

CHAPTER 342

FOOD AND BEVERAGE VENDING

342-1. Definitions

The following definitions as used herein shall apply in the interpretation and enforcement of this chapter:

"Adulterated" has the meaning set forth in IC 16-42-1 et seq. through IC 16-42-4 et seq.

"Commissary" means commissary, catering establishment, restaurant or any other place in which food, beverages, ingredients, containers or supplies are kept, handled, prepared or stored and directly from which vending machines are serviced.

"Employee" means any operator or any person employed by him who handles any food to be dispensed through vending machines, who comes into contact with product contact surfaces of containers, equipment, utensils or packaging materials used in connection with vending machine operations or who otherwise services or maintains one (1) or more vending machines.

"Food" means any raw, cooked or processed edible substance, beverage or ingredient thereof, used, or intended for use, in whole or in part, for human consumption.

"Hot Liquid Food" means liquid food or beverage that has a temperature of at least one hundred fifty degrees (150°) Fahrenheit at the time of service to the consumer.

"Machine Location" means the room, enclosure, space or area where one (1) or more vending machines are installed and operated.

"Misbranded" has the meaning set forth in IC 16-42-1 et seq. through 16-42-4 et seq.

"Operator" means any person who, by contract, agreement or ownership, is responsible for furnishing, installing, servicing, operating or maintaining one (1) or more vending machines.

"Potentially Hazardous Food" means any food, beverage or ingredient consisting in whole, or in part, of milk, milk products, eggs, meat, fish, poultry or other food capable of supporting rapid and progressive growth of micro-organisms that can cause food infections or food intoxication; however, products in hermetically sealed containers, processed by heat or other methods approved by the Health Department to prevent spoilage and dehydrated, dry or powdered products so low in moisture content as to preclude the development of micro-organisms, are excluded from the terms of this definition.

"Product Contact Surface" means any surface of a vending machine, appurtenance or container that comes into direct contact with any food.

"Sale" means any and every sale and includes:

- (1) manufacture, processing, transporting, handling, bottling or any other production, preparation or putting up;
- (2) exposure, offer or any other proffer;
- (3) holding, storing or any other possession;
- (4) dispensing, giving, delivering, serving or any other supplying; and
- (5) applying, administering or any other using.

"Single-Service Article" means any utensil, container, implement or wrapper intended for use only once in the preparation, storage, display, service or consumption of food or beverage.

"Utensils" means any kitchenware, tableware, glassware, cutlery, utensils, containers, cleaning brushes or other equipment that comes in contact with food or product contact surfaces during cleaning of vending machines or commissary equipment or during storage, preparation, serving, dispensing or consumption of food.

"Vending Machine" means any self-service device offered for public use that, upon insertion of coins or tokens or by other similar means, dispenses unit servings of food or beverage, either in bulk or in package, without the necessity of replenishing the device between each vending operation.

342-2. Operator's Permit--Requirement, Procedure for Issuance

- (A) It shall be unlawful for any person to engage in the operation of one (1) or more vending machines in Monroe County if the person does not possess a valid operator's permit from the Health Department. Only persons who comply with the applicable provisions of this chapter shall be entitled to receive and retain such a permit.
- (B) Any person desiring to operate one (1) or more vending machines in Monroe County shall make application, in writing, for a permit from the Health Department on forms provided by the Health Department. The applicant shall provide the following information:
 - (1) the applicant's full name, residence and post office address, whether such applicant is an individual, firm or corporation, and, if a partnership exists, the names of the partners and their addresses;
 - (2) the location of the commissary or commissaries and other establishments operated by the applicant where supplies are kept and where vending machines are repaired or renovated;
 - (3) the type and form of the food to be dispensed through vending machines and the number of each type of vending machine in his possession; and

