

HOUSE BILL NO. 1824

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON.

5791L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 196, RSMo, by adding thereto seven new sections relating to the licensure of mobile food vendors.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 196, RSMo, is amended by adding thereto seven new sections, to be known as sections 196.651, 196.654, 196.657, 196.661, 196.664, 196.667, and 196.671, to read as follows:

196.651. As used in sections 196.651 to 196.671, unless the context requires otherwise, the following terms shall mean:

(1) "Approved", approved by the department;

(2) "Commissary", a commissary catering establishment, restaurant, or any other place in which food, beverage, ingredients, containers, or supplies are kept, handled, prepared or stored, and from which mobile food units are serviced;

(3) "Department", the department of health and senior services;

(4) "Director", the director of the department of health and senior services;

(5) "Employee", any operator or any person employed by an operator who handles any food, beverage, or ingredient to be dispensed through mobile food units, or who comes into contact with product contact surfaces of the container, equipment, utensils or packaging materials used in connection with mobile food unit operations, or who otherwise services or maintains one or more such units;

(6) "Food", any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use, in whole or in part, for human consumption;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

- 16 (7) **"Mobile food unit", any vehicle on which food is prepared, processed, or**
17 **converted or which is used in selling and dispensing food to the ultimate consumer;**
- 18 (8) **"Nonprofit organization":**
- 19 (a) **A civic or fraternal organization, charity, lodge, association, proprietorship, or**
20 **corporation with a 501(C) exemption under the Internal Revenue Code of 1986, as**
21 **amended; or**
- 22 (b) **A religious organization meeting the definition of "church" under Section**
23 **170(b)(1)(A)(I) of the Internal Revenue Code of 1986, as amended;**
- 24 (9) **"Operator", any person who by contract, agreement, or ownership is**
25 **responsible for operating a commissary or warehouse or furnishing, installing, servicing,**
26 **operating, or maintaining one or more mobile units;**
- 27 (10) **"Person", any individual, partnership, corporation, company, firm, institution,**
28 **association, or any other public or private entity;**
- 29 (11) **"Product contact surface", any surface of the mobile food unit, appurtenance,**
30 **or container which comes into direct contact with any food, beverage, or ingredient;**
- 31 (12) **"Readily perishable food", any food, beverage, or ingredient consisting in**
32 **whole or in part of milk, milk products, eggs, meat, fish, poultry, or any other food capable**
33 **of supporting rapid and progressive growth of microorganisms which can cause food**
34 **infections or food intoxications; except that, readily perishable food does not include**
35 **products in hermetically sealed containers processed by heat to prevent spoilage or**
36 **dehydrated, or dry or powdered products which are so low in moisture content as to**
37 **preclude development of microorganisms;**
- 38 (13) **"Single-service article", any utensil, container, implement, or wrapper**
39 **intended for use only once in the preparation, storage, display, service, or consumption of**
40 **food or beverage;**
- 41 (14) **"Utensil", any kitchenware, tableware, glassware, cutlery, container, cleaning**
42 **brush, or other equipment that comes into contact with food or product contact surfaces**
43 **during cleaning of mobile vending units or commissary equipment, or during storage,**
44 **preparation, serving, dispensing, or consumption of food;**
- 45 (15) **"Warehouse", any place where food, utensils, single-service articles, cleaning,**
46 **or servicing supplies for mobile food units or commissaries are stored.**

196.654. 1. Except as otherwise exempted under subsection 5 of this section, no
2 person shall operate a warehouse, commissary, or mobile food unit without first obtaining
3 a license to do so from the department of health and senior services. The operator shall
4 post the license in a conspicuous place in the warehouse or commissary. The operator shall

5 affix a card, emblem, or other device clearly showing the name and address of the licensee
6 and the serial number of the license to each mobile food unit.

7 2. No person shall be required to obtain any additional local permit or license to
8 operate a warehouse, commissary, or mobile food unit in this state. The department may
9 contract with local public health agencies to conduct the inspections required under
10 sections 196.651 to 196.671, and the department shall reimburse such local agencies in an
11 amount equal to the amount of the annual license fee imposed under section 196.671
12 apportioned for inspections.

13 3. Application for the license shall be in writing in the form prescribed by the
14 department and shall contain the following information:

15 (1) Name and address of the applicant;

16 (2) Location of all warehouses or commissaries;

17 (3) Locations where supplies are kept;

18 (4) Locations where mobile food units are stored, repaired, or renovated; and

19 (5) The type of food to be dispensed through mobile food units.

20 4. The operator shall keep the specific locations of the specific itineraries of the
21 mobile food units on file at the operator's business office and readily available to the
22 department.

23 5. (1) Nonprofit organizations shall be exempt from the payment of a licensing fee
24 under sections 196.651 to 196.671, but shall comply with the requirements established by
25 the department for the safe handling of foods prepared by nonprofit organizations.

