

**65-689. Same; license requirements, fees, inspections, denial, hearing, display; exceptions.** (a) It shall be unlawful for any person to engage in the business of conducting a food establishment or food processing plant unless such person shall have in effect a valid license therefor issued by the secretary.

(b) Applications for such licenses shall be made on forms prescribed by the secretary, and each such application shall be accompanied by an application fee and by a license fee. Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the food establishment or food processing plant designated in the application, to determine that it complies with rules and regulations adopted pursuant to the food, drug and cosmetic act, and amendments thereto. If the food establishment or food processing plant is found to be in compliance, and the completed application and accompanying fees have been submitted, the secretary shall issue the license. If the food establishment or food processing plant is found not to be in compliance, the secretary shall deny the application for a license after providing notice and opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

(c) Every license issued hereunder shall be displayed conspicuously in the food establishment or food processing plant for which it is issued, and no such license shall be transferable to any other person or location. Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of \$5.

(d) A license shall not be required by:

(1) A plant or facility registered or licensed by the department of agriculture pursuant to article 7 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or licensed or registered by the department of agriculture pursuant to article 6a of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall not be required to obtain a separate license pursuant to this section if the inspections conducted under the respective acts encompass all operations of the facility.

(2) [A] registered nonprofit organization that provides food without charge solely to people who are food insecure, including, but not limited to, soup kitchens and food pantries.

(3) A location where prepackaged individual meals are distributed to persons eligible under the federal older Americans act.

(4) A person who produces food for distribution directly to the end consumer, if such food does not require time and temperature control for safety or specialized processing, as determined by the secretary.

(5) A person who serves food exclusively on interstate conveyances or common carriers.

(6) A person operating a food establishment for less than seven days in any calendar year.

(7) A person who prepares, serves or sells food for the sole purpose of soliciting funds to be used for community or humanitarian purposes or educational or youth activities.

(8) A person operating a food vending machine, if the food vending machine company:

(A) Is licensed as a food establishment, or if located in another state, licensed according to the laws of such state;

(B) maintains, and makes available to the secretary, a current record of the location of each food vending machine it operates or services; and

(C) conspicuously displays the company name, phone number and any additional information the secretary may require on each such vending machine.

(9) A person providing only complimentary coffee to its patrons whose primary business is unrelated to operating a food establishment or food processing plant.

(10) A person operating a farm winery, as defined in K.S.A. 41-102, and amendments thereto, who does not produce or offer any food products other than wine produced at such farm winery.

(11) A retailer, as defined in K.S.A. 41-102, and amendments thereto, that sells only alcoholic liquors and cereal malt beverages.

(12) A food establishment that sells or offers for sale only packaged foods that are non-hazardous and are received directly from a licensed food production facility in packaged form, if such food establishment contains less than 200 cubic feet as measured pursuant to subsection (e) of K.S.A. 65-688, and amendments thereto.

(13) A person who provides food samples, without charge, to promote, advertise or compliment the sale of food or associated food preparation equipment.

(14) A guest house, as defined in K.S.A. 36-501, and amendments thereto.

(e) The exemption provided to those entities provided in subsection (d) shall not be exempt from inspection or regulation when a violation is observed or reported to the secretary.

(f) A food establishment operated in connection with any premises licensed, registered or permitted by the secretary of health and environment, the secretary of social and rehabilitation services, the secretary of corrections or the secretary of aging, which is inspected and regulated pursuant to the respective law or rule and regulation of such secretary, shall not require a license, and the secretary of agriculture shall not be authorized to inspect or cause such premises to be inspected. This subsection shall not apply to a food establishment whose primary function is not in connection with any premises licensed, registered or permitted pursuant to the respective law or rule and regulation of such secretary.

**History:** L. 2001, ch. 203, § 3; L. 2008, ch. 48, § 7; L. 2012, ch. 145, § 24; July 1.