HOUSE BILL NO. 536

INTRODUCED BY DEVLIN, SWITZER

IN THE HOUSE

JANUARY 30, 1987	INTRODUCED	AND	REFER	RED	TO	COMMITTEE
	ON HUMAN S.	ERVIC	CES &	AGIN	١G.	

- FEBRUARY 10, 1987 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 11, 1987 PRINTING REPORT.
- FEBRUARY 12, 1987 SECOND READING, DO PASS.
- FEBRUARY 13, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 85; NOES, 5.

TRANSMITTED TO SENATE.

- IN THE SENATE
- FEBRUARY 16, 1987 INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
- MARCH 10, 1987 COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
- MARCH 13, 1987 SECOND READING, CONCURRED IN.
- MARCH 16, 1987 THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 17, 1987 RECEIVED FROM SENATE.

SENT TO ENROLLING.

INTRODUCED BY Devin Surface 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE 4 LICENSE REQUIREMENT FOR OPERATION OF A FOOD ESTABLISHMENT BY 5 NONPROFIT ORGANIZATION: AMENDING SECTIONS 50-50-102. 6 A

7 50-50-201, AND 50-50-202, MCA; AND PROVIDING AN EFFECTIVE 8 DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-50-102, MCA, is amended to read:
 "50-50-102. Definitions. Unless the context requires
 otherwise, in this chapter the following definitions apply:
 (1) "Board" means the board of health and
 environmental sciences, provided for in 2-15-2104.

16 (2) "Department" means the department of health and
17 environmental sciences, provided for in Title 2, chapter 15,
18 part 21.

19 (3) "Establishment" means a food manufacturing
20 establishment, meat market, food service establishment,
21 frozen food plant, commercial food processor, or perishable
22 food dealer.

(4) "Food" means an edible substance, beverage, or
 ingredient used, intended for use, or for sale for human
 consumption.

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(5) "Food manufacturing establishment" 1 means a 2 commercial establishment and buildings or structures in connection with it used to manufacture or prepare food for 3 sale or human consumption, but does not include milk 4 5 producers' facilities, milk pasteurization facilities. milk 6 product manufacturing plants, slaughterhouses, or meat 7 packing plants.

8 (6) "Food service establishment" means a fixed or 9 mobile restaurant, coffee shop, cafeteria, short-order cafe. 10 luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink 11 12 vending machine, tavern, bar, cocktail lounge, nightclub, 13 industrial feeding establishment, catering kitchen. 14 commissary, private organization routinely serving the public, or similar place where food or drink is prepared, 15 16 served, or provided to the public with or without charge. The term does not include establishments, vendors, or 17 vending machines which sell or serve only packaged 18 19 nonperishable foods in their unbroken original containers or a private organization serving food only to its members. 20

(7) "Frozen food plant" means a place used to freeze,
process, or store food including facilities used in
conjunction with the frozen food plant and a place where
individual compartments are offered to the public on a
rental or other basis.

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(8) "Meat market" means a commercial establishment and 1 buildings or structures in connection with it used to 2 3 process, store, or display meat or meat products for sale to 4 the public or for human consumption.

5 (9) "Nonprofit organization" means any organization 6 qualifying as a tax-exempt organization under 26 U.S.C. 501. 7

(10) "Perishable food dealer" means a person or B commercial establishment which is in the business of purchasing and selling perishable food to the public. 9

10 means a person, partnership, tt0;(11) "Person" corporation, association, cooperative group, or other entity 11 engaged in operating, owning, or offering services of an 12 13 establishment."

14 Section 2. Section 50-50-201, MCA, is amended to read: "50-50-201. License required. (1) A Except as provided 15 16 in 50-50-202, a person operating an establishment shall 17 procure an annual license from the department.

18 (2) A separate license is required for each 19 establishment, but if more than one type of establishment is operated on the same premises and under the same management, 20 21 only one license is required.

22 (3) Only one license is required for a person owning 23 and operating one or more vending machines.

24 (4) Before a license may be issued by the department it must be validated by the local health officer, or if 25

there is no local health officer the sanitarian, in the 1 2 county where the establishment is located."

Section 3. Section 50-50-202, MCA, is amended to read: 4 "50-50-202. Publicly-----owned----establishment 5 Establishments exempt from license requirement. (1) 6 Establishments owned or operated by the state or a political 7 subdivision of the state are exempt from licensure but must 8 comply with the requirements of this chapter and rules 9 adopted by the department under this chapter. (2) No license is required to operate an establishment 10 if it is operated by a nonprofit organization for a period 11

12 of less than 14 days in 1 calendar year; but an establishment exempt from licensure under this subsection 13 14 must be operated in compliance with the remaining provisions

15 of this chapter."

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16 NEW SECTION. Section 4. Extension of authority. Any 17 existing authority of the department of health and 18 environmental sciences to make rules on the subject of the 19 provisions of this act is extended to the provisions of this 20 act.

21 NEW SECTION. Section 5. Effective date. This act is 22 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB536, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to eliminate the license requirement for operation of a food establishment by a nonprofit organization; amending sections 50-50-102, 50-50-201 and 50-50-202, MCA; and providing an effective date.

