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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3507**

February 28, 2008

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

1.1 A bill for an act  
1.2 relating to agriculture; authorizing waiver of certain fees and expedited food  
1.3 handler plan review in certain declared disaster areas; changing certain embargo  
1.4 and condemnation provisions; changing certain food sanitary provisions;  
1.5 changing certain fee provisions; defining certain terms; regulating egg sales and  
1.6 handling; amending Minnesota Statutes 2006, sections 28A.03, by adding a  
1.7 subdivision; 28A.08; 28A.082, by adding a subdivision; 28A.09, subdivision 1;  
1.8 29.23; 31.05; 31.171; Minnesota Statutes 2007 Supplement, section 31.175.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2006, section 28A.03, is amended by adding a  
1.11 subdivision to read:

1.12 Subd. 10. **Vending machine.** "Vending machine" means a self-service device that,  
1.13 upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of  
1.14 food in bulk or in packages without the necessity of replenishing the device between  
1.15 each vending operation.

1.16 Sec. 2. Minnesota Statutes 2006, section 28A.08, is amended to read:

1.17 **28A.08 LICENSE FEES; PENALTIES.**

1.18 Subdivision 1. **General.** License fees, penalties for late renewal of licenses, and  
1.19 penalties for not obtaining a license before conducting business in food handling that are  
1.20 set in this section apply to the sections named except as provided under section 28A.09.  
1.21 Except as specified herein, bonds and assessments based on number of units operated or  
1.22 volume handled or processed which are provided for in said laws shall not be affected,  
1.23 nor shall any penalties for late payment of said assessments, nor shall inspection fees, be  
1.24 affected by this chapter. The penalties may be waived by the commissioner. Fees for all  
1.25 new licenses must be based on the anticipated future gross annual food sales. If a firm is

2.1 found to be operating for multiple years without paying license fees, the state may collect  
 2.2 the appropriate fees and penalties for each year of operation.

2.3 **Subd. 3. Fees effective July 1, 2003.**

2.4		Penalties		
2.5	Type of food handler	License Fee	Late Renewal	No License
2.6		Effective		
2.7		July 1, 2003		
2.8	1. Retail food handler			
2.9	(a) Having gross sales			
2.10	of only prepackaged			
2.11	nonperishable food			
2.12	of less than \$15,000			
2.13	for the immediately			
2.14	previous license or			
2.15	fiscal year and filing			
2.16	a statement with the			
2.17	commissioner	\$ 50	\$ 17	\$ 33
2.18	(b) Having under			
2.19	\$15,000 gross sales <u>or</u>			
2.20	<u>service</u> including food			
2.21	preparation or having			
2.22	\$15,000 to \$50,000			
2.23	gross sales <u>or service</u>			
2.24	for the immediately			
2.25	previous license or			
2.26	fiscal year	\$ 77	\$ 25	\$ 51
2.27	(c) Having \$50,001			
2.28	to \$250,000 gross			
2.29	sales <u>or service</u> for the			
2.30	immediately previous			
2.31	license or fiscal year	\$155	\$ 51	\$102
2.32	(d) Having \$250,001			
2.33	to \$1,000,000 gross			
2.34	sales <u>or service</u> for the			
2.35	immediately previous			
2.36	license or fiscal year	\$276	\$ 91	\$ 182
2.37	(e) Having \$1,000,001			
2.38	to \$5,000,000 gross			
2.39	sales <u>or service</u> for the			
2.40	immediately previous			
2.41	license or fiscal year	\$799	\$264	\$527
2.42	(f) Having \$5,000,001			
2.43	to \$10,000,000 gross			
2.44	sales <u>or service</u> for the			
2.45	immediately previous			
2.46	license or fiscal year	\$1,162	\$383	\$767
2.47	(g) Having			
2.48	\$10,000,001 to			
2.49	\$15,000,000 gross			
2.50	sales <u>or service</u> for the			
2.51	immediately previous			
2.52	license or fiscal year	\$1,376	\$454	\$908