- (4) the signature of the applicant or applicants.
- (C) Upon receipt of a satisfactorily completed application and after compliance by the operator with the applicable provisions of this chapter, the Health Department shall issue a numbered operator's permit to the applicant. No permit or renewal thereof, shall be denied or revoked on arbitrary or capricious grounds.
- (D) A permit shall be for a term of one (1) year, beginning March 1st and expiring on the last day of February of the following year and shall be renewed annually.
- (E) The permit shall not be transferable.
- (F) The operator's permit number, of a size and style approved by the Health Department, shall be conspicuously displayed on each vending machine operated by the operator. The Health Department may further require the permit to bear the number of the machine.
- (G) In order to secure and retain an operator's permit, the operator shall maintain, within the jurisdiction of the Health Department a list of all vending machines operated by him, including the types and their location, and of all commissaries or other establishments from which his machines are serviced. This information shall be made available to the Health Department upon request.
- (H) In order to retain an operator's permit, the operator shall notify the Health Department within five (5) days of any change in operations involving new types of vending machines or conversion of existing machines to dispense products other than those for which the permit was issued.

342-3. Operator's License--Requirement, Procedure for Issuance, Fee

- (A) It shall be unlawful for any person to engage in the operation of one (1) or more vending machines in Monroe County if the person does not possess a valid license for the operation of such machines.
- (B) The license shall be provided by the Health Department if there is presented at its office a valid permit from the Health Department and the fee specified in Section 310-4 et seq.
- (C) The license shall be for a term of one (1) year, beginning March 1st and expiring on the last day of February of the following year and shall be renewed annually.

342-4. Permit, License and License Fee Exemption

Vending machines that dispense only prepackaged, nonpotentially hazardous foods, such as candy, chewing gum, nut meats, potato chips, pretzels, popcorn and soft drink beverages, shall be exempt from the provisions of Sections 342-2 et seq. and 342-3 et seq., but shall be subject to all of the other applicable provisions of this chapter.

342-5. Sanitation Requirements

All vending machines shall comply with the minimum sanitation requirements set forth in applicable Indiana State Department of Health regulations regarding "Sanitary standards for the operation of Retail Food establishment."

342-6. Disease Control

- (A) No employee who has any disease in a communicable form that can be transmitted by food, or who is a carrier of such disease or of organisms that cause such a disease, shall work in any vending machine operations in any capacity that brings him into contact with the production, handling, storage or transportation of any food, beverage, ingredient or equipment used in vending machine operations, and no operator shall employ in any capacity any such person or any person suspected of having any disease in a communicable form or of being a carrier of such disease or of organisms that cause such a disease.
- (B) Any employee who has a discharging or infected wound, sore or lesion on hands, arms or any exposed portion of the body shall be excluded from those operations that will bring him into contact with foods, beverages, utensils or equipment used in vending machine operations.
- (C) Any operator among whose employees there occurs a communicable disease that can be transmitted by foods or who suspects that any employee has contracted any such disease in a communicable form or has become a carrier of such disease, or of organisms that cause such a disease, shall notify the Health Department immediately.

342-7. Sale, Examination and Condemnation of Unwholesome, Adulterated or Misbranded Food-- Prohibition, Health Department Authority

- (A) It shall be unlawful for any person to sell through a vending machine any food or beverage that is adulterated or misbranded.
- (B) Samples of food or beverages may be taken and examined by the Health Department as often as may be necessary to determine freedom from contamination, adulteration or misbranding. The Health Department may, on written notice to the operator, impound and forbid the sale of any food that is unwholesome, adulterated or misbranded or that it has probable cause to believe is unfit for human consumption, unwholesome, adulterated or misbranded; however, such food may be released to the operator for correct labeling under the supervision of the Health Department. The Health Department may also cause to be removed or destroyed any dairy product, meat, meat product, seafood, poultry,

poultry product, confectionery, bakery product, vegetable, fruit or any other perishable article that, in its opinion, is unsound, contains any filthy, decomposed or putrid substance or may be poisonous or deleterious to health or otherwise unsafe.

