



**House
Legislative
Analysis
Section**

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RAISE FOOD ESTABLISHMENT FEES

**Senate Bill 79 with House committee
amendments
First Analysis (2-23-93)**

**Sponsor: Sen. George A. McManus
Senate Committee: Agriculture &
Forestry
House Committee: Agriculture & Forestry**

THE APPARENT PROBLEM:

The fiscal year 1992-93 Department of Agriculture Food Division budget was passed by both the House of Representatives and the Senate with the assumption that fees for food establishments would be increased. However, the specific legislation necessary to raise and collect food establishment fees was not passed last session. Legislation has been introduced to increase these fees.

THE CONTENT OF THE BILL:

Currently, under the Food Processing Act (Public Act 328 of 1978), there is a single annual license fee of \$15. The bill would amend the act to create two categories of license fees, one remaining \$15 a year, the other costing \$52 a year. It would keep the \$15 annual fee for food concessions at state or county fairs, for establishments where the licensee primarily processes (packs, repacks, cans, preserves, freezes, or fabricates) food he or she harvested (which comprise, primarily, maple syrup and honey producers and processors), or any establishment with an area of 1,000 square feet or less that is open to the public and that falls under the act. All other establishments falling under the act would have to pay a \$52 annual fee.

MCL 289.802 and 289.803

BACKGROUND INFORMATION:

Under the Food Processing Act (Public Act 328 of 1978), anyone processing, packing (or repacking), canning, preserving, freezing, fabricating, storing, selling, or offering food for sale must have a license from the Department of Agriculture for each establishment at which he or she does any of these activities.

The department's Food Product Quality Assurance staffing for fiscal year 1991-92 had 64.0 appropriated FTEs (Full Time Equivalent positions), 57.0 of which were filled, 4.0 of which were funded vacant FTEs and 3.0 of which were unfunded vacant FTEs. For fiscal year 1992-93, there were 65.0 appropriated FTEs, 60.5 of which were filled, 1.0 of which were funded vacant FTEs, and 3.5 of which were unfunded vacant FTEs.

The gross funding for the Food Product Quality Assurance program in fiscal year 1991-92 was \$3,631,300. The federal Food and Drug Administration (FDA) accounted for \$180,000 of that funding, food handler fees accounted for \$555,300, and \$2,883,000 was appropriated from the state general fund. The gross funding for fiscal year 1992-93 was \$3,872,000, with \$180,000 from the FDA, 1,050,000 from food handler fees, and \$2,842,000 from the general fund.

In fiscal year 1990-91, the MDA Food Division conducted 18,742 initial complete food inspections (that is, this figure does not include follow-ups due to unacceptable conditions or partial inspections following a specific complaint or a follow-up to a complete inspection). The department issued 20,370 licenses, and made 1,592 seizures for a total of 4,046,474 pounds of food. In fiscal year 1991-92, the department made 19,078 inspections, issued 20,489 licenses, and made 1,616 seizures for a total of 1,790,405 pounds. The department reports that follow-ups and partial inspections equal about 1.5 times the initial inspections.

FISCAL IMPLICATIONS:

According to the Department of Agriculture, the

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bill would result in increased revenue for the department of almost \$650,000. Approximately 3,000 establishments would continue to fall under the \$15 fee, while about 17,500 establishments would fall under the new \$52 fee. (17,500 licenses at \$52 minus \$15 = \$647,500.) (2-19-93)

ARGUMENTS:

For:

The bill is imperative to the Department of Agriculture's (MDA) food safety efforts. It would provide for a fee increase already built into the fiscal year 1992-93 MDA's Food Division budget. Without this fee increase, the department reports that some of the 65 food inspectors would have to be laid off, and without these inspectors, the safety of Michigan's food supply could be put at risk.

Against:

Some people argue that this is simply a hidden tax increase imposed on businesses and their customers. The proper place for such increases is through a straightforward tax increase, instead of this hidden tax hike.

Response:

In the first place, the MDA reports that all major states maintaining a licensure requirement have costs of licensure funded by fees. Secondly, however, the fees have not increased since 1978, though the cost for licensure has risen since then. The fee increase would more accurately reflect the cost of issuing licenses, searching for reported unlicensed establishments, and taking legal action against firms that refused to be licensed.

Against:

The Department of Agriculture reports that in fiscal year 1991-92, over one million dollars in its budgeted funds lapsed back to the general fund. Rather than increase fees, why not shift money within the department's budget before allowing such funds to lapse?

Response:

If the amount in lapsed funds was reduced, the state budget deficit would be even greater than it has been. A fee increase is both reasonable and necessary to reduce the budget deficit.

POSITIONS:

The Department of Agriculture strongly supports the bill. (2-19-93)

The Michigan Merchants Council supports the bill. (2-19-93)

The Michigan Farm Bureau supports the bill. (2-19-93)

The Michigan Grocers' Association does not oppose the bill. (2-19-93)

The Associated Food Dealers of Michigan does not oppose the bill. (2-19-93)