3.1	(h) Having			
3.2	\$15,000,001 to			
3.3	\$20,000,000 gross			
3.4	sales <u>or service</u> for the			
3.5	immediately previous			
3.6	license or fiscal year	\$1,607	\$530	\$1,061
3.7	(i) Having			
3.8	\$20,000,001 to			
3.9	\$25,000,000 gross			
3.10	sales <u>or service</u> for the			
3.11	immediately previous			
3.12	license or fiscal year	\$1,847	\$610	\$1,219
3.13	(j) Having over			
3.14	\$25,000,001 gross			
3.15	sales <u>or service</u> for the			
3.16	immediately previous			
3.17	license or fiscal year	\$2,001	\$660	\$1,321
3.18	2. Wholesale food			
3.19	handler			
3.20	(a) Having gross sales			
3.21	or service of less			
3.22	than \$25,000 for the			
3.23	immediately previous			
3.24	license or fiscal year	\$ 57	\$ 19	\$ 38
3.25	(b) Having \$25,001			
3.26	to \$250,000 gross			
3.27	sales or service for the			
3.28	immediately previous			
3.29	license or fiscal year	\$284	\$ 94	\$187
3.30	(c) Having \$250,001			
3.31	to \$1,000,000 gross			
3.32	sales or service from a			
3.33	mobile unit without a			
3.34	separate food facility			
3.35	for the immediately			
3.36	previous license or			
3.37	fiscal year	\$444	\$147	\$293
3.38	(d) Having \$250,001			
3.39	to \$1,000,000 gross			
3.40	sales or service			
3.41	not covered under			
3.42	paragraph (c) for the			
3.43	immediately previous			
3.44	license or fiscal year	\$590	\$195	\$389
3.45	(e) Having \$1,000,001			
3.46	to \$5,000,000 gross			
3.47	sales or service for the			
3.48	immediately previous			
3.49	license or fiscal year	\$769	\$254	\$508
3.50	(f) Having \$5,000,001			
3.51	to \$10,000,000 gross			
3.52	sales <u>or service</u> for the			
3.53	immediately previous			
3.54	license or fiscal year	\$920	\$304	\$607

4.1	(g) Having			
4.2	\$10,000,001 to			
4.3	\$15,000,000 gross			
4.4	sales or service for the			
4.5	immediately previous			
4.6	license or fiscal year	\$990	\$327	\$653
4.7	(h) Having			
4.8	\$15,000,001 to			
4.9	\$20,000,000 gross			
4.10	sales or service for the			
4.11	immediately previous			
4.12	license or fiscal year	\$1,156	\$381	\$763
4.13	(i) Having			
4.14	\$20,000,001 to			
4.15	\$25,000,000 gross			
4.16	sales or service for the			
4.17	immediately previous			
4.18	license or fiscal year	\$1,329	\$439	\$877
4.19	(j) Having over			
4.20	\$25,000,001 or more			
4.21	gross sales or service			
4.22	for the immediately			
4.23	previous license or			
4.24	fiscal year	\$1,502	\$496	\$991
4.25	3. Food broker	\$150	\$ 50	\$ 99
4.26	4. Wholesale food			
4.27	processor or			
4.28	manufacturer			
4.29	(a) Having gross sales			
4.30	<u>or service of less</u>			
4.31	than \$125,000 for the			
4.32	immediately previous			
4.33	license or fiscal year	\$169	\$ 56	\$112
4.34	(b) Having \$125,001			
4.35	to \$250,000 gross			
4.36	<u>sales or service</u> for the			
4.37	immediately previous			
4.38	license or fiscal year	\$392	\$129	\$259
4.39	(c) Having \$250,001			
4.40	to \$1,000,000 gross			
4.41	<u>sales or service</u> for the			
4.42	immediately previous			
4.43	license or fiscal year	\$590	\$195	\$389
4.44	(d) Having \$1,000,001			
4.45	to \$5,000,000 gross			
4.46	<u>sales or service</u> for the			
4.47	immediately previous			
4.48	license or fiscal year	\$769	\$254	\$508
4.49	(e) Having \$5,000,001			
4.50	to \$10,000,000 gross			
4.51	<u>sales or service</u> for the			
4.52	immediately previous			
4.53	license or fiscal year	\$920	\$304	\$607

