

2017 Regular Session

HOUSE BILL NO. 493

BY REPRESENTATIVES MAGEE, BAGLEY, HORTON, RICHARD, AND STAGNI

FEES/LICENSES/PERMITS: Establishes a reinspection fee for facilities and establishments with sanitary code violations

1 AN ACT

2 To enact R.S. 40:31.39, relative to powers and duties of the office of public health of the  
3 Louisiana Department of Health; to provide for authority of the office with respect  
4 to enforcement of the state sanitary code; to provide for assessment of fees by the  
5 office; to establish and provide for a reinspection fee; to provide the amount and  
6 procedures for assessment of the fee; to provide for definitions; to provide for  
7 effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:31.39 is hereby enacted to read as follows:

10 §31.39. Office of public health reinspection fees

11 A. As used in this Section, the following terms and phrases have the meaning  
12 ascribed to them in this Subsection:

13 (1) "Critical item" has the meaning ascribed in the sanitary code, LAC  
14 51:XXIII.101.

15 (2)(a) "Initial inspection" means any routine, complaint-based, or pre-  
16 opening inspection of a commercial facility conducted to determine compliance with  
17 the sanitary code that identifies either a minimum of five sanitary code violations or  
18 a minimum of one sanitary code violation constituting a critical item that is not  
19 corrected during the inspection.

1           (b) Any reinspection that identifies either a minimum of five sanitary code  
2           violations or a minimum of one sanitary code violation constituting a critical item,  
3           and in which none of the violations were previously identified in the most recent  
4           inspection, constitutes an initial inspection for purposes of this Section.

5           (3) "Reinspection" means any inspection subsequent to an initial inspection  
6           conducted to determine remedial compliance related to any sanitary code violation  
7           identified during an initial inspection.

8           (4) "Second or subsequent reinspection" means any reinspection conducted  
9           following a prior reinspection and that identifies either a minimum of five sanitary  
10          code violations or a minimum of one sanitary code violation constituting a critical  
11          item that remain uncorrected after being identified either in an initial inspection or  
12          in a reinspection.

13          B.(1) The department may conduct a reinspection of any commercial facility  
14          subject to regulation and inspection by the department pursuant to R.S. 40:4 or 5.

15          (2) The department shall charge a fee of one hundred fifty dollars to conduct  
16          any second or subsequent reinspection, which shall be assessed to the owner of the  
17          reinspected facility by notice served in the same manner provided for in the sanitary  
18          code for service of a notice of violation.

19          (3) Failure of the owner to pay the fee within thirty days of service shall be  
20          grounds for the issuance of an order revoking any permit held by the owner. The  
21          order shall be subject to an adjudicatory hearing before the division of administrative  
22          law if requested by the owner within the time limit set forth in the order.

23          (4) The department shall not issue any permit to the owner of an unpermitted  
24          facility until any fee for a second or subsequent reinspection is paid.

25          Section 2.(A) This Act shall become effective upon signature by the governor or, if  
26          not signed by the governor, upon expiration of the time for bills to become law without  
27          signature by the governor, as provided by Article III, Section 18 of the Constitution of  
28          Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act  
29          shall become effective on the day following such approval.

1 (B) Notwithstanding the provisions of Subsection A of this Section, the provisions  
2 of this Act authorizing a fee to be assessed for a violation which does not constitute a critical  
3 item, as defined in R.S. 40:31.39 enacted by Section 1 of this Act, shall become effective on  
4 March 1, 2018.

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## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 493 Reengrossed

2017 Regular Session

Magee

**Abstract:** Establishes a reinspection fee to be assessed by the La. Dept. of Health upon facilities and establishments with sanitary code violations.

Proposed law provides for definitions.

Proposed law authorizes the La. Dept. of Health (LDH) to conduct a reinspection of any commercial facility subject to regulation and inspection pursuant to present law (R.S. 40:4 or 5).

Proposed law requires LDH to charge a fee of \$150 to conduct any second or subsequent reinspection, which shall be assessed to the owner of the reinspected facility by notice served in the same manner provided for in the sanitary code for service of a notice of violation.

Proposed law provides that any failure of the owner to pay the fee within 30 days of service shall be grounds for issuance of an order revoking any permit held by the owner. Proposed law further provides that the order shall be subject to an adjudicatory hearing before the division of administrative law if requested by the owner within the time limit set forth in the order.

Proposed law provides that LDH shall not issue any permit to the owner of an unpermitted facility until any fee for a second or subsequent reinspection is paid.

Proposed law provides the following definitions for purposes of proposed law:

- (1) "Critical item" has the meaning ascribed in present administrative code, LAC 51:XXIII.101.
- (2) "Initial inspection" means any routine, complaint-based, or pre-opening inspection of a commercial facility conducted to determine compliance with the sanitary code that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item that is not corrected during the inspection. Proposed law stipulates that any reinspection that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item, and in which none of the violations were previously identified in the most recent inspection, constitutes an "initial inspection".
- (3) "Reinspection" means any inspection subsequent to an initial inspection conducted to determine remedial compliance related to any sanitary code violation identified during an initial inspection.

- (4) "Second or subsequent reinspection" means any reinspection conducted following a prior reinspection and that identifies either a minimum of five sanitary code violations or a minimum of one sanitary code violation constituting a critical item that remain uncorrected after being identified either in an initial inspection or in a reinspection.

Except for provisions of proposed law authorizing a fee to be assessed for a violation which does not constitute a critical item, effective upon signature of governor or lapse of time for gubernatorial action.

Provisions of proposed law authorizing a fee to be assessed for a violation which does not constitute a critical item become effective on March 1, 2018.

(Adds R.S. 40:31.39)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Stipulate that proposed law authorizing a fee to be assessed for a violation which does not constitute a critical item, as defined in proposed law, shall become operative and enforceable on March 1, 2018.

The House Floor Amendments to the engrossed bill:

1. Stipulate that proposed law authorizing a fee to be assessed for a violation which does not constitute a critical item, as defined in proposed law, shall become effective, rather than operative and enforceable, on March 1, 2018.