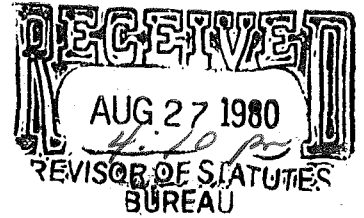


H 95,96,98

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

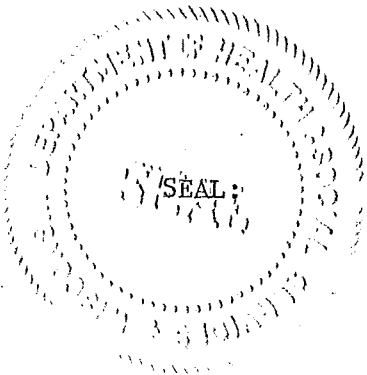


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Donald E. Percy, Secretary of the Department of Health and Social Services and custodian of the official records of said department do hereby certify that the annexed rules relating to restaurants, hotels and tourist rooming houses and vending food and beverages were duly approved and adopted by this department on the 26th day of August, 1980.

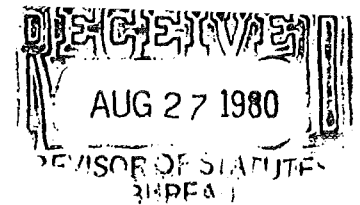
I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the State Office Building, 1 W. Wilson St., in the city of Madison, this 26th day of August August, A.D. 1980.



Donald E. Percy, Secretary
Department of Health and Social Services

ORDER
OF THE
DEPARTMENT OF HEALTH & SOCIAL SERVICES
AMENDING RULES



Relating to rules concerning restaurants, hotels and tourist rooming houses and vending of food and beverages.

Analysis prepared by the Department of Health and Social Services

Legislation has eliminated the state board of health. Chapter 160 Wisc. Statutes was recodified to Chapter 50 Wisc. Statutes. Legislative mandate has eliminated any public or private school lunchroom from the definition of a restaurant in Chapter H96, Wisc. Admin. Code.

The rules have been revised to reflect the wishes of the legislative and executive branches of government.

Pursuant to authority vested in the Department of Health and Social Services by sections 50.55 and 50.57, Wis. Stats., the Department of Health and Social Services hereby amends rules interpreting sections 50.50(1), (2), (3), (4), (5), (6), (7) and 50.57, Wis. Stats., as follows:

Sections H95.02(2) and (3) of the Wisconsin Administrative Code are amended to read:

(2) HOTEL means all places where sleeping accommodations are offered for pay to transients, in 5 or more rooms, and all places used in connection therewith. "Hotelkeeper," "motelkeeper" and "innkeeper" are synonymous and "inn," "motel" and "hotel" are synonymous. The department may classify any hotel as herein defined as a "motel" on written request of the hotel operator on forms furnished by the department, provided that the operator of the hotel furnishes on-premise parking facilities for the motor vehicles of the hotel guests as a part of the room charge, without extra cost. (See ~~Section 160.01(1)(a)~~ Section 50.50(1) and 50.50(1)(a), Stats.)

(3) TOURIST ROOMING HOUSE means and includes all lodging places and tourist cabins and cottages, other than hotels, wherein sleeping accommodations are offered for pay to tourists or transients. It does not include private boarding or rooming houses, ordinarily conducted as such, not accommodating tourists or transients. (See ~~Section 160.01(2)~~ Section 50.50(2), Stats.)

Section H95.11(4) of the Wisconsin Administrative Code is amended to read:

(4) STATE HEALTH OFFICER EMPOWERED TO ACT. The state health officer is empowered to act for the department in the administration and enforcement of all provisions of chapter ~~160~~ 50, Wis. Stats., and the rules and regulations of the department pertaining to hotels and tourist rooming houses.

Section H96.02(2) of the Wisconsin Administrative Code is amended to read:

(2) RESTAURANT means and includes any building, room or place wherein meals or lunches are prepared or served or sold to transients or the general public, and all places used in connection therewith. "Meals or lunches" shall not include soft drinks, ice creams, milk, milk drinks, ices and confections. The serving in taverns of free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish or bread and butter shall not constitute such taverns to be restaurants. The term "restaurant" does not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs or civic organizations which occasionally prepare or serve or sell meals or lunches to transients or the general public nor shall it include any public or private school lunchroom or private individual selling foods from a movable or temporary stand at public farm sales, ~~Section 160.01(3)~~ Section 50.50(3), Stats.

Section H96.13(4) of the Wisconsin Administrative Code is amended to read:

(4) STATE HEALTH OFFICER EMPOWERED TO ACT. The state health officer is empowered to act for the department in the administration and enforcement of all provisions of chapter ~~160~~ 50, Wis. Stats., and the rules and regulations of the department pertaining to restaurants.