342-8. Inspection, Correction of Violations, Prosecution, Revocation of Permit

- (A) The Health Department shall inspect the servicing, maintenance and operation of vending machines dispensing readily perishable food (for which a permit is required under the provisions of this chapter). Vending machines may be inspected by the Health Department as often as it deems necessary to insure compliance with the provisions of this chapter.
- (B) The person operating one (1) or more vending machines shall, upon the request of the Health Department, permit the Health Department access to all parts of such vending operation and locations of all vending machines owned or serviced by the operator and shall permit the Health Department to collect evidence and exhibits and to copy any or all records relative to the enforcement of this chapter. The confidentiality of such records shall be maintained by the Health Department.
- (C) If during the inspection of any servicing, maintenance and operation of a vending machine the Health Department discovers the violation of any of the sanitation requirements in Section 342-5 et seq., it shall issue a written order listing such violations to the operator or, in his absence, to the person in charge and fixing a time within which the operator of the vending machine shall abate and remedy such violations. A copy of the written order shall be filed with the records of the Health Department.
- (D) If upon a second and final inspection the Health Department finds that such vending machine, operator, person or employee is violating any of the provisions of this chapter that were in violation on the previous inspection and concerning which a written order was issued:
 - (1) the provisions of this section shall be enforced by the Health Department, with the assistance of the Monroe County Attorney, and, in appropriate cases, by the Monroe County Prosecuting Attorney
 - (2) the Health Department may promptly issue a written order to the permittee of such vending operation to appear at a certain time, no later than ten (10) days from the date of final inspection, and at a place in Bloomington, Indiana, fixed in the order to show cause why the permit issued under the provisions of Section 342-2 et seq. should not be revoked.
- (E) The Health Department, upon such hearing, if the permittee should fail to show cause, shall revoke the permit and promptly give written notice of such action to the permittee. The Health Department shall maintain a

permanent record of its proceedings filed in the office of the Health Department.

342-9. Conditions Endangering Public Health--Health Department Authority, Procedure for Correction

Notwithstanding any other provisions of this chapter, whenever the Health Department finds unsanitary or other conditions involving the operation of any vending machine that, in its opinion, endangers the public health, it may, without notice or hearing, issue a written order to the operator citing the existence of such condition, specifying corrective action to be taken, and, if deemed necessary, requiring immediate discontinuance of operation. Such order shall be effective immediately and shall apply only to the vending machine or product involved. Any operator to whom such order is issued shall comply therewith, but upon petition to the Health Department shall be afforded a hearing as soon as possible. When necessary corrective action has been taken, and on the request of the operator, the Health Department shall make a reinspection to determine whether operations may be resumed.

342-10. Temporary Suspension of Permit

- (A)** Any permit issued under this chapter may be temporarily suspended by the Health Department without notice or hearing for a period of not to exceed thirty (30) days for any of the following reasons:

 - (1)** unsanitary or other conditions that, in the Health Department's opinion, endanger the public's health; or
 - (2)** interference with the Health Department in the performance of its duties; However, upon written application from the permittee served upon the Health Department within fifteen (15) days after such suspension, the Health Department shall conduct a hearing upon the matter after giving at least five (5) days written notice of the time, place and purpose thereof, to the suspended permittee. Any such suspension order shall be issued by the Health Department, in writing, and served upon the permittee by leaving a copy at his usual place of business or by delivery of registered or certified mail to such address.
- (B)** Any person or operator whose permit has been suspended may at any time make application to the Health Department for the reinstatement of his permit.

342-11. Sale of Food from Sources Outside the County

- (A)** Foods from commissaries and other sources outside the jurisdiction of the Health Department may be sold within Monroe County if such commissaries or other sources of supply conform to the provisions of the applicable food-service establishment or food market regulations of

Monroe County or to the provisions of the applicable Indiana State Department of Health regulation "Sanitary Standards for the operation of Retail Food establishment."

- (B) To determine the extent of compliance with such provisions, the Health Department may accept reports from the responsible authority in the jurisdiction where the commissary or commissaries are located.

342-12. Violations and Penalties

- (A) A person or operator who violates any of the provisions of this chapter commits a Class C Ordinance Violation.
- (B) Each day of operation of a vending machine in violation of this chapter or after the expiration of the time limit for abating unsanitary conditions and completing improvements to abate such conditions, as ordered by the Health Department, shall constitute a distinct and separate violation.

[end of chapter]