

HOUSE BILL No. 2438

By Committee on Agriculture and Natural Resources

2-7

9 AN ACT concerning food service establishments; relating to licensure
10 exception for occasional sale or serving of food; amending K.S.A. 2006
11 Supp. 36-503 and repealing the existing section.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 36-503 is hereby amended to read as
15 follows: 36-503. (a) It shall be unlawful for any person to engage in the
16 business of conducting a food service establishment unless such person
17 shall have in effect a valid license therefor issued by the secretary of health
18 and environment, except that any food service establishment providing
19 only a device for the convenience and operation by a customer for the
20 purpose of heating prepackaged food with no provision for consumption
21 of food on the premises, or any food service establishment licensed by
22 the secretary pursuant to any other law and maintained in connection
23 with any premises licensed by the secretary pursuant to any other law
24 shall not be required to obtain a license under this section, nor shall any
25 person engaged only in the serving of food on railway dining cars or in
26 the occasional sale or serving of food be required to obtain a license
27 hereunder. For the purpose of this section, the sale or serving of food in
28 the same location less than ~~seven~~ 10 days in any calendar year shall be
29 construed as the occasional sale or serving of food. Nothing in this act
30 shall prevent the secretary of health and environment from inspecting
31 any food service establishment when a complaint against such food service
32 establishment is transmitted to the secretary of health and environment
33 or any authorized agent thereof except that no provision of this act shall
34 be construed to authorize the secretary of health and environment to
35 inspect or cause to be inspected under the provisions of this act any food
36 service establishment licensed by the secretary of health and environment
37 pursuant to any other law or maintained in connection with any premises
38 licensed by the secretary pursuant to any other law which food service
39 establishment is not required to obtain a license under this section.

40 (b) Applications for such licenses shall be made on forms prescribed
41 by the secretary, and each such application shall be accompanied by an
42 application fee and by a license fee, each of which shall be established in
43 an amount fixed by rules and regulations adopted by the secretary of

1 health and environment. Application fees may be adjusted in accordance
2 with the type of establishment or based on other criteria as determined
3 by the secretary, but in no event shall any application fee exceed \$200.
4 Such license fee shall not exceed \$200 and shall be fixed in an amount
5 which, together with the application fee, is sufficient to defray the cost
6 of administering the food service establishment inspection and licensure
7 activities of the secretary. Prior to the issuance of any such license, the
8 secretary shall inspect or cause to be inspected the food service estab-
9 lishment designated in the application, to determine that it complies with
10 the standards for food service establishments promulgated pursuant to
11 this act. If such food service establishment is found to be in compliance,
12 the secretary shall issue the license. If the application for license is denied,
13 the secretary shall give written notice thereof to the applicant, stating also
14 that the applicant is entitled to a hearing thereon if a written request
15 therefor is filed with the secretary within 20 days of the date such notice
16 is sent. Such hearing shall be held in accordance with the provisions of
17 the Kansas administrative procedure act.

18 (c) Every license issued hereunder shall be displayed conspicuously
19 in the food service establishment for which it is issued, and no such license
20 shall be transferable to any other person or location. Whenever any such
21 license is lost, destroyed or mutilated, a duplicate license shall be issued
22 to any otherwise qualified licensee upon application therefor and the pay-
23 ment of a fee in the amount of \$3.

24 (d) Any person who, on the effective date of this act, has a valid
25 license to operate a restaurant shall be a licensee under the provisions of
26 this act, and any such license is hereby deemed to be a license to operate
27 a food service establishment issued under the provisions of this act.

28 (e) A premises where prepackaged individual meals are distributed
29 to persons eligible under the federal older Americans act shall not pay
30 any fee prescribed under subsection (b).

31 Sec. 2. K.S.A. 2006 Supp. 36-503 is hereby repealed.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.