Section H98.01 of the Wisconsin Administrative Code is amended to read:

H98.01 Definitions. In addition to those definitions prescribed in section ~~160:01~~ 50.50, Wis. Stats., the following shall apply in the interpretation and enforcement of this chapter:

Section H98.02(1)(a)(b)(c) of the Wisconsin Administrative Code is amended to read:

(1) All vending machines and related equipment used at a vending machine location shall be certified by:

- (a) The board department, or
- (b) An agent of the board department designated as provided for under section ~~160:03(6)~~ 50.57, Wis. Stats., or
- (c) A testing laboratory approved by the board department.

Section H98.02(2) of the Wisconsin Administrative Code is amended to read:

(2) APPROVED TESTING LABORATORIES. Testing laboratories approved by the board department are the National Sanitation Foundation and those laboratories participating in the National Automatic Merchandising Association Vending Machine Evaluation Program and such other testing laboratories as the board department shall designate.

Section H98.02 (3) of the Wisconsin Administrative Code is amended to read:

(3) DATE OF COMPLIANCE. Vending machines and related equipment licensed by the board department prior to January 1, 1965 shall be permitted until July 1, 1969 to comply with these regulations, unless the type, design, construction or installation constitutes a serious public health hazard.

Section H98.02 (4) of the Wisconsin Administrative Code is amended to read:

(4) CERTIFICATION PRIOR TO LICENSING AND USE. Vending machines and related equipment not licensed prior to January 1, 1965 must be certified by the board department, or by a designated agent of the board department or by a testing laboratory approved by the board department prior to their licensing and use. Vending machines found to be in violation to these requirements shall be placed in a nonvend position by using the procedure established in Wis. Adm. Code Section H98.03(2).

Section H98.02 (5) of the Wisconsin Administrative Code is amended to read:

(5) MACHINE DESIGN AND CONSTRUCTION. The board department and its designated agents shall use Wis. Adm. Code Section H98.02 (5) as a guide in certifying vending machines as to type, design, construction and installation of equipment which has not been certified by a testing laboratory approved by the board department.

Section H98.03 (1) of the Wisconsin Administrative Code is amended to read:

(1) The vending machine operator shall be responsible for having each machine identified at all times with the vending machine permit prescribed and furnished by the board depart-

ment. The vending machine permit shall be securely and conspicuously attached to the near center and upper front of the vending machine. The vending machine operator shall maintain the permit in a legible state.

Section H98.03 (2) of the Wisconsin Administrative Code is amended to read:

(2) Whenever upon inspection of a vending machine by an authorized employee or agent of the board department, it shall be found that such vending machine does not contain an identifiable permit as prescribed by subsection (1), the authorized employee or agent of the board department shall cause the vending machine to be placed in a nonvend position by sealing the coin insert slot or other mechanism with the notice prescribed and furnished by the board department. Failure to maintain a nonvend condition until such time an authorized employee or agent of the board department is satisfied that the vending machine is properly licensed and identified will be cause to take action under section 160.08 50.59, Wis. Stats.

Section H98.04 (2) of the Wisconsin Administrative Code is amended to read:

(2) In addition to the machine serial number and the board's department's permit number, the location file record of each vending machine shall designate the type of machine as to prime vending purpose, heated, refrigerated, beverages, food, combination.

Section H98.06 (1) of the Wisconsin Administrative Code is amended to read:

(1) An authorized employee or agent of the board department shall be permitted to enter at any reasonable time, upon any private or public property within the state where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions relating to servicing, maintenance and operation of vending machines dispensing readily perishable foods and beverages and commissaries. The operator shall make provision for the board department or agent employee to have access, either in company with an employee or otherwise, to the interior of all vending machines operated by him.

Section H98.08 (4) of the Wisconsin Administrative Code is amended to read:

(4) All single-service articles with which food normally comes in contact such as straws, spoons, forks, containers, etc., shall be furnished to the customer in the original individual wrapper unopened or by a dispenser approved by the board department.

Section H98.11 (1) of the Wisconsin Administrative Code is amended to read:

(1) All trash and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in a manner approved by the board department.

Section H98.14 (1) of the Wisconsin Administrative Code is amended to read:

(1) No employee with any disease in a communicable form, or who is a carrier of such disease, shall work in any commissary or in vending machine operations in any capacity which brings him into contact with the production, handling, storage or transportation of foods, beverages, ingredients or equipment used in vending machine operations; and no operator shall employ in any capacity any such person, or any person suspected of having any disease in a communicable form or of being a carrier of such disease. Any employee who has a discharging or infected wound, sore or lesion on hands, arms or any exposed portion of the body shall be excluded from those operations which will bring him into contact with foods, beverages, utensils or

equipment used in vending machine operations. Any operator among whose employees there occurs a communicable disease or who suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease shall notify the board department immediately.