5.1	(f) Having			
5.2	\$10,000,001 to			
5.3	\$15,000,000 gross			
5.4	sales or service for the			
5.5	immediately previous			
5.6	license or fiscal year	\$1,377	\$454	\$909
5.7	(g) Having			
5.8	\$15,000,001 to			
5.9	\$20,000,000 gross			
5.10	sales or service for the			
5.11	immediately previous			
5.12	license or fiscal year	\$1,608	\$531	\$1,061
5.13	(h) Having			
5.14	\$20,000,001 to			
5.15	\$25,000,000 gross			
5.16	sales or service for the			
5.17	immediately previous			
5.18	license or fiscal year	\$1,849	\$610	\$1,220
5.19	(i) Having			
5.20	\$25,000,001 to			
5.21	\$50,000,000 gross			
5.22	sales or service for the			
5.23	immediately previous			
5.24	license or fiscal year	\$2,090	\$690	\$1,379
5.25	(j) Having			
5.26	\$50,000,001 to			
5.27	\$100,000,000 gross			
5.28	sales or service for the			
5.29	immediately previous			
5.30	license or fiscal year	\$2,330	\$769	\$1,538
5.31	(k) Having			
5.32	\$100,000,000 or more			
5.33	gross sales or service			
5.34	for the immediately			
5.35	previous license or			
5.36	fiscal year	\$2,571	\$848	\$1,697
5.37	5. Wholesale food			
5.38	processor of meat			
5.39	or poultry products			
5.40	under supervision of			
5.41	the U.S. Department			
5.42	of Agriculture			
5.43	(a) Having gross sales			
5.44	or service of less			
5.45	than \$125,000 for the			
5.46	immediately previous			
5.47	license or fiscal year	\$112	\$ 37	\$ 74
5.48	(b) Having \$125,001			
5.49	to \$250,000 gross			
5.50	sales or service for the			
5.51	immediately previous			
5.52	license or fiscal year	\$214	\$ 71	\$141

6.1	(c) Having \$250,001			
6.2	to \$1,000,000 gross			
6.3	sales <u>or service</u> for the			
6.4	immediately previous			
6.5	license or fiscal year	\$333	\$110	\$220
6.6	(d) Having \$1,000,001			
6.7	to \$5,000,000 gross			
6.8	sales <u>or service</u> for the			
6.9	immediately previous			
6.10	license or fiscal year	\$425	\$140	\$281
6.11	(e) Having \$5,000,001			
6.12	to \$10,000,000 gross			
6.13	sales <u>or service</u> for the			
6.14	immediately previous			
6.15	license or fiscal year	\$521	\$172	\$344
6.16	(f) Having over			
6.17	\$10,000,001 gross			
6.18	sales <u>or service</u> for the			
6.19	immediately previous			
6.20	license or fiscal year	\$765	\$252	\$505
6.21	(g) Having			
6.22	\$15,000,001 to			
6.23	\$20,000,000 gross			
6.24	sales <u>or service</u> for the			
6.25	immediately previous			
6.26	license or fiscal year	\$893	\$295	\$589
6.27	(h) Having			
6.28	\$20,000,001 to			
6.29	\$25,000,000 gross			
6.30	sales <u>or service</u> for the			
6.31	immediately previous			
6.32	license or fiscal year	\$1,027	\$339	\$678
6.33	(i) Having			
6.34	\$25,000,001 to			
6.35	\$50,000,000 gross			
6.36	sales <u>or service</u> for the			
6.37	immediately previous			
6.38	license or fiscal year	\$1,161	\$383	\$766
6.39	(j) Having			
6.40	\$50,000,001 to			
6.41	\$100,000,000 gross			
6.42	sales <u>or service</u> for the			
6.43	immediately previous			
6.44	license or fiscal year	\$1,295	\$427	\$855
6.45	(k) Having			
6.46	\$100,000,001 or more			
6.47	gross sales <u>or service</u>			
6.48	for the immediately			
6.49	previous license or			
6.50	fiscal year	\$1,428	\$471	\$942