26 (2) Any civic or fraternal organization, charity, lodge, association, proprietorship,
27 corporation, or church which does not meet the definition of nonprofit organization shall
28 obtain a license, pay the required fee, and comply with the requirements of sections 196.651
29 to 196.671.

 196.657. 1. The department of health and senior services shall promulgate rules
2 to implement the provisions of sections 196.651 to 196.671, including but not limited to the
3 following:

4 (1) Construction and operation of commissaries and mobile food units;

5 (2) Water supply adequate in quantity and safe for human consumption;

6 (3) Disposal of sewage, refuse, and other wastes in a manner that will not create a
7 nuisance or health hazard;

8 (4) Cleanliness of premises and facilities;

9 (5) Refrigeration of perishable foods and the wholesomeness of all food and
10 beverage ingredients;

- 11 **(6) Protection of food, utensils, wrapping, and serving materials against dust, dirt,**
12 **and contamination;**
- 13 **(7) Equipment of proper construction and the maintenance of such equipment;**
- 14 **(8) Approved plumbing;**
- 15 **(9) Sanitary facilities for employees in commissaries;**
- 16 **(10) Control and exclusion of insects and rodents; and**
- 17 **(11) Approval of plans for commissaries and mobile food units.**

18 **2. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
19 **created under the authority delegated in sections 196.651 to 196.671 shall become effective**
20 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
21 **applicable, section 536.028. Sections 196.651 to 196.671 and chapter 536 are nonseverable**
22 **and if any of the powers vested with the general assembly pursuant to chapter 536 to**
23 **review, to delay the effective date, or to disapprove and annul a rule are subsequently held**
24 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
25 **after August 28, 2012, shall be invalid and void.**

196.661. At the department's discretion, the department shall inspect every
2 **commissary and warehouse, and a representative number of each operator's mobile food**
3 **units. The department shall be granted access at reasonable times to all parts of the**
4 **commissary and shall have access, either in the company of an employee or otherwise, to**
5 **the interior of all mobile food units of the operator at such times as the department**
6 **considers necessary to ensure compliance with the provisions of sections 196.651 to 196.671.**

7 **2. Samples of food, drink, and other substances may be taken and examined by the**
8 **department as often as may be necessary for the detection of unwholesomeness or**
9 **adulteration. The department may condemn and prohibit the sale of or cause to be**
10 **removed or destroyed, any food or drink which contains any toxic, contaminated, filthy,**
11 **putrid, decomposed, or diseased substance or if it is otherwise unfit for human**
12 **consumption.**

13 **3. One copy of the inspection report shall be posted by the director upon an inside**
14 **wall of the commissary or placed in the mobile food unit. The inspection report shall not**
15 **be defaced or removed by any person except the department. Another copy of each**
16 **inspection report shall be filed with the records of the department.**

17 **4. If the department discovers the violation of any provision of sections 196.651 to**
18 **196.671, or any rule promulgated thereunder, the department shall make a second**
19 **inspection after the lapse of such time as the department considers necessary for the defect**
20 **to be remedied.**

21 **5. If a violation is of a nature so as to constitute a danger to the health of the people**
22 **of this state, the department may order immediate closure of the commissary or mobile**
23 **food unit and shall, within twenty-four hours of the time of inspection, mail to or serve**
24 **personally on the licensee a copy of the inspection report signed by the director, or the**
25 **director's designee, showing thereon the particular facility closed and the reason. The**
26 **director shall, if requested, hold an hearing in accordance with chapter 536.**

196.664. Foods from commissaries or other sources outside this state may be sold
2 **in this state if such commissaries or other sources of supply conform to the provisions of**
3 **sections 196.651 to 196.671 and the rules promulgated thereunder.**

196.667. The department may deny, suspend, or revoke a license in any case where
2 **the department finds that there has been a substantial failure to comply with the provisions**
3 **of sections 196.651 to 196.671 or the rules promulgated thereunder.**

196.671. 1. Every applicant for a license to operate a commissary, warehouse, or
2 **mobile food unit shall pay to the department an annual license fee of one hundred dollars.**
3 **The department may by rule increase the license fee if the actual costs of administering**
4 **sections 196.651 to 196.671 exceed one hundred dollars.**

2. All licenses issued under sections 196.651 to 196.671 expire annually on a date
5 **set by department rule. A license is not transferable. The department shall not issue a**
6 **refund representing any unused portion of a license. The department shall not refund fees**
7 **submitted with applications that have been denied.**
8

3. If the department contracts with local public health agencies to conduct the
9 **inspections required under sections 196.651 to 196.671, the department shall reimburse**
10 **such local public health agencies for the costs of such inspections in an amount of not less**
11 **than sixty percent of the annual license fee. The department shall by rule established the**
12 **reimbursement rate under this subsection.**
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