ASSUMPTIONS:

- 1. It is assumed that the Department of Health and Environmental Sciences would make the determination of nonprofit status of a food establishment and that the establishment need not have received such status, but be able to prove that it could meet the requirements of 26 U.S.C. 501.
- 2. It is estimated that 8,118 licenses will be purchased each year. Of these, 117 would qualify for the nonprofit licensure exemption.
- 3. Each license costs \$30. Fifteen percent of each license is deposited to the state general fund; the remainder is deposited to the local board inspection fund and allocated to local boards of health.

FISCAL IMPACT:

	FY88/FY89		
	Current Law	Proposed Law	<u>Difference</u>
Revenue:			
General Fund	\$ 36,529	\$ 36,002	\$ 527
Local board inspection fund	207,000	204,017	2,983
TOTAL	\$243,529	\$240,019	\$3,510

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The amount of revenue transferred to the local boards of health would decrease by about \$2,983 annually.

DAVID L. HUNTER, BUDGET DIRECTOR Office of Budget and Program Planning

DATE DEVLIN, PRIMARY SPONSOR GERRY

Fiscal Note for HB536, as introduced.

50th Legislature

HB 0536/02

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1	HOUSE BILL NO. 536
2	INTRODUCED BY DEVLIN, SWITZER
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5	LICENSE REQUIREMENT FOR OPERATION OF A FOOD ESTABLISHMENT BY
6	A NONPROFIT ORGANIZATION; AMENDING SECTIONS 50-50-102,
7	50-50-201, AND 50-50-202, MCA; AND PROVIDING AN EFFECTIVE
8	DATE."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 50-50-102, MCA, is amended to read:
12	"50-50-102. Definitions. Unless the context requires
13	otherwise, in this chapter the following definitions apply:
14	(1) "Board" means the board of health and
15	environmental sciences, provided for in 2-15-2104.
16	(2) "Department" means the department of health and
17	environmental sciences, provided for in Title 2, chapter 15,
18	part 21.
19	(3) "Establishment" means a food manufacturing
20	establishment, meat market, food service establishment,
21	frozen food plant, commercial food processor, or perishable
22	food dealer.

(4) "Food" means an edible substance, beverage, or
ingredient used, intended for use, or for sale for human
consumption.

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1 (5) "Food manufacturing establishment" means a 2 commercial establishment and buildings or structures in 3 connection with it used to manufacture or prepare food for 4 sale or human consumption, but does not include milk 5 producers' facilities, milk pasteurization facilities, milk 6 product manufacturing plants, slaughterhouses, or meat 7 packing plants.

(6) "Food service establishment" means a fixed or 8 9 mobile restaurant, coffee shop, cafeteria, short-order cafe, 10 luncheonette, grille, tearoom, sandwich shop, soda fountain, 11 food store serving food or beverage samples, food or drink 12 vending machine, tavern, bar, cocktail lounge, nightclub, 13 industrial feeding establishment, catering kitchen, 14 commissary, private organization routinely serving the 15 public, or similar place where food or drink is prepared, 16 served, or provided to the public with or without charge. The term does not include establishments, vendors, or 17 18 vending machines which sell or serve only packaged nonperishable foods in their unbroken original containers or 19 20 a private organization serving food only to its members.

(7) "Frozen food plant" means a place used to freeze, process, or store food including facilities used in conjunction with the frozen food plant and a place where individual compartments are offered to the public on a rental or other basis.

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SECOND READING

(8) "Meat market" means a commercial establishment and
 buildings or structures in connection with it used to
 process, store, or display meat or meat products for sale to
 the public or for human consumption.

<u>(9)</u> "Nonprofit organization" means any organization
 <u>qualifying as a tax-exempt organization under 26 U.S.C. 501.</u>
 (9)(10) "Perishable food dealer" means a person or

B commercial establishment which is in the business of 9 purchasing and selling perishable food to the public.

10 (10) (11) "Person" means a person, partnership, 11 corporation, association, cooperative group, or other entity 12 engaged in operating, owning, or offering services of an 13 establishment."

Section 2. Section 50-50-201, MCA, is amended to read:
"50-50-201. License required. (1) A Except as provided
<u>in 50-50-202</u>, a person operating an establishment shall
procure an annual license from the department.

(2) A separate license is required for each
establishment, but if more than one type of establishment is
operated on the same premises and under the same management,
only one license is required.

(3) Only one license is required for a person owningand operating one or more vending machines.

24 (4) Before a license may be issued by the department25 it must be validated by the local health officer, or if

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there is no local health officer the sanitarian, in the county where the establishment is located."

3 Section 3. Section 50-50-202, MCA, is amended to read:
4 "50-50-202. Publicly-----owned-----establishment
5 Establishments exempt from license requirement. (1)
6 Establishments owned or operated by the state or a political
7 subdivision of the state are exempt from licensure but must
8 comply with the requirements of this chapter and rules
9 adopted by the department under this chapter.

