

1 House BILL NO. 536
 2 INTRODUCED BY Devin Dewitz
 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.

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

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.

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,
 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.
 17 The term does not include establishments, vendors, or
 18 vending machines which sell or serve only packaged
 19 nonperishable foods in their unbroken original containers or
 20 a private organization serving food only to its members.

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



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1 (8) "Meat market" means a commercial establishment and
2 buildings or structures in connection with it used to
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 (9)(10) "Perishable food dealer" means a person or
8 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."

14 Section 2. Section 50-50-201, MCA, is amended to read:
15 "50-50-201. License required. (1) Except as provided
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
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
25 it must be validated by the local health officer, or if

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. 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
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."

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:

	<u>Current Law</u>	<u>FY88/FY89 Proposed Law</u>	<u>Difference</u>
Revenue:			
General Fund	\$ 36,529	\$ 36,002	\$ 527
Local board inspection fund	<u>207,000</u>	<u>204,017</u>	<u>2,983</u>
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 DATE 2/4/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning

Gerry Devlin DATE 2/5/87
 GERRY DEVLIN, PRIMARY SPONSOR

Fiscal Note for HB536, as introduced.

HB 536

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 536

INTRODUCED BY DEVLIN, SWITZER

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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
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otherwise, in this chapter the following definitions apply:

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environmental sciences, provided for in 2-15-2104.

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

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

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

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

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



1 (8) "Meat market" means a commercial establishment and
2 buildings or structures in connection with it used to
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
8 commercial establishment which is in the business of
9 purchasing and selling perishable food to the public.

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."

14 Section 2. Section 50-50-201, MCA, is amended to read:

15 "50-50-201. License required. (1) Except as provided
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
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
25 it must be validated by the local health officer, or if

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. ~~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
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
18 PROVIDED BY THE DEPARTMENT."

19 NEW SECTION. Section 4. Extension of authority. Any
20 existing authority of the department of health and
21 environmental sciences to make rules on the subject of the
22 provisions of this act is extended to the provisions of this
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25 effective July 1, 1987.

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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.

1 (5) "Food manufacturing establishment" means a
2 commercial establishment and buildings or structures in
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4 sale or human consumption, but does not include milk
5 producers' facilities, milk pasteurization facilities, milk
6 product manufacturing plants, slaughterhouses, or meat
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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.
17 The term does not include establishments, vendors, or
18 vending machines which sell or serve only packaged
19 nonperishable foods in their unbroken original containers or
20 a private organization serving food only to its members.

21 (7) "Frozen food plant" means a place used to freeze,
22 process, or store food including facilities used in
23 conjunction with the frozen food plant and a place where
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5 (9) "Nonprofit organization" means any organization
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