

State of Michigan



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Transmittal No. III-03

Date: June 8, 2001

INTERPRETIVE MEMORANDUM

TO: All Local Health Departments
Attn.: Health Officer/Director of Environmental Health/Chief Sanitarian

FROM: Food Service Sanitation Section
Food and Dairy Division

SUBJECT: **Reduced Inspection Frequency for Temporary Food Service Establishments**

Background

Section 3125 of the Food Law of 2000 allows for reduction in the frequency of inspections of individual food service establishments under certain prescribed conditions. Among other requirements, a local health department must receive the approval of the Food Service Sanitation Section of the Michigan Department of Agriculture prior to implementation of a reduced frequency plan.

Issue

Due to the demands that inspections of temporary food service establishments place upon staff, a number of local health department have inquired about implementing a section 3125 reduced frequency plan for temporary establishments.

Discussion

A number of persons have argued at length about the practical consequences of the requirement to inspect each food establishment prior to licensing. In the absence of any evidence that effective programs have suffered in those jurisdictions that follow the requirement, we are inclined to view such arguments with skepticism. Further, there are strong public health and policy reasons for the requirement. More fundamentally, however, such arguments of resource limitations must give way to a statutory command that we find unequivocal: the requirement for a pre-licensing inspection for each new license. In addition, the special transitory food unit (STFU) license category must be applied when it is appropriate.

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Alternatives to the pre-licensing inspection requirement were discussed at length by the various workgroups during our review of Michigan's food laws. All workgroups recommended keeping the pre-licensing inspection requirement for each new license issued without exception for temporary food establishments. Sound policy and public health reasons were presented for this recommendation. This is also the standard recommended by the U.S. Food and Drug Administration.

The Food Law of 2000 requires a pre-licensing inspection requirement for each new license issued. No exception is provided for temporary food establishments. Therefore, a reduced frequency of inspection plan must not reduce the frequency below the statutory minimum of one inspection prior to issuance of a license. *See* Food Law of 2000 § 3115(2).

In addition, the Food Law of 2000 creates a license category of special transitory food unit (STFU). Essentially, the STFU is a reduced-frequency of inspection category applied uniformly statewide. A reduced frequency plan for temporary food service establishments must account for this license category. It is not appropriate for a local health department to establish a reduced inspection frequency plan that recreates the STFU license category, but calls it something else, charges a different license fee, or lowers the Food Law of 2000 standards for STFUs.

Summary

The irreducible statutory minimum is one inspection prior to issuance of a food service establishment license. A reduced inspection frequency plan cannot eliminate the statutory requirement that all temporary food service establishments receive an inspection prior to licensing.

NDF:khg
cc: MDA Food Program Managers
Retail Food Advisory Board