



AN ACT REVISING LAWS RELATING TO LICENSED ESTABLISHMENTS; REVISING THE LICENSE FEES FOR ESTABLISHMENTS; AMENDING SECTIONS 50-50-103, 50-50-205, 50-51-204, 50-52-202, AND 50-57-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 50-50-103, MCA, is amended to read:

"50-50-103. Department authorized to adopt rules -- advisory council. (1) To protect public health, the department may adopt rules relating to the operation of establishments defined in 50-50-102, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and fixtures, and housekeeping.

(2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons at farmer's markets.

(b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.

(3) (a) The department shall ~~use~~ establish a food safety task force or advisory council to assist in the development of administrative rules or to review any proposed legislation related to the provisions of this chapter.

(b) The task force or advisory council must be composed of equal numbers of representatives of the food establishments and representatives of state and local government.

(c) ~~Administrative~~ The department shall present administrative rules and any legislation to be proposed by the department must be presented to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council."

Section 2. Section 50-50-205, MCA, is amended to read:

"50-50-205. License fee -- late fee -- preemption of local authority -- exception. (1) (a) ~~Except as provided in subsection (1)(b), for each license issued, the~~ The department shall collect for each license issued or renewed a fee of \$90 as provided in subsection (1)(b). It shall deposit 90% of ~~Of the fees collected under this section, 90% must be deposited~~ into the local board inspection fund account created in 50-2-108, 5% ~~of the fees~~ into the general fund, and 5% ~~of the fees~~ into the account provided for in 50-50-216.

~~—— (b) For each license issued to an establishment that does not have more than two employees working at any one time, the department shall collect a fee of \$60, which must be deposited in accordance with the percentages provided in subsection (1)(a):~~

(b) License fees are:

(i) \$85 for each license issued to an establishment that does not have more than two employees working at any one time; and

(ii) \$115 for establishments not referred to in subsection (1)(b)(i).

(2) (a) In addition to the license fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee is \$25 and must be deposited in the account provided for in 50-50-216.

(3) A county or other local government may not impose an inspection fee or charge in addition to the fee provided for in subsection (1) unless a violation of this chapter or rule persists and is not corrected after two visits to the establishment.

(4) The fees in subsections (1) and (2) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. However, the discounting of license fees may not reduce the fees paid into the local board inspection fund account established in 50-2-108."

Section 3. Section 50-51-204, MCA, is amended to read:

"50-51-204. License fee -- late fee. (1) (a) There shall be paid to the department with each application for such ~~The department shall collect fees for each license required under 50-51-201 or for each annual license renewal of such license an annual license fee of \$40~~ as provided in subsection (1)(b). The department shall deposit 85% of the fees collected under this section into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees into the account provided for in

50-51-110.

(b) Initial and renewal license fees are:

(i) \$40 annually for an establishment with no more than 10 rooms available for rental;

(ii) \$80 annually for an establishment with more than 10 but not more than 25 rooms available for rental;

and

(iii) \$160 annually for an establishment with more than 25 rooms available for rental.

(2) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee ~~is \$25 and~~ must be deposited in the account provided for in 50-51-110."

Section 4. Section 50-52-202, MCA, is amended to read:

"50-52-202. License fee -- late fee. (1) (a) Each application ~~shall~~ for a new license required under 50-52-103 or a license renewal must be accompanied by a fee of ~~\$40~~ as provided in subsection (1)(b).

(b) License fees are:

(i) \$40 annually for a campground or trailer court with no more than 10 spaces available for rental;

(ii) \$60 annually for a campground or trailer court with more than 10 but not more than 25 spaces available for rental; and

(iii) \$120 annually for a campground or trailer court with more than 25 spaces available for rental.

(2) ~~The~~ Of the fees collected under subsection (1), the department shall deposit 85% of the ~~fees collected under subsection (1)~~ into the local board inspection fund account created in 50-2-108, 11.25% of the ~~fees~~ into the general fund, and 3.75% of the ~~fees collected under subsection (1)~~ into the account provided for in 50-52-210.

(3) (a) In addition to the license renewal fee required under subsection (1), the department shall collect a late fee of \$25 from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ the licensee's current license and who operates an establishment governed by this part in the next licensing year.

(b) The late fee ~~is \$25 and~~ must be deposited in the account provided for in 50-52-210."

Section 5. Section 50-57-205, MCA, is amended to read:

"50-57-205. License fee -- late renewal fee -- allocation of fees. (1) For each annual license issued or renewed, the department shall collect a fee of \$90. ~~For an operation containing an establishment and a retail food establishment, as provided in 50-57-201(3), the department shall collect one fee of \$90 for each license of~~ \$115.

~~(2)~~(2) A person operating an establishment who fails to renew a license by the expiration date provided in 50-57-206 and who operates the establishment in the license year for which an annual renewal fee was not paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the annual renewal fee required by subsection ~~(4)~~ (1). Payment of the late renewal fee does not relieve the operator of responsibility for operating without a license.

~~(3)~~(3) The department shall deposit the annual fees collected under subsection ~~(4)~~ (1) as follows:

(a) 90% into the state special revenue fund to the credit of the local board inspection fund account, created in 50-2-108;

(b) 5% into the general fund; and

(c) 5% into the account created in 50-57-213 in the state special revenue fund.

~~(4)~~(4) The department shall deposit all of the fees collected under subsection ~~(2)~~ (2) into the account created by 50-57-213 in the state special revenue fund."

Section 6. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0331, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 331

INTRODUCED BY MORGAN, KAUFMANN, GEBHARDT, SESSO

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