7.1	6.	Wholesale food			
7.2		processor or			
7.3		manufacturer			
7.4		operating only at			
7.5		the State Fair	\$125	\$ 40	\$ 50
7.6	7.	Wholesale food			
7.7		manufacturer having			
7.8		the permission of the			
7.9		commissioner to use			
7.10		the name Minnesota			
7.11		Farmstead cheese	\$ 30	\$ 10	\$ 15
7.12	8.	Nonresident frozen			
7.13		dairy manufacturer	\$200	\$ 50	\$ 75
7.14	9.	Wholesale food			
7.15		manufacturer			
7.16		processing less than			
7.17		700,000 pounds per			
7.18		year of raw milk	\$ 30	\$ 10	\$ 15
7.19	10.	A milk marketing			
7.20		organization			
7.21		without facilities			
7.22		for processing or			
7.23		manufacturing that			
7.24		purchases milk			
7.25		from milk producers			
7.26		for delivery to a			
7.27		licensed wholesale			
7.28		food processor or			
7.29		manufacturer	\$ 50	\$ 15	\$ 25

7.30 Sec. 3. Minnesota Statutes 2006, section 28A.082, is amended by adding a subdivision  
7.31 to read:

7.32 Subd. 3. **Disaster areas.** If the governor declares a disaster in an area of the  
7.33 state, the commissioner of agriculture may waive the plan review fee and direct agency  
7.34 personnel to expedite the plan review process.

7.35 Sec. 4. Minnesota Statutes 2006, section 28A.09, subdivision 1, is amended to read:

7.36 Subdivision 1. **Annual fee; exceptions.** Every ~~coin-operated~~ food vending machine  
7.37 is subject to an annual state inspection fee of \$25 for each nonexempt machine except  
7.38 nut vending machines which are subject to an annual state inspection fee of \$10 for each  
7.39 machine, provided that:

7.40 (a) Food vending machines may be inspected by either a home rule charter or  
7.41 statutory city, or a county, but not both, and if inspected by a home rule charter or statutory  
7.42 city, or a county they shall not be subject to the state inspection fee, but the home rule  
7.43 charter or statutory city, or the county may impose an inspection or license fee of no more  
7.44 than the state inspection fee. A home rule charter or statutory city or county that does

8.1 not inspect food vending machines shall not impose a food vending machine inspection  
8.2 or license fee.

8.3 (b) Vending machines dispensing only gum balls, hard candy, unsorted candy, or ice  
8.4 manufactured and packaged by another ~~shall be~~, and water dispensing machines serviced  
8.5 by a cashier, are exempt from the state inspection fee, but may be inspected by the state. A  
8.6 home rule charter or statutory city may impose by ordinance an inspection or license fee  
8.7 of no more than the state inspection fee for nonexempt machines on the vending machines  
8.8 and water dispensing machines described in this paragraph. A county may impose  
8.9 by ordinance an inspection or license fee of no more than the state inspection fee for  
8.10 nonexempt machines on the vending machines and water dispensing machines described  
8.11 in this paragraph which are not located in a home rule charter or statutory city.

8.12 (c) Vending machines dispensing only bottled or canned soft drinks are exempt from  
8.13 the state, home rule charter or statutory city, and county inspection fees, but may be  
8.14 inspected by the commissioner or the commissioner's designee.

8.15 Sec. 5. Minnesota Statutes 2006, section 29.23, is amended to read:

8.16 **29.23 GRADING.**

8.17 Subdivision 1. **Grades, weight classes and standards for quality.** All eggs  
8.18 purchased on the basis of grade by the first licensed buyer shall be graded in accordance  
8.19 with grade and weight classes established by the commissioner. The commissioner shall  
8.20 establish, by rule, and from time to time, may amend or revise, grades, weight classes,  
8.21 and standards for quality. When grades, weight classes, and standards for quality have  
8.22 been fixed by the secretary of the Department of Agriculture of the United States, they  
8.23 ~~may~~ must be accepted and published by the commissioner as definitions or standards for  
8.24 eggs in interstate and intrastate commerce.