Section H98.14(2) of the Wisconsin Administrative Code is amended to read:

(2) When suspicion arises as to the possibility of transmission of infection from any employee, the board department or its designated agent is authorized to require any or all of the following measures:

Section H98.15 (1) of the Wisconsin Administrative Code is amended to read:

(1) Whenever upon inspection of a commissary or a vending machine by an authorized employee or agent of the board department, it shall be found that such commissary or vending machine is not conducted or equipped as required in the rules, the authorized employee or agent of the board department shall notify the owner in writing and shall specify the requirements prescribed by the law and rules of the board department to make such place of business conform with the standards established and the time limit within which compliance must be effected. When an agent of the board department issues such a notice, a copy shall be sent to the district office of the board department. If the order is not fulfilled at the expiration of the time stipulated in said order, or any extension of time granted for compliance, then the permit to operate the commissary or vending machine may be summarily suspended or revoked by the board department

Section H98.15 (2) of the Wisconsin Administrative Code is amended to read:

(2) If a violation of the rules governing vending machines exists which creates a serious public health hazard requiring immediate action, an authorized employee of the board department may place the vending machine in the nonvend position by using the procedure established in Wis. Adm. Code section H98.03 (2) until such regulations have been complied with; an authorized employee of the board department may also place the vending machine in the nonvend position by using the procedure established in Wis. Adm. Code section H98.03 (2) when requested to do so by a designated agent of the board department in cases where serious health hazards exist requiring immediate action.

Section H98.16 of the Wisconsin Administrative Code is amended to read:

Appeal by the operator. Any person aggrieved by an order of the board department may appeal to the board department within 30 days after issuance of the order in the manner prescribed by Wis. Adm. Code sections H 1.21 and 1.22. The board department shall at its next regular meeting either reaffirm, summarily set aside or modify the order, or set a date for hearing on the matter as provided in Wis. Adm. Code sections H 1.21 and 1.22. The action taken by the board department may either suspend the order or continue it in force pending determination of the issues. If the board department has summarily modified the order, the person aggrieved may appeal from the modified order as herein provided. Note: The Board referred to in Wisconsin Administrative Code H1 is actually the department.

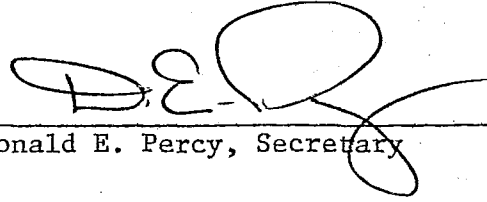
Section H98.17 of the Wisconsin Administrative Code is amended to read:

State health officer empowered to act. The state health officer is empowered to act for the board department in the administration and enforcement of all provisions of ch. 160 50, Wis. Stats., and the rules and regulations of the board department pertaining to Wis. Adm. Code Ch. H 98.

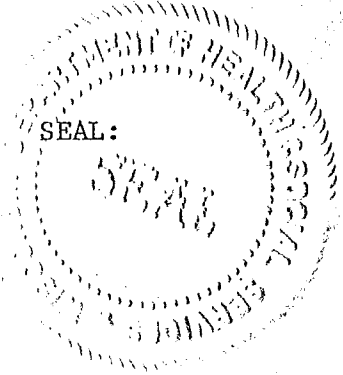
The amendments contained in this order shall take effect on the first day of the month following their publication in the Wisconsin Administrative Register as provided in sec. 227.026(1), Wis. Stats.

DATED:

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



Donald E. Percy, Secretary



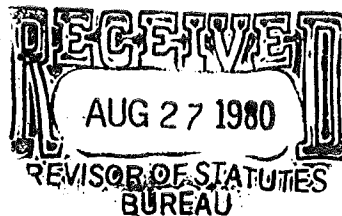


State of Wisconsin \

DEPARTMENT OF HEALTH & SOCIAL SERVICES

August 26, 1980

Mr. Orlan Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, Wisconsin 53702



OFFICE OF THE SECRETARY
1 WEST WILSON STREET
MADISON, WISCONSIN 53702

Dear Mr. Prestegard:

An error appears in the order of the Department of Health and Social Services amending rules relating to restaurants, hotels, tourist rooming houses, and vending of food and beverages which were filed in your office on August 18, 1980. An amended H95.02(3) is mentioned in the cover letter addressed to you and in the order, but the amended paragraph was mistakenly omitted from the order. The amendment simply changes the number of a referenced statute to conform to a recent change in the numbering of that statute.

Please substitute the attached order and certificate for the order and certificate we filed with you on August 18, 1980.

As provided in section 227.023, Wis. Stats., there is hereby submitted a new certified copy of H95.02(2) & (3), H95.11(4), H96.02(2), H96.13(4), H98.01, H98.02(1) (a) (b) (c), H98.02(2), H98.02(3), H98.02(4), H98.02(5), H98.03(1), H98.03(2), H98.04(2), H98.06(1), H98.08(4), H98.11(1), H98.14(1), H98.14(2), H98.15(1), H98.15(2), H98.16 and 98.17, relating to restaurants, hotels and tourist rooming houses and vending of food and beverages.

These rules are being submitted also to the Secretary of State as required by section 227.023, Wis. Stats.

Sincerely,

Donald E. Percy
SECRETARY

Enclosure