10 (2) No license is required to operate an establishment if it is operated by a nonprofit organization for a period 11 of less than 14 days in 1 calendar year; but an 12 establishment exempt from licensure under this subsection 13 14 must be operated in compliance with the remaining provisions of this chapter AND RULES ADOPTED BY THE DEPARTMENT UNDER 15 THIS CHAPTER, AND, PRIOR TO EACH OPERATION, MUST REGISTER 16 WITH THE LOCAL HEALTH OFFICER OR SANITARIAN ON FORMS 17 18 PROVIDED BY THE DEPARTMENT." 19 NEW SECTION. Section 4. Extension of authority. Any 20 existing authority of the department of health and 21

21 environmental sciences to make rules on the subject of the 22 provisions of this act is extended to the provisions of this 23 act.

24 <u>NEW SECTION.</u> Section 5. Effective date. This act is 25 effective July 1, 1987. -End-

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1	HOUSE BILL NO. 536
2	INTRODUCED BY DEVLIN, SWITZER
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE
5	LICENSE REQUIREMENT FOR OPERATION OF A FOOD ESTABLISHMENT BY
6	A NONPROFIT ORGANIZATION; AMENDING SECTIONS 50-50-102,
7	50-50-201, AND 50-50-202, MCA; AND PROVIDING AN EFFECTIVE
8	DATE."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 50-50-102, MCA, is amended to read:
12	"50-50-102. Definitions. Unless the context requires
13	otherwise, in this chapter the following definitions apply:
14	(1) "Board" means the board of health and
15	environmental sciences, provided for in 2-15-2104.
16	(2) "Department" means the department of health and
17	environmental sciences, provided for in Title 2, chapter 15,
18	part 21.
19	(3) "Establishment" means a food manufacturing
20	establishment, meat market, food service establishment,
21	frozen food plant, commercial food processor, or perishable
22	food dealer.

23 (4) "Food" means an edible substance, beverage, or
24 ingredient used, intended for use, or for sale for human
25 consumption.

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1 (5) "Food manufacturing establishment" means a 2 commercial establishment and buildings or structures in 3 connection with it used to manufacture or prepare food for sale or human consumption, but does not include milk 4 producers' facilities, milk pasteurization facilities, milk 5 product manufacturing plants, slaughterhouses, or meat 6 7 packing plants.

(6) "Food service establishment" means a fixed or 8 mobile restaurant, coffee shop, cafeteria, short-order cafe, 9 luncheonette, grille, tearoom, sandwich shop, soda fountain, 10 food store serving food or beverage samples, food or drink 11 vending machine, tavern, bar, cocktail lounge, nightclub, 12 13 industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the 14 public, or similar place where food or drink is prepared, 15 served, or provided to the public with or without charge. 16 The term does not include establishments, vendors, or 17 vending machines which sell or serve only packaged 18 nonperishable foods in their unbroken original containers or 19 a private organization serving food only to its members. 20

(7) "Frozen food plant" means a place used to freeze,
process, or store food including facilities used in
conjunction with the frozen food plant and a place where
individual compartments are offered to the public on a
rental or other basis.

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(8) "Meat market" means a commercial establishment and 1 buildings or structures in connection with it used to 2 process, store, or display meat or meat products for sale to 3 4 the public or for human consumption.

(9) "Nonprofit organization" means any organization 5 qualifying as a tax-exempt organization under 26 U.S.C. 501. 6 7 (10) "Perishable food dealer" means a person or commercial establishment which is in the business of 8 9 purchasing and selling perishable food to the public.

10 flot(11) "Person" means a person, partnership, corporation, association, cooperative group, or other entity 11 engaged in operating, owning, or offering services of an 12 13 establishment."

14 Section 2. Section 50-50-201, MCA, is amended to read: 15 "50-50-201. License required. (1) A Except as provided in 50-50-202, a person operating an establishment shall 16 17 procure an annual license from the department.

18 (2) A separate license is required for each establishment, but if more than one type of establishment is 19 20 operated on the same premises and under the same management, 21 only one license is required.

22 (3) Only one license is required for a person owning 23 and operating one or more vending machines.

24 (4) Before a license may be issued by the department it must be validated by the local health officer, or if 25

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1	there is no local health officer the sanitarian, in the
2	county where the establishment is located."
3	Section 3. Section 50-50-202, MCA, is amended to read:
4	"50-50-202. Publiclyownedestablishment
5	Establishments exempt from license requirement. (1)
6	Establishments owned or operated by the state or a political
7	subdivision of the state are exempt from licensure but must
8	comply with the requirements of this chapter and rules
9	adopted by the department under this chapter.
10	(2) No license is required to operate an establishment
11	if it is operated by a nonprofit organization for a period
12	of less than 14 days in 1 calendar year; but an
13	establishment exempt from licensure under this subsection
14	must be operated in compliance with the remaining provisions
15	of this chapter AND RULES ADOPTED BY THE DEPARTMENT UNDER
16	THIS CHAPTER, AND, PRIOR TO EACH OPERATION, MUST REGISTER
17	WITH THE LOCAL HEALTH OFFICER OR SANITARIAN ON FORMS
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19	NEW SECTION. Section 4. Extension of authority. Any
20	existing authority of the department of health and
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