

HOUSE BILL 343

Introduced by Hansen, S., et al.

1/21	Introduced
1/23	Referred to Business & Economic Development
1/24	Fiscal Note Requested
1/30	Hearing
1/30	Fiscal Note Received
2/02	Committee Report--Bill Passed as Amended
2/03	Fiscal Note Printed
2/04	2nd Reading Do Pass Motion Failed

1 *House* BILL NO. *343*
 2 INTRODUCED BY *Steve Frankham, Chairman*
 3 *Moore*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 5 DEFINITIONS OF LICENSED FOOD ESTABLISHMENTS; INCREASING
 6 LICENSE FEES; AND AMENDING SECTIONS 50-50-102, 50-50-201,
 7 AND 50-50-205, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 50-50-102, MCA, is amended to read:

11 "50-50-102. Definitions. Unless the context requires
 12 otherwise, in this chapter the following definitions apply:

13 (1) (a) "Bakery" means a commercial establishment,
 14 including buildings, structures, and facilities,
 15 manufacturing bread or bread products, pies, cakes, cookies,
 16 crackers, doughnuts, or similar products for sale for human
 17 consumption. Included are operations with on-premises
 18 consumption of foods that are limited to the bakery products
 19 manufactured on site together with limited beverage service.

20 (b) The term does not include a bakery that is an
 21 integral part of a food service establishment where bakery
 22 products are served exclusively to the food service
 23 establishment customers.

24 (1)(2) "Board" means the board of health and
 25 environmental sciences, provided for in 2-15-2104.

1 (2)(3) "Department" means the department of health and
 2 environmental sciences, provided for in Title 2, chapter 15,
 3 part 21.

4 (4) "Drinking establishment" means a tavern, bar,
 5 nightclub, or other establishment that serves alcoholic
 6 beverages for on-premises consumption, including
 7 establishments that serve prepackaged, potentially hazardous
 8 foods that were prepared in a licensed establishment and
 9 that require only heating by microwave or broiler oven
 10 before serving or other limited menu items approved by the
 11 department.

12 (3)(5) "Establishment" means a food manufacturing or
 13 processing establishment, warehouse, retail food store, meat
 14 market, food service establishment, frozen food plant,
 15 commercial--food--processor, drinking establishment, mobile
 16 food service, temporary food service, or perishable food
 17 dealer.

18 (4)(6) "Food" means an edible substance, beverage, or
 19 ingredient used, intended for use, or for sale for human
 20 consumption.

21 (5)(7) "Food manufacturing or processing
 22 establishment" means a commercial establishment and
 23 buildings or structures in connection with it used to
 24 manufacture or prepare food for sale or human consumption,
 25 but The term does not include milk producers' facilities,

1 milk pasteurization facilities, milk product manufacturing
2 plants, slaughterhouses, or meat packing plants.

3 ~~†6†~~(8) (a) "Food service establishment" means a fixed
4 ~~or--mobile~~ restaurant, coffee shop, cafeteria, deli,
5 short-order cafe, luncheonette, grille, tearoom, sandwich
6 shop, soda fountain, food store serving food or beverage
7 samples, food or drink vending machine, ~~taavern--bar~~
8 ~~cocktail----lounge,----nightclub~~, industrial feeding
9 establishment, catering kitchen, commissary, private
10 organization routinely serving the public, or similar place
11 where food ~~or-drink~~ is prepared, served, or provided to the
12 public with or without charge.

13 (b) The term does not include establishments, vendors,
14 or vending machines which that sell or serve only packaged
15 nonperishable foods in their unbroken original containers or
16 a private organization serving food only to its members.

17 ~~†7†~~(9) "Frozen food plant" means a place used to
18 freeze, process, or store food, including facilities used in
19 conjunction with the frozen food plant and a place where
20 individual compartments are offered to the public on a
21 rental or other basis.

22 (10) "Itinerant" means a person who conducts business
23 from a temporary stand or truck, sells door to door, or in
24 any other fashion sells from place to place directly to the
25 consumer.

1 ~~†8†~~(11) (a) "Meat market" means a commercial
2 establishment and buildings or structures in connection with
3 it used to process, store, or display meat or meat products
4 for sale to the public or for human consumption.

5 (b) The term does not include establishments that only
6 display prepackaged meat or meat products that have been
7 processed and packaged in a licensed and approved facility.

8 (12) "Mobile food unit or pushcart" means a
9 vehicle-mounted and readily movable food service
10 establishment.

11 ~~†9†~~(13) "Nonprofit organization" means any organization
12 qualifying as a tax-exempt organization under 26 U.S.C. 501.

13 ~~†10†~~(14) "Perishable food dealer" means ~~a person or~~
14 commercial an itinerant establishment which that is in the
15 business of purchasing and selling perishable food to the
16 public.

