repealed, 1995 c 207 art 9 s 61]

157.03 [Repealed, 1996 c 451 art 4 s 71]

157.031 [Repealed, 1995 c 207 art 9 s 61]

157.04 [Repealed, 1995 c 207 art 9 s 61]

157.045 [Repealed, 1995 c 207 art 9 s 61]

157.05 [Repealed, 1995 c 207 art 9 s 61]

157.06 [Repealed, 1975 c 310 s 38]

157.07 [Repealed, 1975 c 310 s 38]

157.08 [Repealed, 1995 c 207 art 9 s 61]

157.081 [Repealed, 1993 c 206 s 25]

157.082 [Repealed, 1994 c 567 s 24]

157.09 [Repealed, 1994 c 567 s 24]

157.10 [Repealed, 1965 c 45 s 73]

157.11 [Repealed, 1975 c 310 s 38]

157.12 [Repealed, 1995 c 207 art 9 s 61]

157.13 [Repealed, 1995 c 207 art 9 s 61]

157.14 [Repealed, 1995 c 207 art 9 s 61]

157.15 [Repealed, 1959 c 592 s 29]

157.15 DEFINITIONS.

Subdivision 1. **Application.** The definitions in this section apply to sections 157.011 and 157.15 to 157.22.

Subd. 2. [Repealed, 1996 c 451 art 4 s 71]

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

Subd. 4. **Boarding establishment.** "Boarding establishment" means a food and beverage service establishment where food or beverages, or both, 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 service establishment.** "Food and beverage service establishment" means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Subd. 6. **Food cart.** "Food cart" means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

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 and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 21 days annually at any one place or is operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Subd. 10. **Person.** "Person" has the meaning given in section 103I.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 food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.

Subd. 12a. **Seasonal permanent food stand.** "Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

Subd. 13. **Seasonal temporary food stand.** "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location.

Subd. 14. **Special event food stand.** "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.

Subd. 15. [Repealed, 1998 c 407 art 2 s 109]

Subd. 16. **Critical control point.** "Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Subd. 17. **HACCP plan.** "Hazard analysis critical control point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Subd. 18. **Hazard.** "Hazard" means any biological, chemical, or physical property that may cause an unacceptable consumer health risk.

History: 1995 c 207 art 9 s 41; 1996 c 451 art 4 s 47-55,70; 1997 c 203 art 2 s 19-21; 1998 c 407 art 2 s 87-91

157.16 LICENSES REQUIRED; FEES.

Subdivision 1. **License required annually.** A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment, hotel, motel, lodging establishment, or resort. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Seasonal and temporary food stands and special event food stands are not required to submit plans. 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 food and beverage service establishment, hotel, motel, lodging establishment, or resort; 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 food and beverage service establishments, hotels, motels, lodging establishments, and resorts 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 submitted an application and 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 food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a special event food stand, and a penalty of \$50 shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, and resorts operating without a license.

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 (c), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (c), 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.

Subd. 4. **Posting requirements.** Every food and beverage service establishment, hotel, motel, lodging establishment, or resort must have the license posted in a conspicuous place at the establishment.

History: 1995 c 207 art 9 s 42; 1996 c 451 art 4 s 56; 1997 c 203 art 2 s 22; 1998 c 397 art 11 s 3; 1998 c 407 art 2 s 92; 1Sp2001 c 9 art 1 s 54; 2002 c 379 art 1 s 113

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.** At the time of licensure or license renewal, a boarding and lodging establishment or a lodging establishment that provides supportive services or health supervision services must be registered with the commissioner, and must register annually thereafter. The registration must include the name, address, and telephone number of the establishment, the name of the operator, 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.

Housing with services establishments registered under chapter 144D shall be considered registered under this section for all purposes except that:

- (1) the establishments shall operate under the requirements of chapter 144D; and
- (2) the criminal background check requirements of sections 299C.66 to 299C.71 apply. The criminal background check requirements of section 144.057 apply only to personnel providing home care services under sections 144A.43 to 144A.47 and personnel providing hospice care under sections 144A.75 to 144A.755.

Subd. 3. **Restriction on the provision of services.** 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. [Repealed, 1998 c 254 art 1 s 57]

Subd. 5. **Services that may not be provided in a boarding and lodging establishment or lodging establishment.** Except those facilities registered under chapter 144D, 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; 1996 c 451 art 4 s 57; 1997 c 113 s 14,15; 1998 c 254 art 1 s 55,56; 2002 c 252 s 21

157.18 [Repealed, 1996 c 451 art 4 s 71]

157.19 [Repealed, 1996 c 451 art 4 s 71]

157.20 INSPECTION; FREQUENCY; RISK CATEGORIES; ORDERS.

Subdivision 1. **Inspections.** It shall be the duty of the commissioner to inspect, or cause to be inspected, every food and beverage service establishment, hotel, motel, lodging establishment, or resort. 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. 2a. **Risk categories.** (a) **High-risk establishment.** "High-risk establishment" means any food and beverage service establishment, hotel, motel, 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.

(b) **Medium-risk establishment.** "Medium-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service; or

(2) serves foods, such as pizza, that require extensive handling followed by heat treatment.

(c) **Low-risk establishment.** "Low-risk establishment" means a food and beverage service establishment, hotel, motel, lodging establishment, or resort that is not a high-risk or medium-risk establishment.

(d) **Risk exceptions.** Mobile food units, seasonal permanent and seasonal temporary food stands, food carts, and special event food stands are not inspected on an established schedule and therefore are not defined as high-risk, medium-risk, or low-risk establishments.

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.

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: 1995 c 207 art 9 s 46; 1996 c 451 art 4 s 58,59; 2001 c 205 art 2 s 2

157.21 INSPECTION RECORDS.

The commissioner shall keep inspection records for all food and beverage service establishments, hotels, motels, lodging establishments, and resorts, together with the name of the owner and operator.

History: 1995 c 207 art 9 s 47; 1996 c 451 art 4 s 60

157.215 PILOT PROJECT.

The commissioner of health is authorized to issue a request for participation to the regulated food and beverage service establishment industry and to select up to 25 pilot projects utilizing HACCP quality assurance principles for monitoring risk.

History: 1997 c 203 art 2 s 23

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: 1995 c 207 art 9 s 48; 2000 c 378 s 1; 2001 c 65 s 1; 1Sp2001 c 9 art 1 s 55; 2002 c 379 art 1 s 113.