

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 485

89TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Economic Development, March 12, 1998, with recommendation that the Senate Committee Substitute do pass.

S1918.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 197.271, RSMo 1994, relating to the registration of certain manufacturers and distributors of food products, and to enact in lieu thereof three new sections relating to the same subject.

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

Section A. Section 197.271, RSMo 1994, is repealed and three new sections enacted in lieu thereof, to be known as sections 196.271, 196.273 and 196.275, to read as follows:

196.271. **1. Except as provided in subsection 2 of this section**, all establishments engaged in the manufacture of food or distribution of foods to wholesale accounts [may] **shall** register with the department of health as a food manufacturer or food distributor.

2. Except as exempted by subsection 3 of this section, all establishments engaged in the manufacture of packaged ice for wholesale or retail sales shall register each location with the department of health. Any establishment engaged in the manufacture of packaged ice for wholesale or retail sales on or before the effective date of this section shall register with the department of health within thirty days of the effective date of this section. Any establishment that wishes to commence the manufacture of packaged ice for wholesale or retail sales after the effective date of this section shall register with the department of health before commencing such manufacture of packaged ice. For purposes of this section and section 196.273, the term "establishment engaged in the manufacture of packaged ice" includes any person, corporation or organization which owns, or is the lessee of, a self-contained machine designed to provide mechanized manufacturing or bagging of packaged ice for sale at retail directly

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

from the machine or on the premises where the machine is located and operated.

3. The requirements of subsection 2 of this section shall not apply to restaurants and other retail establishments whose manufacture and sale of ice is otherwise subject to inspection by the department of health or a county or municipal health department. For the purposes of this section, and section 196.273, the term "inspection" shall mean taking a sample of incoming water, a sample of outgoing ice, and a swab sample of both the inside bottom of ice bins and the underside of ice bin lids and shall also include an examination of sanitary procedures followed by employees.

196.273. 1. The department of health shall promulgate rules and regulations to establish standards governing the testing and inspection of equipment, materials and storage facilities in the manufacture of packaged ice. No rule or portion of a rule promulgated pursuant to the authority of sections 196.271 to 196.275 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

2. No packaged ice shall be distributed to wholesale or retail locations in this state unless the manufacturer has complied with the provisions of sections 196.271 to 196.275.

3. Except for restaurants and other retail establishments whose manufacture and sale of ice is otherwise subject to inspection by the department of health or a county or municipal health department, persons who manufacture packaged ice for sale in this state shall register and be licensed annually on or before September first with the department of health and shall pay a licensing fee as follows:

(1) A fee not to exceed one hundred dollars if the manufacturer produces four hundred or less pounds of ice per day;

(2) A fee not to exceed one hundred fifty dollars if the manufacturer produces over four hundred pounds but less than two thousand pounds of ice per day;

(3) A fee not to exceed two hundred dollars if the manufacturer produces over two thousand pounds but less than five thousand pounds of ice per day; and

(4) For any manufacturer that produces more than five thousand pounds of ice per day a fee not to exceed two hundred fifty dollars for each establishment involved in the manufacture of packaged ice.

4. The manufacturer's registration statement shall be signed and verified by an inspector from the department of health, shall be made on a registration form furnished by the department of health and shall contain the following information:

(1) The name under which the business is conducted;

(2) The address of each place of business in the state being registered;

(3) If a sole proprietorship, the name of the proprietor; if a corporation, the date and place of incorporation and the name and address of its registered agent in this

state; and if another type of association, the names of its principals;

(4) The names of those individuals in an actual administrative capacity who, in the case of a sole proprietorship, shall be the managing proprietor; in a partnership, the managing partner; in a corporation, the officers and directors; and in any other association, those in a managerial capacity.

5. If a manufacturer of packaged ice operates more than one establishment, the manufacturer shall register each establishment separately by listing the name and address of each establishment on the registration statement but may license all establishments under one license.

6. The applicant shall permit the department of health to conduct any preregistration inspection of the ice manufacturer's facility which the department deems necessary. The department of health shall license a manufacturer of packaged ice who meets the requirements of this section. A manufacturer of packaged ice licensed pursuant to this section shall conspicuously display the license at the place of business to which it applies.

7. A manufacturer of packaged ice subject to regulation pursuant to this section shall renew the manufacturer's license annually as provided in this section. The application for renewal and the fee as established by the department of health for each establishment shall be submitted to the department of health on or before September first in accordance with the department of health's regulations. The department of health may revoke or suspend the license of any manufacturer of ice that fails to renew its license as required by this subsection.

8. Manufacturers of packaged ice subject to this section shall comply with the minimum standards specified by the department of health's guidelines for packaged ice. Each package of ice shall be labeled in accordance with the requirements of section 413.145, RSMo, and regulations promulgated pursuant to that section. In addition to such requirement, the name and place of business of the manufacturer of the packaged ice shall be listed on each package sold, or offered for sale.

9. The department of health may, after providing notice and an opportunity for a hearing as provided for administrative review in chapter 536, RSMo, and chapter 621, RSMo, refuse to license a manufacturer of packaged ice, or may revoke or suspend the license for violations of the requirements of this section or section 196.271 or for interference with the department of health in the performance of the department's duties pursuant to this section or section 196.271.

10. Any fee established pursuant to sections 196.271 to 196.275 shall be set at an amount to produce revenue that does not substantially exceed the costs of administering the provisions of sections 196.271 to 196.275. The fees collected pursuant to sections 196.271 to 196.275 shall be transmitted to the director of revenue to be

deposited in the state treasury to the credit of the public health services fund which is established in section 192.900, RSMo.

11. In addition to or in lieu of any penalty provided by sections 196.271 to 196.275, upon application by the department, the attorney general may on behalf of the department request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in any business in violation of sections 196.271 to 196.275;

(2) Engaging in any business regulated by sections 196.271 to 196.275 upon a showing that the person presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state.

196.275. Any person who operates a business in violation of the provisions of sections 196.271 to 196.275 is guilty of a class A misdemeanor.

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Bill

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