

## HOUSE BILL No. 2838

By Committee on Appropriations

2-12

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9 AN ACT concerning licensure for food service establishment; amending  
10 K.S.A. 2007 Supp. 36-503 and repealing the existing section.

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

13 Section 1. K.S.A. 2007 Supp. 36-503 is hereby amended to read as  
14 follows: 36-503. (a) It shall be unlawful for any person to engage in the  
15 business of conducting a food service establishment unless such person  
16 shall have in effect a valid license therefor issued by the secretary of health  
17 and environment, except that any food service establishment providing  
18 only a device for the convenience and operation by a customer for the  
19 purpose of heating prepackaged food with no provision for consumption  
20 of food on the premises, or any food service establishment licensed by  
21 the secretary pursuant to any other law and maintained in connection  
22 with any premises licensed by the secretary pursuant to any other law  
23 shall not be required to obtain a license under this section, nor shall any  
24 person engaged only in the serving of food on railway dining cars or in  
25 the occasional sale or serving of food be required to obtain a license  
26 hereunder. For the purpose of this section, the sale or serving of food in  
27 the same location less than seven days in any calendar year shall be con-  
28 strued as the occasional sale or serving of food. *Hotels that serve food at*  
29 *no additional cost to the overnight guests shall not be considered to be*  
30 *operating a food service establishment.* Nothing in this act shall prevent  
31 the secretary of health and environment from inspecting any food service  
32 establishment when a complaint against such food service establishment  
33 is transmitted to the secretary of health and environment or any author-  
34 ized agent thereof except that no provision of this act shall be construed  
35 to authorize the secretary of health and environment to inspect or cause  
36 to be inspected under the provisions of this act any food service estab-  
37 lishment licensed by the secretary of health and environment pursuant  
38 to any other law or maintained in connection with any premises licensed  
39 by the secretary pursuant to any other law which food service establish-  
40 ment is not required to obtain a license under this section.

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

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

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

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

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

32 Sec. 2. K.S.A. 2007 Supp. 36-503 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the Kansas register.