17 ~~†11†~~(15) "Person" means a person, partnership,
18 corporation, association, cooperative group, or other entity
19 engaged in operating, owning, or offering services of an
20 establishment."

21 (16) (a) "Retail food store" means an establishment or
22 section of an establishment where food and food products are
23 offered to the consumer and intended for off-premises
24 consumption. The term includes but is not limited to produce
25 display, storage, and bulk dispensing areas.

(b) The term does not include establishments that offer only fresh fruits and vegetables or areas or activities covered by other establishments.

(17) "Temporary food service establishment" means a food service establishment that operates at a fixed location for not more than 14 consecutive days in conjunction with a single event or celebration.

(18) (a) "Warehouse" means a commercial establishment, including buildings, structures, and facilities, used to store, hold, and distribute food products for wholesale, including frozen food storage and handling facilities associated with the warehouse.

(b) The term does not include warehouse operations conducted as an integral part of any other establishment defined in this section."

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

"50-50-201. License required. (1) Except as provided in 50-50-202, a person operating an establishment shall procure an annual license from the department.

(2) A separate license is required for each establishment, ~~but---if~~ If more than one type of establishment is operated on the same premises and under the same management, ~~only-one-license-is-required~~ fees must be collected in accordance with 50-50-205(2).

(3) Only one license is required for a person owning

and operating one or more vending machines.

(4) Before a license may be issued by the department it must be validated by the local health officer, or if there is no local health officer the sanitarian, in the county where the establishment is located."

Section 3. Section 50-50-205, MCA, is amended to read:

"50-50-205. License fee. (1) For each license issued, the department shall collect a fee of \$30; ~~---it--shall~~ and deposit 85% of the fees collected in the state special revenue fund to the credit of the local board inspection fund account created by 50-2-108(2) and the balance of the fees in the state general fund.

(2) The department shall charge an establishment that conducts business on the same premises under more than one category defined in 50-50-102 a license fee of \$50 plus a license fee of \$10 for each additional category of business conducted. The department shall deposit all additional license fees collected to the credit of the local board inspection fund account."

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB343, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This legislation would increase license fees charged food purveyor establishments for the purpose of increasing the amount of money returned to the local health departments through the Local Board Inspection Fund Account. It also adds and changes business category definitions.

ASSUMPTIONS:

Assume the number of licenses issued will remain reasonably constant thus local health departments will continue to have these funds available to support their inspection programs.

	<u>Current</u>	<u>FY90</u>		<u>Current</u>	<u>FY91</u>	
	<u>Law</u>	<u>Proposed</u>	<u>Difference</u>	<u>Law</u>	<u>Proposed</u>	<u>Difference</u>
		<u>Law</u>			<u>Law</u>	
<u>Expenditures:</u>						
	\$131,070	\$188,656	\$ 57,586	\$131,070	\$179,306	\$ 48,236
<u>Revenues:</u>						
	154,200	195,781	41,581	154,200	195,781	41,581
<u>Net Effect:</u>						
	23,130	7,124	(16,005)	23,130	16,475	(6,655)

FUND IMPACT:

The Grants appropriation to the Department of Health and Environmental Sciences, Food and Consumer Safety Bureau, will have to be increased to permit distribution of the additional funds in the Local Board Inspection Fund Account.

EFFECT ON COUNTY OR LOCAL REVENUE OR EXPENDITURES:

Would provide additional funds to local health departments to support their inspection activities.

LONG RANGE EFFECTS OF PROPOSED LEGISLATION:

Would provide continuous funding support and assist in maintaining a stable program.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 3, page 6 is written so that two different licensing fees are to be imposed and there will be two different applications of percent split between the general fund and the Local Board Inspection Fund Account.

Ray Shackleford 11/30/89
 RAY SHACKLEFORD, BUDGET DIRECTOR DATE
 OFFICE OF BUDGET AND PROGRAM PLANNING

Stella Jean Hansen 2/02/89
 STELLA JEAN HANSEN, PRIMARY SPONSOR DATE
 Fiscal Note for HB343, as introduced

HB 343

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 343

INTRODUCED BY HANSEN, COCCHIARELLA, MOORE, STRIZICH

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consumption of foods that are limited to the bakery products
manufactured on site together with limited beverage service.

(b) The term does not include a bakery that is an
integral part of a food service establishment where bakery
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department.

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~~{2}--The department shall charge an establishment that conducts business on the same premises under more than one category defined in 50-50-102 a~~ IN ADDITION TO--THE license fee--of--\$50 plus PROVIDED IN SUBSECTION {1} a license fee of \$10 for each additional category of business conducted--The department---shall---deposit--all--additional--license--fees collected to the credit of the local board--inspection--fund account--"

NEW SECTION. Section 4. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

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