8.25 Subd. 2. **Equipment.** The commissioner shall also by rule provide for minimum  
8.26 plant and equipment requirements for candling, grading, handling and storing eggs, and  
8.27 shall define candling. ~~Equipment in use before July 1, 1991, that does not meet the~~  
8.28 ~~design and fabrication requirements of this chapter may remain in use if it is in good~~  
8.29 ~~repair, capable of being maintained in a sanitary condition, and capable of maintaining a~~  
8.30 ~~temperature of 45 degrees Fahrenheit (7 degrees Celsius) or less.~~

8.31 Subd. 3. **Egg temperature.** Eggs must be held at a temperature not to exceed 45  
8.32 degrees Fahrenheit (7 degrees Celsius) after being received by the egg handler except for  
8.33 cleaning, sanitizing, grading, and further processing when they must immediately be  
8.34 placed under refrigeration that is maintained at 45 degrees Fahrenheit (7 degrees Celsius)  
8.35 or below. Eggs offered for retail sale must be held at a temperature not to exceed ~~45~~ 41

9.1 degrees Fahrenheit (7 degrees Celsius). ~~Equipment in use prior to August 1, 1991, is not~~  
9.2 ~~subject to this requirement.~~ Shell eggs that have been frozen must not be offered for sale  
9.3 except as approved by the commissioner.

9.4 Subd. 4. **Vehicle temperature.** A vehicle used ~~for the transportation of~~ to transport  
9.5 shell eggs from a warehouse, retail store, candling and grading facility, or egg holding  
9.6 facility must have an ambient air temperature of 45 degrees Fahrenheit (7 degrees Celsius)  
9.7 or below.

9.8 Sec. 6. Minnesota Statutes 2006, section 31.05, is amended to read:

9.9 **31.05 EMBARGOES AND CONDEMNATIONS.**

9.10 Subdivision 1. **Definitions.** As used in this section, "animals" means cattle, swine,  
9.11 sheep, goats, poultry, farmed cervidae, as defined in section 35.153, subdivision 3,  
9.12 llamas, as defined in section 17.455, subdivision 2, ratitae, as defined in section 17.453,  
9.13 subdivision 3, horses, equines, and other large domesticated animals.

9.14 Subd. 1a. Tag or notice. A duly authorized agent of the commissioner who finds or  
9.15 has probable cause to believe that any food, animal, or consumer commodity is adulterated  
9.16 or so misbranded as to be dangerous or fraudulent, or is in violation of section 31.131  
9.17 shall affix to such article or animal a tag or other appropriate marking giving notice that  
9.18 such article or animal is, or is suspected of being, adulterated or misbranded and has  
9.19 been detained or embargoed, and warning all persons not to remove or dispose of such  
9.20 article or animal by sale or otherwise until permission for removal or disposal is given by  
9.21 such agent or the court. It shall be unlawful for any person to remove or dispose of such  
9.22 detained or embargoed article or animal by sale or otherwise without such permission.

9.23 Subd. 2. **Action for condemnation.** When an article or animal detained or  
9.24 embargoed under subdivision 1 has been found by such agent to be adulterated, or  
9.25 misbranded, the agent shall petition the district court in the county in which the article or  
9.26 animal is detained or embargoed for an order and decree for the condemnation of such  
9.27 article or animal. Any such agent who has found that an article or animal so detained or  
9.28 embargoed is not adulterated or misbranded, shall remove the tag or other marking.

