

Regulation 61-37. Retail Food Establishment Inspection Fees.

This has been modified from the original version with easier to read formatting. Effective June 28th, 2002.

Section I. PURPOSE

The citizens of South Carolina and our visitors expect and are entitled to wholesome, sanitary and safe food, no matter whether it is purchased in a grocery store or prepared and purchased in a restaurant or similar facility. To this end, the Department of Health and Environmental Control has established and maintained a conscientious program of permitting, inspecting and evaluating all types of retail facilities that provide food. This direct service program is conducted primarily by public health professionals working in county health departments. Funding for the program comes from state appropriations and fees authorized by this regulation.

Section II. DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Regulation.

- A. DEPARTMENT - the South Carolina Department of Health and Environmental Control.
- B. PERMIT - the license to operate a retail food establishment issued by the Department pursuant to *Regulation 61-25, Retail Food Establishments*.
- C. RETAIL FOOD ESTABLISHMENT - as defined in *R.61-25, Retail Food Establishments*.
- D. FOOD - any raw, cooked or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

Section III. FEES, EXEMPTIONS, AND PENALTIES

A. INITIAL INSPECTION FEE

The Department shall charge annual inspection fees for retail food establishments. Retail food establishments obtaining a permit for the first time shall be charged an initial inspection fee of \$60.00. The fee shall be paid prior to the issuance of the permit.

B. RENEWAL INSPECTION FEE

After the first year, renewal inspection fees shall be based on gross sales of food and food products for the facility's previous business year. The renewal fee shall be \$60 for the first \$250,000 of sales, and shall be increased by \$30 for each additional \$250,000, or portion thereof, in sales. The maximum fee shall be \$270.00. Owners of retail food establishments shall furnish previous business year sales information on request of the Department; this information shall be exempt from disclosure pursuant to the South Carolina Freedom of Information Act, S.C. Code Section 30-4-40(a)(2).

C. RENEWAL FEE PAYMENT AND PENALTIES

Annually, retail food establishments shall be notified that their renewal fee is due. Each retail food establishment shall determine and pay the amount of renewal fee that is appropriate for its retail sales of food. Payment shall be due thirty (30) days from the billing date. A penalty charge of \$25.00 shall be assessed for fees that are thirty (30) days past due. A second penalty charge of \$25.00 shall be assessed for fees that are sixty (60) days past due.

D. FACILITIES EXEMPT FROM FEES

The following retail food establishments shall be exempt from initial and renewal fees:

1. Retail food establishments that are operated by a public or private school (kindergarten through grade 12); or that are operated by a child care facility.
2. Retail food establishments operated by health care facilities that are regulated by the Department.
3. Retail food establishments that are operated by other state agencies or local governments that provide food for patients, clients or inmates.

4. Retail food establishments that are operated by non-profit organizations for the purpose of providing meals or food to needy persons at little or no cost; or for the purpose of raising money for a charitable cause.

A retail food establishment claiming exemption from fee charges shall certify annually to the Department that it meets one or more of the above criteria, and upon request, provide documentation supporting any such certification.

Section IV. COMPLIANCE PROCEDURES

A. PERMIT SUSPENSION

Retail food establishments that have not paid their renewal fee and late payment penalties after ninety (90) days from their original billing date shall have their permit suspended upon service of notice of suspension. The Department may reinstate a permit suspended for failure to pay renewal fees upon payment of the fees, penalties and a \$25.00 reinstatement fee. Suspension of a permit for failure to pay the required annual fee, plus applicable late charges, shall not constitute a contested case and shall not create a right to a hearing pursuant to the South Carolina Administrative Procedures Act.

B. SERVICE OF NOTICE

A notice provided for in this regulation is properly served when it is delivered to the permit holder, or an employee; or when it is sent by mail to the address of the permit holder; or when it is delivered to an employee designated to be or actually in charge of the retail food establishment.

C. ENFORCEMENT PROVISIONS

This regulation is issued under the authority of Section 44-4-140, 1976 Code of Laws of South Carolina and subsequent legislation, and shall be enforced by the Department.

Section V. OTHER

A. DESIGNATION OF USE

Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with Environmental Health programs.

B. UNCONSTITUTIONALITY CLAUSE

Should any chapter, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.