



2019 ASSEMBLY BILL 186

April 25, 2019 - Introduced by Representatives HORLACHER, ALLEN, BALLWEG, BRANDTJEN, BROOKS, DITTRICH, EDMING, FIELDS, GUNDRUM, KATZMA, KERKMAN, KNODL, KULP, MACCO, MURPHY, MURSAU, MYERS, OHNSTAD, PRONSHINSKE, ROHRKASTE, SINICKI, SKOWRONSKI, SNYDER, SORTWELL, SPIROS, STAFSHOLT, STEFFEN, TRANEL, VINING, VRUWINK, WICHGERS and ZIMMERMAN, cosponsored by Senators KOYENGA, CARPENTER, COWLES, CRAIG, KAPENGA, MARKLEIN, NASS, OLSEN, STROEBEL, L. TAYLOR, TESTIN and WANGGAARD. Referred to Committee on Consumer Protection.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 97.30 (1) (c); and *to create* 66.0416 and 97.29 (1) (h) 12m. of
2 the statutes; **relating to:** allowing minors to operate temporary stands without
3 a permit or license.

Analysis by the Legislative Reference Bureau

This bill allows minors to operate temporary stands without a permit or license. Under current law, a facility that processes food for sale must obtain a food processing plant license from the Department of Agriculture, Trade and Consumer Protection. If food will be sold at retail at the same location where it was prepared, the facility must obtain a retail food establishment license from DATCP. In addition, current law does not restrict the ability of municipalities to prohibit a minor from operating a temporary stand or to require a permit or license for a minor operating a temporary stand.

Under the bill, a place used for preparing food for sale at a stand operated by a minor does not need a food processing plant license from DATCP, and a stand operated by a minor does not need a retail food establishment license. In addition, under the bill, a municipality may not prohibit a minor from operating a stand or require a permit or license for a minor operating a stand. The bill defines a "stand operated by a minor" as a temporary, occasional establishment operated on private property by children under the age of 18 that makes occasional sales, defined under current law as sales of less than \$2,000 in a year.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0416 of the statutes is created to read:

2 **66.0416 Stands operated by minors. (1)** In this section:

3 (a) “Political subdivision” means a city, village, town, or county.

4 (b) “Stand operated by a minor” means a stand or other location at which goods
5 are sold in occasional sales, as defined in s. 77.51 (9), directly to consumers; that
6 operates on a temporary, occasional basis; and that is operated solely by a person or
7 persons under the age of 18 on private property with the permission of the property
8 owner.

9 **(2)** No political subdivision may do any of the following:

10 (a) Enact an ordinance or adopt a resolution that prohibits a stand operated by
11 a minor.

12 (b) Require a license or permit for, or impose a fee, charge, or surcharge on, any
13 stand operated by a minor.

14 **(3)** If a political subdivision has enacted an ordinance or adopted a resolution
15 before the effective date of this subsection [LRB inserts date], that is inconsistent
16 with sub. (2), the ordinance or resolution does not apply and may not be enforced.

17 **SECTION 2.** 97.29 (1) (h) 12m. of the statutes is created to read:

18 97.29 **(1)** (h) 12m. A place used to process food for sale at a stand operated by
19 a minor, as defined in s. 66.0416 (1) (b).

20 **SECTION 3.** 97.30 (1) (c) of the statutes is amended to read:

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1 97.30 (1) (c) “Retail food establishment” means a permanent or mobile food
2 processing facility where food processing is conducted primarily for direct retail sale
3 to consumers at the facility, a mobile facility from which potentially hazardous food
4 is sold to consumers at retail or a permanent facility from which food is sold to
5 consumers at retail, whether or not that facility sells potentially hazardous food or
6 is engaged in food processing. “Retail food establishment” includes a restaurant or
7 temporary restaurant, ~~but~~. “Retail food establishment” does not include an
8 establishment holding a license under s. 97.605, to the extent that the activities of
9 the establishment are covered by that license, or a stand operated by a minor, as
10 defined in s. 66.0416 (1) (b).

11

(END)