9.29 Subd. 3. **Remedies.** If the court finds that a detained or embargoed article or animal  
9.30 is adulterated or misbranded, such article or animal shall, after entry of the decree, be  
9.31 destroyed at the expense of the claimant thereof, under the supervision of such agent, and  
9.32 all court costs and fees, and storage and other proper expenses, shall be taxed against  
9.33 the claimant of such article or animal or the claimant's agent; provided, that when the  
9.34 adulteration or misbranding can be corrected by proper labeling or processing of the article  
9.35 or animal, the court, after entry of the decree and after such costs, fees, and expenses have

10.1 been paid and a good and sufficient bond, conditioned that such article or animal shall be  
 10.2 so labeled or processed, has been executed, may by order direct that such article or animal  
 10.3 be delivered to claimant thereof for such labeling or processing under the supervision of  
 10.4 an agent of the commissioner. The expense of such supervision shall be paid by claimant.  
 10.5 The article or animal shall be returned to the claimant and the bond shall be discharged on  
 10.6 the representation to the court by the commissioner that the article or animal is no longer  
 10.7 in violation and that the expenses of such supervision have been paid.

10.8         **Subd. 4. Duties of commissioner.** Whenever the commissioner or any of the  
 10.9 commissioner's authorized agents shall find in any room, building, vehicle of transportation  
 10.10 or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable articles  
 10.11 of food which are unsound, or contain any filthy, decomposed, or putrid substance, or that  
 10.12 may be poisonous or deleterious to health or otherwise unsafe, the same being hereby  
 10.13 declared to be a nuisance, the commissioner, or the commissioner's authorized agent, shall  
 10.14 forthwith condemn or destroy the same, or in any other manner render the same unsalable  
 10.15 as human food, and no one shall have any cause of action against the commissioner or the  
 10.16 commissioner's authorized agent on account of such action.

10.17         **Subd. 5. Emergency response.** In the event of an emergency declared by the  
 10.18 governor's order under section 12.31, if the commissioner finds or has probable cause to  
 10.19 believe that ~~a~~ livestock, food, or a consumer commodity within a specific area is likely  
 10.20 to be adulterated because of the emergency or so misbranded as to be dangerous or  
 10.21 fraudulent, or is in violation of section 31.131, subdivision 1, the commissioner may  
 10.22 embargo a geographic area that is included in the declared emergency. The commissioner  
 10.23 shall provide notice to the public and to those with custody of the product in as thorough a  
 10.24 manner as is practical under the emergency circumstances.

10.25         Sec. 7. Minnesota Statutes 2006, section 31.171, is amended to read:

10.26         **31.171 EMPLOYMENT OF DISEASED PERSON.**

10.27         It shall be unlawful for any person to work in or about any place where any fruit  
 10.28 or any food products are manufactured, packed, stored, deposited, collected, prepared,  
 10.29 produced or sold, whose condition is such that disease may be spread to associates direct,  
 10.30 or through the medium of milk, cream, butter, other food or food products, likely to be  
 10.31 eaten without being cooked after handling, whether such condition be due to a contagious;  
 10.32 or infectious, ~~or venereal~~ disease, in its active or convalescent stage, or to the presence of  
 10.33 disease germs, whether accompanied by, or without, any symptoms of the disease itself.

10.34         It shall be the duty of the commissioner, or the commissioner's assistant, inspector, or  
 10.35 agent, to report to the state commissioner of health for investigation, any person suspected

11.1 to be dangerous to the public health, as provided for in this section, and immediately to  
11.2 exclude such person from such employment pending investigation and during the period  
11.3 of infectiousness, if such person is certified by the state commissioner of health, or an  
11.4 authorized agent, to be dangerous to the public health.

11.5 Sec. 8. Minnesota Statutes 2007 Supplement, section 31.175, is amended to read:

11.6 **31.175 WATER, PLUMBING, AND SEWAGE.**

11.7 A person who is required by statutes administered by the Department of Agriculture,  
11.8 or by rules adopted pursuant to those statutes, to provide a suitable water supply,  
11.9 or plumbing or sewage disposal system, ~~may~~ shall not engage in the business of  
11.10 manufacturing, processing, selling, handling, or storing food at wholesale or retail  
11.11 unless the person's water supply is satisfactory ~~under plumbing codes~~ pursuant to rules  
11.12 adopted by the Department of Health, the person's plumbing is satisfactory pursuant to  
11.13 rules adopted by the Department of Labor and Industry, and the person's sewage disposal  
11.14 system satisfies the rules of the Pollution Control Agency.