

CERTIFICATE

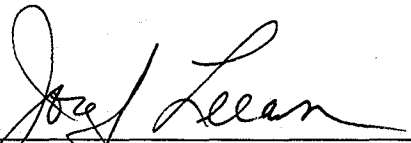
STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND FAMILY SERVICES)

I, Joseph Leean, Secretary of the Department of Health and Family Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to exemption of concession stands at locally sponsored sporting events were duly approved and adopted by this Department on September 16, 1998.

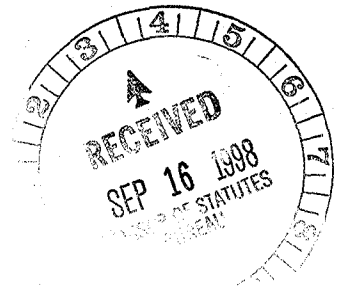
I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

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 Street, in the city of Madison, this 16th day of September, 1998.

SEAL:



Joseph Leean, Secretary
Department of Health and Family Services



ORDER OF THE
DEPARTMENT OF HEALTH AND FAMILY SERVICES
AMENDING AND CREATING RULES

To amend HFS 196.03 (22) (e) and (f) and to create HFS 196.03 (22) (g) and Note, relating to exemption of concession stands at locally sponsored sporting events from being regulated as restaurants.

Analysis Prepared by the Department of Health and Family Services

The current Budget Act, 1997 Wisconsin Act 27, effective October 14, 1997, created s. 254.61 (5) (g), Stats., to exempt a concession stand at a "locally sponsored sporting event" from being regulated under ch. HFS 196 as a restaurant. Following enactment of the State Budget, the Department received several inquiries from its own region-based inspectors and local health departments serving as the Department's agents for enforcement of the Department's environmental sanitation rules, including rules for restaurants, about the meaning of "locally sponsored sporting event." What did the term cover? Did it cover food stands at facilities of locally-owned sports franchises? Were these now to be exempt from regulation under the restaurant rules?

This rulemaking order adds the new exemption to the Department's rules for restaurants and, in this connection, defines both "locally sponsored sporting event" and "concession stand." The order makes clear that the exemption refers only to concession stands at sporting events for youth. That interpretation is supported by the statutory phrase, "such as a little league game," that follows the term, "locally sponsored sporting event," in s. 254.61 (5) (g), Stats. The order further narrows the applicability of the exemption by building into the definitions the Department's understanding of who organizes or sponsors an exempt sporting event and on whose behalf a concession stand at the event is operated.

These rule changes were made by emergency order effective March 14, 1998. This order makes those changes permanent.

The Department's authority to amend and create these rules is found in s. 254.74 (1), Stats. The rules interpret s. 254.61 (5) (g), Stats., as created by 1997 Wisconsin Act 27, as follows:

SECTION 1. HFS 196.03 (22) (e) and (f) are amended to read:

HFS 196.03 (22) (e) Bed and breakfast establishments; ~~or~~

(f) A private individual selling food from a moveable or temporary stand at a public farm sale; or

SECTION 2. HFS 196.03 (22) (g) is created to read:

HFS 196.03 (22) (g) A concession stand at a locally sponsored sporting event, such as a little league game. In this paragraph, "concession stand" means a food stand which serves meals and is operated exclusively for the benefit of a participating youth sports team or program or the governing youth sports organization, and "locally sponsored sporting event" means a competitive game, taking place inside or outside, specifically for youth, which is organized or sponsored by one or more local business, governmental or other civic organizations, or by parents of the youth, including a school-sponsored interscholastic sports competition.

Note: Examples of locally sponsored sporting events are peewee, midget and little league baseball games, youth soccer games, minicycle races and time trials for youth, youth basketball games, youth football games, track and field competitions for youth, youth hockey tournaments and youth swimming meets.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2), Stats.

Wisconsin Department of Health and
Family Services

Date: September 16, 1998

By: _____


Joseph Deean
Secretary

SEAL:

